

## **Agenda Supplement – Legislation, Justice and Constitution Committee**

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Meeting Venue:

For further information contact:

Video Conference via Zoom

**P Gareth Williams**

Meeting date: 9 January 2023

Committee Clerk

Meeting time: 13.30

0300 200 6565

[SeneddLJC@senedd.wales](mailto:SeneddLJC@senedd.wales)

### **Virtual –**

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

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#### **1 Introductions, apologies, substitutions and declarations of interest**

(13.30)

#### **2 Instruments that raise no reporting issues under Standing Order 21.2 or 21.3**

(13.30 – 13.35)

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Attached Documents:

LJC(6)–01–23 – Paper 1 – Draft report

**Made Negative Resolution Instruments**

##### **2.1 SL(6)300 – The Water Resources (Control of Agricultural Pollution) (Wales) (Amendment) Regulations 2022**

#### **3 Instruments that raise issues to be reported to the Senedd under Standing Order 21.2 or 21.3**

(13.35 – 13.40)



## **Made Negative Resolution Instruments**

### **3.1 SL(6)299 – The Seed (Equivalence) (Amendment) (Wales) Regulations 2022**

(Pages 2 – 3)

[Regulations](#)

[Explanatory Memorandum](#)

Attached Documents:

LJC(6)-01-23 – Paper 2 – Draft report

### **3.2 SL(6)304 – The Processed Cereal-based Foods and Baby Foods for Infants and Young Children (Wales) (Amendment) Regulations 2022**

(Pages 4 – 5)

[Regulations](#)

[Explanatory Memorandum](#)

Attached Documents:

LJC(6)-01-23 – Paper 3 – Draft report

### **3.3 SL(6)305 – The Official Controls (Extension of Transitional Periods) (Amendment) (Wales) Regulations 2022**

(Pages 6 – 12)

[Regulations](#)

[Explanatory Memorandum](#)

Attached Documents:

LJC(6)-01-23 – Paper 4 – Draft report

LJC(6)-01-23 – Paper 5 – Letter from the Minister for Economy to the Llywydd, 15 December 2022

LJC(6)-01-23 – Paper 6 – Written Statement by the Minister for Economy, 15 December 2022

### **3.4 SL(6)306 – The Marketing of Seeds and Plant Propagating Material (Wales) (Amendment) (EU Exit) (No. 2) Regulations 2022**

(Pages 13 – 16)

[Regulations](#)

## [Explanatory Memorandum](#)

Attached Documents:

LJC(6)-01-23 – Paper 7 – Draft report

LJC(6)-01-23 – Paper 8 – Letter from the Minister for Rural Affairs and North Wales, and Trefnydd, 15 December 2022

## **Affirmative Resolution Instruments**

### **3.5 SL(6)297 – The Council Tax Reduction Schemes (Prescribed Requirements and Default Scheme) (Wales) (Amendment) Regulations 2023**

(Pages 17 – 19)

## [Regulations](#)

## [Explanatory Memorandum](#)

Attached Documents:

LJC(6)-01-23 – Paper 9 – Draft report

LJC(6)-01-23 – Paper 10 – Written Statement by the Minister for Finance and Local Government, 6 December 2022

## **4 Instruments that raise issues to be reported to the Senedd under Standing Order 21.2 or 21.3 – previously considered**

(13.40 – 13.45)

### **4.1 SL(6)279 – The Animal Health (Poultry Compartments and Animal Gatherings) (Fees) (Wales) (Amendment) Order 2022**

(Pages 20 – 23)

## [Order](#)

## [Explanatory Memorandum](#)

Attached Documents:

LJC(6)-01-23 – Paper 11 – Report

LJC(6)-01-23 – Paper 12 – Welsh Government Response

**4.2 SL(6)292 – The Trade in Animals and Related Products (Amendment and Legislative Functions) and Animal Health (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2022**

(Pages 24 – 51)

[Regulations](#)

[Explanatory Memorandum](#)

Attached Documents:

LJC(6)-01-23 – Paper 13 – Report

LJC(6)-01-23 – Paper 14 – Welsh Government Response

LJC(6)-01-23 – Paper 15 – Letter to the Minister for Rural Affairs and North Wales, and Trefnydd, and the Deputy Minister for Mental Health and Wellbeing, 12 December 2022

LJC(6)-01-23 – Paper 15a – Letter from the Minister for Rural Affairs and North Wales, and Trefnydd, and the Deputy Minister for Mental Health and Wellbeing, 13 December 2022

**4.3 SL(6)291 – The Food and Feed (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2022**

(Pages 52 – 66)

[Regulations](#)

[Explanatory Memorandum](#)

Attached Documents:

LJC(6)-01-23 – Paper 16 – Report

LJC(6)-01-23 – Paper 17 – Welsh Government Response

LJC(6)-01-23 – Paper 18 – Letter from the Minister for Rural Affairs and North Wales, and Trefnydd, and the Deputy Minister for Mental Health and Wellbeing, 13 December 2022

LJC(6)-01-23 – Paper 19 – Letter to the Minister for Rural Affairs and North Wales, and Trefnydd, and the Deputy Minister for Mental Health and Wellbeing, 12 December 2022

**5 Common frameworks**

(13.45 – 13.50)

**5.1 Economy, Trade and Rural Affairs Committee report on Common Frameworks**  
(Pages 67 – 104)

Attached Documents:

LJC(6)-01-23 – Paper 20 – Economy, Trade and Rural Affairs Committee report on Common Frameworks, 9 December 2022

**6 Inter-Institutional Relations Agreement**  
(13.50 – 13.55)

**6.1 Written Statement by the Minister for Health and Social Services: The Health and Social Care Information Centre (Transfer of Functions, Abolition and Transitional Provisions) Regulations 2023**

(Pages 105 – 107)

Attached Documents:

LJC(6)-01-23 – Paper 21 – Written Statement by the Minister for Health and Social Services, 19 December 2022

LJC(6)-01-23 – Paper 22 – Letter from the Minister for Health and Social Services, 14 December 2022

**6.2 Correspondence from the Deputy Minister for Mental Health and Wellbeing: Food Supplement and Food for Specific Groups (Miscellaneous Amendments) Regulations 2022**

(Pages 108 – 114)

Attached Documents:

LJC(6)-01-23 – Paper 23 – Letter from the Deputy Minister for Health and Wellbeing, 20 December 2022

LJC(6)-01-23 – Paper 24 – Letter to the Deputy Minister for Mental Health and Wellbeing, 7 December 2022

**6.3 Correspondence from the Counsel General and Minister for the Constitution:  
The Producer Responsibility Obligations (Packaging Waste) (Amendment)  
(England and Wales) Regulations 2022**

(Page 115)

Attached Documents:

LJC(6)-01-23 – Paper 25 – Letter from the Counsel General and Minister for the Constitution, 20 December 2022

**6.4 Written Statement by the Minister for Climate Change: Attendance at Inter-Ministerial Group for Environment, Food and Rural Affairs**

(Pages 116 – 119)

Attached Documents:

LJC(6)-01-23 – Paper 26 – Letter from the Minister for Climate Change, 23 December 2022

LJC(6)-01-23 – Paper 27 – Written Statement by the Minister for Climate Change, 23 December 2022

**6.5 Correspondence from the Minister for Economy: Inter-Ministerial Group on Trade meeting**

(Page 120)

Attached Documents:

LJC(6)-01-23 – Paper 28 – Letter from the Minister for Economy, 23 December 2022

**6.6 Written Statement by the Minister for Education and Welsh Language:  
Education Ministers Council**

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Attached Documents:

LJC(6)-01-23 – Paper 29 – Written Statement by the Minister for Education and Welsh Language, 23 December 2022

**7 Papers to note**

(13.55 – 14.05)

**7.1 Correspondence from the Minister for Education and Welsh Language: Home schooling**

(Pages 122 – 128)

Attached Documents:

LJC(6)-01-23 – Paper 30 – Letter from the Minister for Education and Welsh Language, 29 November 2022

LJC(6)-01-23 – Paper 31 – Letter to the Minister for Education and Welsh Language, 2 November 2022

LJC(6)-01-23 – Paper 32 – Letter to Education Otherwise, 2 November 2022

**7.2 Correspondence from the Local Government and Housing Committee to Business Committee: Legislative Consent Memoranda**

(Pages 129 – 130)

Attached Documents:

LJC(6)-01-23 – Paper 33 – Letter from the Local Government and Housing Committee to the Business Committee, 8 December 2022

**7.3 Correspondence from Finance Committee: Welsh Government Draft Budget 2023-24**

(Pages 131 – 134)

Attached Documents:

LJC(6)-01-23 – Paper 34 – Letter from the Finance Committee, 12 December 2022

**7.4 Correspondence from the Minister for Finance and Local Government: Supplementary Legislative Consent Memorandum on the Procurement Bill**

(Page 135)

Attached Documents:

LJC(6)-01-23 – Paper 35 – Letter from from the Minister for Finance and Local Government to the Llywydd, 12 December 2022

**7.5 Correspondence from the First Minister to the Economy, Trade and Rural Affairs Committee: The Second Additional Protocol to the Council of Europe Convention on Cybercrime**

(Pages 136 – 142)

Attached Documents:

LJC(6)-01-23 – Paper 36 – Letter from the First Minister to the Economy, Trade and Rural Affairs Committee, 12 December 2022

LJC(6)-01-23 – Paper 37 – Letter from the Economy, Trade and Rural Affairs Committee to the First Minister, 21 November 2022

**7.6 Correspondence from the Minister for Economy: Legislative Consent Memorandum on the Trade (Australia and New Zealand) Bill**

(Pages 143 – 144)

Attached Documents:

LJC(6)-01-23 – Paper 38 – Letter from the Minister for Economy, 14 December 2022

**7.7 Correspondence from the Deputy Minister for Social Partnership: Social Partnership and Public Procurement (Wales) Bill**

(Pages 145 – 146)

Attached Documents:

LJC(6)-01-23 – Paper 39 – Letter from the Deputy Minister for Social Partnership, 15 December 2022

**7.8 Correspondence from the Minister for Education and Welsh Language: Legislative Consent Memorandum on the Schools Bill**

(Pages 147 – 148)

Attached Documents:

LJC(6)-01-23 – Paper 40 – Letter from the Minister for Education and Welsh Language, 16 December 2022

**7.9 Correspondence from the Minister for Health and Social Services: National Health Service (Charges to Overseas Visitors) (Amendment) (No. 4) (Wales) Regulations 2022**

(Pages 149 – 152)

Attached Documents:

LJC(6)-01-23 – Paper 41 – Letter from the Minister for Health and Social Services, 19 December 2022

LJC(6)-01-23 – Paper 42 – Letter to the Minister for Health and Social Services, 9 December 2022

**7.10 Correspondence from the Minister for Rural Affairs and North Wales, and Trefnydd: The Animals and Animal Health, Feed and Food, Plants and Plant Health (Amendment) Regulations 2022**

(Pages 153 – 155)

Attached Documents:

LJC(6)-01-23 – Paper 43 – Letter from the Minister for Rural Affairs and North Wales, and Trefnydd, 22 December 2022

LJC(6)-01-23 – Paper 44 – Letter to the Minister for Rural Affairs and North Wales, and Trefnydd, 7 December 2022

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

(14.05)

**9 Legislative Consent Memorandum on the Shark Fins Bill: Draft report**

(14.05 – 14.15)

(Pages 156 – 162)

Attached Documents:

LJC(6)-01-23 – Paper 45 – Draft report

**10 Supplementary Legislative Consent Memoranda on the Social Housing (Regulation) Bill**

(14.15 – 14.25)

(Pages 163 – 177)

[Supplementary Legislative Consent Memorandum \(Memorandum No. 4\)](#)

[Supplementary Legislative Consent Memorandum \(Memorandum No. 3\)](#)

Attached Documents:

LJC(6)-01-23 – Paper 46 – Legal Advice Note

LJC(6)-01-23 – Paper 47 – Draft report

## **11 Supplementary Legislative Consent Memorandum on the UK Infrastructure Bank Bill**

(14.25 – 14.35)

(Pages 178 – 183)

Attached Documents:

LJC(6)-01-23 – Paper 48 – Legal Advice Note

## **12 Legislative Consent Memorandum on the Genetic Technology (Precision Breeding) Bill**

(14.35 – 14.55)

(Pages 184 – 215)

Attached Documents:

LJC(6)-01-23 – Paper 49 – Legal Advice Note

LJC(6)-01-23 – Paper 50 – Letter from the Minister for Climate Change, 27 June 2022

LJC(6)-01-23 – Paper 51 – Research Briefing

## **13 International agreements**

(14.55 – 15.05)

(Pages 216 – 218)

Attached Documents:

LJC(6)-01-23 – Paper 52 – Briefing

## Statutory Instruments with Clear Reports

09 January 2023

**SL(6)300 – [The Water Resources \(Control of Agricultural Pollution\) \(Wales\) \(Amendment\) Regulations 2022](#)**

**Procedure: Negative**

These Regulations amend the 2021 Regulations by deferring the implementation date of the 170kg/ha annual nitrogen holding limit on the spreading of livestock manures, and the associated record keeping requirement, for holdings or part of holdings not previously situated within a nitrate vulnerable zone from 1 January 2023 until 30 April 2023.

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.

**Parent Act:** Water Resources Act 1991

**Date Made:** 8 December 2022

**Date Laid:** 9 December 2022

**Coming into force date:** 31 December 2022



# Agenda Item 3.1

## **SL(6)299 – The Seed (Equivalence) (Amendment) (Wales) Regulations 2022**

### **Background and Purpose**

The Seed (Equivalence) (Amendment) (Wales) Regulations 2022 (“the Regulations”) amend Article 6 of Council Decision 2003/17/EC of 16 December 2002 on the equivalence of field inspections carried out in third countries on seed-producing crops and on the equivalence of seed produced in third countries. The Regulations extend the expiry date of this Decision from 31 December 2022 to 31 December 2029.

The proposal to extend the Council Decision was subject to a six week period of informal stakeholder engagement. This was undertaken jointly by the Welsh, Scottish and UK Governments.

### **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**

The following point is identified for reporting under Standing Order 21.2 in respect of this instrument.

#### **1. Standing Order 21.2(ii) - that it appears to make unusual or unexpected use of the powers conferred by the enactment under which it is made or to be made.**

In the preamble, clarification is required as to whether the powers used are correct. The corresponding instruments for England and Scotland only refer to “section 16 **(1) and (1A)**” instead of “section 16**(1) to (4)**”. It is unclear whether the powers in sub-sections (2) to (4) are used in this instrument.

### **Merits Scrutiny**

The following 2 points are identified for reporting under Standing Order 21.3 in respect of this instrument.

#### **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.**



In the Explanatory Notes, there is no paragraph noting whether or not a Regulatory Impact Assessment (“RIA”) exists, or where it is possible to find it. The Explanatory Memorandum explains that a RIA exists but this is not explained in the 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.**

The following points are made regarding terms used in the Welsh text for “equivalence” and “field inspections”.

- a. “Cywerthedd” is used in the translation for the word “equivalence” in the Welsh text. This form does appear in the Welsh Academy Dictionary as a possible spelling of this noun, and there are some examples in recent statutory instruments. But the Welsh Government’s Legislative Translation Unit mostly follow the University of Wales Dictionary (Geiriadur Prifysgol Cymru) which notes “cyfwerthedd” as the standard spelling for this noun. Furthermore, “cywerthedd” is not referred to on the BydTermCymru website, but “cyfwerthedd” is used instead for this noun. It therefore appears that the translation has not used the Welsh Government’s translation guidance by using “cywerthedd” rather than “cyfwerthedd” in these Regulations.
- b. In these Regulations, in the Welsh text, “archwiliadau maes” is used as the translation for “field inspections”. But it appears there has been some variation between “archwiliadau maes” and “arolygiadau maes” in the translation of the statutory instruments. It appears that “arolygu” is the standardised term for “inspection” in the Legislative Translation Unit’s Legislative Terminology, and there is a need to differentiate between “examine” and “inspect” at times.

## **Welsh Government response**

A Welsh Government response is required to the technical reporting point and both merits points.

### **Legal Advisers**

**Legislation, Justice and Constitution Committee**

**3 January 2023**



# Agenda Item 3.2

## **SL(6)304 – The Processed Cereal-based Foods and Baby Foods for Infants and Young Children (Wales) (Amendment) Regulations 2022**

### **Background and Purpose**

These Regulations amend the Processed Cereal-based Foods and Baby Foods for Infants and Young Children (Wales) Regulations 2004 (“the 2004 Regulations”) to:

- a) permit the addition of calcium-L-methylfolate in the manufacture of processed cereal-based foods and baby foods; and
- b) correct a previous missed amendment to add ferrous bisglycinate and zinc chloride as permitted sources of vitamins and minerals to be added to processed-cereal based foods and baby foods. Additionally, where a processed cereal-based food or baby food is labelled with the average quantity of those substances, the effect of these Regulations is that this must be done in a manner which complies with certain labelling requirements set out in regulation 8(2) and (3) of the 2004 Regulations.

### **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**

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 Explanatory Memorandum to the Regulations has been laid in English only. The Welsh Government is asked to explain why a Welsh language version of the Explanatory Memorandum has not been laid.



## Welsh Government response

Merit Scrutiny point :

Explanatory Memoranda for subordinate legislation are prioritised for publication in Welsh (in line with Standard 47 of the Welsh Language Standards). A Welsh language version is published if the subject matter of the Explanatory Memorandum suggests that one should be available in Welsh, or the anticipated audience will expect to see a Welsh language version. In this instance, the Welsh Government deemed that a Welsh Language version of the Explanatory Memorandum was not needed due to the narrow and specific nature of the Regulations and the small target audience.

**Legal Advisers**

**Legislation, Justice and Constitution Committee**

**20 December 2022**



Senedd Cymru

**Pwyllgor Deddfwriaeth, Cyfiawnder a'r Cyfansoddiad**

—

Welsh Parliament

**Legislation, Justice and Constitution Committee**

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# Agenda Item 3.3

## **SL(6)305 – The Official Controls (Extension of Transitional Periods) (Amendment) (Wales) Regulations 2022**

### **Background and Purpose**

These Regulations extend the post EU Exit Transitional Staging Period ('TSP') to enable additional time to develop and finalise proposals for the future borders regime that will be used to protect Wales's biosecurity and support trade.

These Regulations amend the Official Controls (Extension of Transitional Periods) Regulations 2021 and the Meat Preparations (Amendment and Transitory Modification) (Wales) (EU Exit) Regulations 2021.

Regulation 2 amends the Official Controls (Extension of Transitional Periods) Regulations 2021 to extend, in relation to Wales, the end date of the "transitional staging period" from 31 December 2022 to 31 January 2024.

Regulation 3 amends the Meat Preparations (Amendment and Transitory Modification) (Wales) (EU Exit) Regulations 2021 to extend the temporary suspension of the requirement for meat preparations to be deep frozen where they are imported into Wales from EEA member States, the Faroe Islands, Greenland or Switzerland, bringing it into line with the date appointed as the extended end date of the "transitional staging period" (regulation 2).

On 30 December 2022, these Regulations replace the date for the ending the TSP, as set out in the Official Controls (Extension of Transitional Periods) Regulations 2021, so that no further import checks will come into force on sanitary and phyto-sanitary goods ("SPS goods") from the EU in 2023. As a result of these Regulations, the TSP is extended to 31 January 2024. The decision to not introduce further checks on SPS goods during 2023 means that the following temporary policies are extended to 31 January 2024 through these Regulations (with permanent policies to follow in due course):

- The suspension of the requirement for meat preparations imported into Wales from EEA member States, the Faroe Islands, Greenland, or Switzerland, to be deep frozen, keeping this temporary easement in line with the revised transitional staging period controls. This will allow meat preparations from these countries to continue to be imported in a chilled condition.
- Personal goods which form part of passengers' luggage (excluding plants for planting) and which are intended for personal consumption or use, and small consignments of products sent to natural persons which are not intended to be placed on the market are exempt from official controls.



- The exemption from prior notification (“pre-notification”) for certain goods which are produced in Northern Ireland or the Republic of Ireland and imported from the Republic of Ireland.

## 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

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.**

We note the breach of the 21-day convention (i.e. the convention 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 Vaughan Gething MS, Minister for the Economy in a letter to the Llywydd dated 15 December 2022.

In particular, we note the following part of the letter:

- (1) “...The legislation must come into force by 30 December to ensure the transitional staging period does not expire and so there is no gap in the transitional provisions. Without this legislation, and in the absence of border control posts, we would effectively be closing off trade routes into Wales for certain goods. Previously Regulations relating to the Transitional Staging Period (TSP) for goods entering Great Britain from the EU and certain other countries, have been introduced by the UK Government on behalf of Wales with the consent of Welsh Ministers. However, we took the decision that it would be preferable to legislate in Wales on this matter with coordination as far as possible on GB basis. However, upheaval in Westminster has delayed ministerial meetings at which border policy, including the TSP extension, would be discussed. With uncertainty still present elsewhere it was not possible to wait any longer and we had to decide to press ahead with the introduction of Welsh Regulations at a much later date and stage than would normally be the case. The UK Government announced in April 2022 that the further introduction of border controls would be suspended until the end of 2023, and that the UK Government would be reviewing arrangements for Britain’s borders, including sanitary and phytosanitary



(SPS) controls. However, at the time, Defra with Welsh Ministers consent only extended the transitional staging period until 31 December 2022. It is, therefore, necessary to bring forward a further extension to the TSP.

## Welsh Government response

A Welsh Government response is not required.

### Legal Advisers

Legislation, Justice and Constitution Committee

23 December 2022



Senedd Cymru

**Pwyllgor Deddfwriaeth, Cyfiawnder a'r Cyfansoddiad**

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Welsh Parliament

**Pack Page 8**

**Legislation, Justice and Constitution Committee**



Ein cyf/Our ref MA/VG/3639/22

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

15 December 2022

Dear Elin,

**The Official Controls (Extension of Transitional Periods) (Amendment) (Wales) Regulations 2022**

In accordance with section 11A(4) of the Statutory Instruments Act 1946 I am notifying you that this statutory instrument will come into force on 30 December 2022, less than 21 days after it has been laid. A copy of the instrument and the Explanatory Memorandum that accompanies it are attached for your information.

The legislation must come into force by 30 December to ensure the transitional staging period does not expire and so there is no gap in the transitional provisions. Without this legislation, and in the absence of border control posts, we would effectively be closing off trade routes into Wales for certain goods. Previously Regulations relating to the Transitional Staging Period (TSP) for goods entering Great Britain from the EU and certain other countries, have been introduced by the UK Government on behalf of Wales with the consent of Welsh Ministers. However, we took the decision that it would be preferable to legislate in Wales on this matter with coordination as far as possible on GB basis. However, upheaval in Westminster has delayed ministerial meetings at which border policy, including the TSP extension, would be discussed. With uncertainty still present elsewhere it was not possible to wait any longer and we had to decide to press ahead with the introduction of Welsh Regulations at a much later date and stage than would normally be the case.

The UK Government announced in April 2022 that the further introduction of border controls would be suspended until the end of 2023, and that the UK Government would be reviewing arrangements for Britain's borders, including sanitary and phytosanitary (SPS) controls. However, at the time, Defra with Welsh Ministers consent only extended the transitional staging period until 31 December 2022. It is, therefore, necessary to bring forward a further extension to the TSP.

Canolfan Cyswllt Cyntaf / First Point of Contact Centre:  
0300 0604400

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[Correspondence.Vaughan.Gething@gov.wales](mailto:Correspondence.Vaughan.Gething@gov.wales)

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.

On 30 December 2022, these Regulations replace the date for the ending of the transitional staging period, as set out in the Official Controls (Extension of Transitional Periods) Regulations 2021, so that no further import checks will come into force on SPS goods from the EU in 2023. As a result of these Regulations, the transitional staging period is extended to 31 January 2024.

The decision to not introduce further checks on SPS goods during 2023 means that the following temporary policies are extended to 31 January 2024 through these Regulations (with permanent policies to follow in due course):

- The suspension of the requirement for meat preparations imported into Wales from EEA member States, the Faroe Islands, Greenland, or Switzerland, to be deep frozen, keeping this temporary easement in line with the revised transitional staging period controls. This will allow meat preparations from these countries to continue to be imported in a chilled condition.
- Personal goods which form part of passengers' luggage (excluding plants for planting) and which are intended for personal consumption or use, and small consignments of products sent to natural persons which are not intended to be placed on the market are exempt from official controls.
- The exemption from prior notification ("pre-notification") for certain goods which are produced in Northern Ireland or the Republic of Ireland and imported from the Republic of Ireland.

I am copying this letter to the Minister for Rural Affairs, 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.

Yours sincerely

A handwritten signature in black ink that reads "Vaughan Gething". The signature is written in a cursive, flowing style.

**Vaughan Gething AS/MS**  
Gweinidog yr Economi  
Minister for Economy



Huw Irranca Davies MS  
Chair of the Legislation, Justice and Constitution Committee  
Welsh Parliament  
Cardiff Bay  
Cardiff  
CF99 1SN

15 December 2022

Dear Huw

## Border Controls

The Committee will be aware that the UK Government announced a review of border controls in April 2022, with an intention to publish a draft *Target Operating Model* in autumn 2022 for implementation by the end of 2023. Although aspects of the border regime are devolved, Welsh Government would prefer to see coherent and consistent rules which respect our high standards of biosecurity and Welsh Government officials have been working with their counterparts in the other UK administrations. However, the *Target Operating Model* is not yet finalised and agreed by ministers.

I have today informed the Senedd in a written statement [Written Statement: Border Controls Regulations | GOV.WALES](#) that I intend to lay **The Official Controls (Extension of Transitional Periods) (Amendment) (Wales) Regulations 2022** (“the 2022 Regulations”) before the Christmas recess. This SI further extending the transitional staging period will allow the Welsh Government to continue to work with other UK administrations to finalise the borders *Target Operating Model*, to ensure a coherent, effective, and efficient system of controls can be implemented.

In addition to this extension, we proposed introducing pre-notification for certain products imported to Wales from the Republic of Ireland. I have listened carefully to the feedback, particularly the concerns voiced by stakeholders regarding the available time before 1 January 2023 to prepare. I have therefore decided to postpone the introduction of prenotification on these categories of SPS goods until later in 2023.

Our objective is for all EU imports to be subject to the same pre-notification requirements, so we receive the same vital information as elsewhere in Great Britain. This will safeguard our biosecurity, maintain food safety standards, and ensure traceability of products entering the country. It will also help us to plan border controls infrastructure and operations, which in turn will help to ensure smooth implementation of border controls in Wales.

Canolfan Cyswllt Cyntaf / First Point of Contact Centre:  
0300 0604400

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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 had constructive discussions in recent weeks with the UK Government on this topic and I will seek to agree a date with them for the introduction of pre-notification for goods imported from Ireland.

I would like to confirm that date as soon as possible in the New Year to give plenty of notice to businesses of any future changes. However, I have been clear with the UK Government that this remains a devolved issue and if necessary the Welsh Government will act independently to safeguard our biosecurity and the health of people, animals and plants in Wales.

Yours sincerely,

A handwritten signature in black ink that reads "Vaughan Gething". The signature is written in a cursive, flowing style.

**Vaughan Gething AS/MS**  
Gweinidog yr Economi  
Minister for Economy

## **SL(6)306 – The Marketing of Seeds and Plant Propagating Material (Wales) (Amendment) (EU Exit) (No. 2) Regulations 2022**

### **Background and Purpose**

These Regulations correct errors identified by the Legislation, Justice and Constitution Committee in its [report](#) on the Marketing of Seeds and Plant Propagating Material (Wales) (Amendment) (EU Exit) Regulations 2022 (“the Original Regulations”). In particular, these Regulations:

- Revoke the Original Regulations; and
- Re-make the relevant operability amendments to the Seed Marketing (Wales) Regulations 2012 and the Marketing of Fruit Plant and Propagating Material (Wales) Regulations 2017.

### **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 convention (i.e. the convention 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 Lesley Griffiths MS, Minister for Rural Affairs and North Wales, and Trefnydd, in a [letter](#) to the Llywydd dated 15 December 2022.

In particular, we note the following in that letter:



*“The reason for not adhering to the 21 day convention in this case is that the Regulations are being made using powers under the European Union (Withdrawal) Act 2018, and these powers expire on 31 December 2022. As such, the Regulations need to come into force by 31 December.”*

**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**

A draft of these Regulations was laid before the Senedd for sifting under paragraph 4 of Schedule 7 to the European Union (Withdrawal) Act 2018, in accordance with Standing Order 27.9A. The Committee considered that draft on 12 December 2022 and agreed that the negative procedure was the appropriate procedure for 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**

A formal consultation has not been undertaken in respect of these Regulations. In this regard, the following from the Explanatory Memorandum is noted:

*“As the Regulations make minor corrections, a formal public consultation did not take place.”*

## Welsh Government response

A Welsh Government response is not required.

### Legal Advisers

Legislation, Justice and Constitution Committee

22 December 2022



Senedd Cymru

**Pwyllgor Deddfwriaeth, Cyfiawnder a'r Cyfansoddiad**

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**Legislation, Justice and Constitution Committee**



Elin Jones MS  
Llywydd  
Senedd Cymru  
CARDIFF  
CF99 1SN

15 December 2022

Dear Llywydd,

**Marketing of Seeds and Plant Propagating Material (Wales) (Amendment) (EU Exit) (No. 2) Regulations 2022**

In accordance with section 11A(4) of the Statutory Instruments Act 1946 I am notifying you that this statutory instrument will come into force on 31 December 2022, less than 21 days after it has been laid. A copy of the instrument and the Explanatory Memorandum that accompanies it are attached for your information.

The Regulations revoke, replace and correct the previously in force Marketing of Seeds, Plant and Propagating Material (Wales) (Amendment) (EU Exit) Regulations 2022 ("the previous Regulations"). These previous Regulations were laid in the Senedd on the 6 October 2022 and came into force on 27 October 2022. They made operability amendments to ensure provisions in Welsh law on pests relating to seeds, fruit plant and propagating material remains operable now the UK has left the EU. This, in turn, ensures that these pests remain under control in Wales.

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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.

A Legislation, Justice and Constitution Committee (LJCC) report on the previous Regulations noted two technical scrutiny points and recommended that these were addressed. Technical scrutiny point 1 related to an inconsistency between the titles of the English and Welsh versions of the Statutory Instrument. In the Welsh version of the Statutory Instrument the title reads (Diwygio) (Cymru) where the English version title reads (Wales) (Amendment). Technical scrutiny point 2 noted a missing quotation mark in Regulation 2(2)(a) in the Welsh version of the Instrument that makes it unclear what text is being substituted, which has a consequence as to the effect of the regulation. There are also inconsistencies in the quotation marks used around defined terms in the Welsh version of Regulation 2(a)(i) and 2(a)(iii).

The Marketing of Seeds and Plant Propagating Material (Wales) (Amendment) (EU Exit) (No. 2) Regulations 2022 have been made to correct these points. Specifically, these Regulations include a clause revoking the original English and Welsh Statutory Instruments. The new Regulations replace the revoked Regulations, with a new title that reads "... (Wales) (Amendment) ..." in English and Welsh. This resolves the inconsistency in the Welsh and English versions of the Statutory Instrument. The new Regulations also add an opening quotation mark into Regulation 2(a). Thirdly, there is consistent use of quotation marks around defined terms in Regulation 2(a)(i) and (iii) in both versions. No other changes have been made and the effect of the Regulations is unchanged.

The reason for not adhering to the 21 day convention in this case is that the Regulations are being made using powers under the European Union (Withdrawal) Act 2018, and these powers expire on 31 December 2022. As such, the Regulations need to come into force by 31 December.

I am copying this letter to 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.

Regards,

A handwritten signature in black ink that reads "Lesley Griffiths". The signature is written in a cursive style with a large, sweeping flourish at the end.

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

## **SL(6)297 – The Council Tax Reduction Schemes (Prescribed Requirements and Default Scheme) (Wales) (Amendment) Regulations 2023**

### **Background and Purpose**

'Council Tax Reduction Schemes' ("**CTRS**") are the mechanism by which local authorities in Wales provide support to low-income households in meeting their council tax liability.

The operation of CTRS in Wales is governed by the *Council Tax Reduction Schemes and Prescribed Requirements (Wales) Regulations 2013*, and the *Council Tax Reduction Schemes (Default Scheme) (Wales) Regulations 2013* (collectively, the "**2013 CTRS Regulations**").

These [Regulations](#) amend the 2013 CTRS Regulations to uprate certain figures used to calculate an applicant's entitlement to a reduction under a CTRS.

A Written Statement on 6 December 2022 by Minister for Finance and Local Government, Rebecca Evans MS stated that this will:

[...] ensure that the scheme in place for the 2023-24 financial year reflects increases in the cost-of-living [and] maintains entitlements for almost 270,000 low-income households across Wales who rely on this support.

In addition, the Regulations make provision to ensure that any Ukrainian national who has been granted leave to enter or remain in the United Kingdom will be eligible to be included in a local authority's CTRS, and will be eligible for a discount if they meet the other requirements of the CTRS.

### **Procedure**

Draft affirmative.

The Welsh Ministers have laid a draft of the Regulations before the Senedd. The Welsh Ministers cannot make the Regulations unless the Senedd approves the draft Regulations.

### **Technical Scrutiny**

The following two 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**

Regulations 4(4) and 12(4) insert, respectively, a new sub-paragraph and paragraph 'o', into both sets of regulations comprising the 2013 CTRS Regulations.



In the Welsh text, the translation does not fully succeed as the inserted text is inconsistent with the existing provision.

The opening words to new sub-paragraph/paragraph 'o' should state 'yn berson' rather than 'person', for consistency with existing sub-paragraphs/paragraphs 'm' and 'n'.

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

Regulation 13 seeks to amend paragraph 20 of the Schedule to the Council Tax Reduction Schemes (Default Scheme) (Wales) Regulations 2013 (the "Default Regulations").

There is an inconsistency between the Welsh and English text in regulation 13(2).

In identifying the text to be replaced in the Default Regulations, the English text refers to "[...] *paragraph (2)*"; and the Welsh text refers (in Welsh) to "[...] *sub-paragraph (2)*".

On the basis of the wording of the Default Regulations, the Welsh text of the Regulations is accurate.

## **Merits Scrutiny**

No points are identified for reporting under Standing Order 21.3 in respect of this instrument.

## **Welsh Government response**

### **Technical Scrutiny point: Defective Drafting**

#### Point 1:

The Welsh Government agrees that in the Welsh text of the amendments made by regulations 4(4) and 12(4), the opening words to new sub-paragraph/paragraph 'o' should state 'yn berson' rather than 'person'. As the error is technical in nature, this will be corrected prior to the instrument being made.

#### Point 2:

The Welsh Government agrees that regulation 13(2) of the English text should refer to "sub-paragraph (2)". As the error is technical in nature, this will be corrected prior to the instrument being made.

### **Legal Advisers**

**Legislation, Justice and Constitution Committee**

**21 December 2022**



Senedd Cymru

**Pwyllgor Deddfwriaeth, Cyfiawnder a'r Cyfansoddiad**

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**Legislation, Justice and Constitution Committee**



Llywodraeth Cymru  
Welsh Government

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## **WRITTEN STATEMENT BY THE WELSH GOVERNMENT**

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**TITLE**        **The Laying of the Council Tax Reduction Schemes (Prescribed Requirements and Default Scheme) (Wales) (Amendment) Regulations 2023**

**DATE**        **06 December 2022**

**BY**            **Rebecca Evans MS, Minister for Finance and Local Government**

Today, I have laid the draft Council Tax Reduction Schemes (Prescribed Requirements and Default Scheme) (Wales) (Amendment) Regulations 2023 before the Senedd.

Subject to the approval of the Senedd, these Regulations will uprate the financial figures in the Council Tax Reduction Schemes and Prescribed Requirements (Wales) Regulations 2013 and the Council Tax Reduction Schemes (Default Scheme) (Wales) Regulations 2013 to ensure that the scheme in place for the 2023-24 financial year reflects increases in the cost-of-living. This helps to ensure that the scheme maintains entitlements for almost 270,000 low-income households across Wales who rely on this support.

In addition, an amendment is proposed to provide support to Ukrainian nationals as a consequence of the refugee crisis caused by the Russo-Ukrainian War. This will ensure they are eligible to apply for support.

A further amendment ensures no applicant living in Wales hosting a person from Ukraine under the Homes for Ukraine scheme is negatively impacted. The change makes provision that the host's application is not affected by their offer to provide support to people from Ukraine.

Finally, we have removed the exception for European Economic Area (EEA) citizens who are now subject to immigration control.

I look forward to the debate on the Regulations early in the New Year.

# Agenda Item 4.1

## **SL(6)279 – The Animal Health (Poultry Compartments and Animal Gatherings) (Fees) (Wales) (Amendment) Order 2022**

### **Background and Purpose**

This Order amends:

- the Poultry Compartments (Fees) (Wales) Order 2010 (S.I. 2010/1781) (W. 170) (“the 2010 Order”); and
- the Animal Gatherings (Fees) (Wales) Order 2018 (S.I. 2018/645) (W. 119) (“the 2018 Order”).

This Order revokes provisions in the 2010 Order which currently provide for Value Added Tax (VAT) to be added to fees charged under that Order.

It also uplifts fees payable to the Welsh Ministers for services provided by the Animal and Plant Health Agency in relation to the 2018 Order.

Article 2 amends the 2010 Order to omit the words “+ VAT” each time they occur in the table in the Schedule. As such, VAT will no longer payable in respect of the fees set out in the table.

Article 3 amends the 2018 Order, including to substitute a new Schedule providing for increased fees for the licensing of premises for animal gatherings.

This new Schedule provides as follows.

- Table 1 sets out fees payable for the licensing of premises for animal sales or collection centres that are not exempt. Column 2 provides for an interim increase for applications received and renewals undertaken on or before 30th November 2023. Column 3 applies to applications received and renewals undertaken after 30th November 2023 and provides for a further increase.
- Table 2 sets out fees payable for the licensing of premises for shows or exhibitions that are not exempt. Column 2 provides for an interim increase for applications received and renewals undertaken on or before 30th November 2023. Column 3 applies to applications received and renewals undertaken after 30th November 2023 and provides for a further increase.
- Table 3 sets out additional fees payable for the licensing of premises. Column 2 provides for an interim increase for veterinary visits undertaken on or before 30th November 2023. Column 3 applies to veterinary visits undertaken after 30th November 2023 and provides for a further increase.



Article 4 makes transitional provision so that these amendments do not apply in relation to an application made before the coming into force of this 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

The following point is identified for reporting under Standing Order 21.2 in respect of this instrument.

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

There is a difference between the English and Welsh texts of article 3(2). The English text has been drafted in the usual way when introducing amendments to both language texts of bilingual legislation. It suggests to the reader that amendments are being made to both the language texts.

However, the Welsh text of article 3(2) doesn't amend the Welsh text of the definition of "collection centre" in article 2 of the 2018 Order as it is already correct. So, it has added the words "yn y testun Saesneg" ("in the English language text") and the substituted words are noted in English only. This is the correct approach when it is only necessary to amend the English language text of a bilingual enactment, so that both language texts of the amending instrument will be making the same change to one language text of the existing legislation.

The English language text of article 3(2) of this Order should also have included the words "in the English language text" to identify that the amendment is only being made to the English language text of the existing text in article 2 of the 2018 Order.

## Merits Scrutiny

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

### **2. 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.**

The Order makes changes to the fees payable in relation to statutory services delivered by Animal and Plant Health Agency, pursuant to the 2010 Order and the 2018 Order.



### **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)**

The Explanatory Memorandum (“EM”) accompanying the Order does not explain the reason why VAT is being removed from the fees included in the Schedule to the 2010 Order. It is therefore difficult for a reader to understand the rationale for this change.

Additionally, the final paragraph of section 4 of the EM states as follows:

*Due to the lack of Wales specific data has been presented and used to estimate the impact to businesses in Wales, where possible.*

The meaning of this paragraph is unclear, which makes it difficult for the reader to understand what data has been used to estimate the impact to businesses in Wales, and whether it is sufficient.

### **Welsh Government response**

A Welsh Government response is required in respect of points 1 and 3, above.

### **Committee Consideration**

The Committee considered the instrument at its meeting on 28 November 2022 and reports to the Senedd in line with the reporting points above.



## **Government Response: The Animal Health (Poultry Compartments and Animal Gatherings) (Fees) (Wales) (Amendment) Order 2022**

### **Technical Scrutiny point 1:**

The Welsh Government note the Committee's preferred drafting approach, however we are content that in this particular context, the amendment to article 2 of the Animal Gatherings (Wales) Order 2018 when read, is clear and legally accurate in both English and Welsh.

### **Merits Scrutiny point 3:**

Statutory Fees are exempt from VAT, so VAT will not be charged for these services. This has not changed from the pre-existing fee status (essentially a housekeeping amendment).

The wording of the EM/RIA will be amended to clarify Wales specific data has been presented to estimate the impact to businesses in Wales.

# Agenda Item 4.2

## **SL(6)292 – The Trade in Animals and Related Products (Amendment and Legislative Functions) and Animal Health (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2022**

### **Background and Purpose**

These Regulations address failures of retained EU law to operate effectively and other deficiencies arising from the withdrawal of the United Kingdom from the European Union. The Regulations do this by modifying retained EU law and amending the Trade in Animals and Related Products (Wales) Regulations 2011 (“TARP Wales”) and the Animal Health (Miscellaneous Fees) (Wales) Regulations 2018 (“the 2018 Regulations”). The Regulations also amend TARP Wales to extend an exemption from the requirement for certain animals to undergo official controls.

TARP Wales requires consignments of animals or animal products that are being imported into, or transiting through, Wales to comply with the animal and public health requirements of EU Directives, Regulations and Decisions set out in Schedule 1 to those Regulations.

The 2018 Regulations set out fees payable to the Welsh Ministers for approvals and inspections in the field of animal health.

### **Procedure**

Affirmative.

The Welsh Ministers have laid a draft of the Regulations before the Senedd. The Welsh Ministers cannot make the Regulations unless the Senedd approves the draft Regulations.

### **Technical Scrutiny**

The following 27 points are identified for reporting under Standing Order 21.2 in respect of this instrument.

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

Regulation 8 provides for further interpretation of certain words and expressions for the purpose of both Part 5 of the Regulations and in the EU Directives that are modified by Part 5. In the case of the EU Directives, the modifications made in Part 5 do not appear to signpost the reader of those Directives to these Regulations to enable them to understand the meaning of the words and expressions that are being inserted into the Directives. These



issues could cause problems with the accessibility of the Regulations and the Directives that they modify.

The Welsh Government is asked to explain how readers of the EU Directives are supposed to know to refer to these Regulations when reading the Directives.

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

Regulations 5(1) and 8(2) include reference to “the appropriate authority”. The Regulations do not contain a definition of “the appropriate authority” for the purpose of these Regulations.

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

Regulation 8(2) provides for further interpretation of certain words and expressions used in the Regulations. It provides a meaning for “third country” as “any country or territory outside the British Islands”. A footnote is then included which states that “British Islands” has the meaning given in Schedule 1 to the Interpretation Act 1978. As “British Islands” is used in the operative text of the Regulations, its meaning should also be set out in the operative text, not in a footnote.

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

Regulation 8(2) includes the definition “the TARP (ALF) (Wales) (EU Exit) Regulations 2022” means these Regulations”. In accordance with regulation 8(1), this definition is to be read into the EU Directives that are modified by Part 5 of the Regulations. However, when read as part of those Directives, the words “these Regulations” will have no meaning. We consider that the definition should read “the TARP (ALF) (Wales) (EU Exit) Regulations 2022” means the Trade in Animals and Related Products (Amendment and Legislative Functions) and Animal Health (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2022” and should then include an appropriate footnote providing the citation.

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

Regulations 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, and 19 modify the wording of various Directives and include reference to “the appropriate authority”. The modified Directives do not have a definition of the phrase “appropriate authority” and the Regulations do not provide for such a definition either.

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

Regulation 11(9)(b) modifies the wording of Directive 89/556 to lay down a new procedure for authorised flushing and washing fluids, washing techniques and, where necessary,



enzymatic treatments together with authorised transportation media. The modified wording means that an appropriate authority may now draw up a protocol, in accordance with a procedure set out by that appropriate authority in regulations. The Welsh Government is asked to confirm why the modified wording gives the appropriate authority a discretion to draw up a protocol when the original wording of the Directive required a protocol to be drawn up. Clarification is also sought as to whether the same appropriate authority will make regulations to set out the process for itself to draw up a protocol.

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

In regulation 3(3), in the Welsh text, the amendment is defective as it does not repeat the words “os yw’r” (“if the”) at the beginning of the new sub-paragraph (a) in regulation 15(3) of the Trade in Animals and Related Products (Wales) Regulations 2011. Instead it has simply said “bod y” (“that the”), but it is necessary to repeat “os yw’r” for the amendment to fit into the existing structure of regulation 15(3).

In this regard, the Welsh translation appears to have been based on the text of the original regulation 15(3) found in the 2011 Regulations rather than the amended regulation 15(3) as substituted by SI 2020/44 (W. 5), reg. 23(13), which has resulted in the error.

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

In regulation 4(2)(a)(viii), the English text refers to “Annexes 1 and 3” but the Welsh text has translated the meaning as “Annexes 1 to 3”.

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

In regulation 5(3), the English text refers to “the legislative competence of Senedd Cymru” but the Welsh text has translated “legislative” as “devolved” so that it reads “the devolved competence of Senedd Cymru” (i.e., it repeats the earlier reference to “devolved competence”).

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

Regulation 13(3)(b)(iii) removes the reference to “dealer” and “approved dealer’s premises” from Article 2 of Directive 91/68, but retains the terms in other places within the Directive.

The Welsh Government is asked to provide an explanation for the approach taken, given that these defined terms are still in use in the Directive.

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



In regulation 14(19)(c)(i)(bb), in the new text for the second indent, point (iii), there is a reference to “Directive 92/65/~~EEC~~”. This Directive has been defined as “Directive 92/65” in regulation 2(2) without the “EEC”. Therefore, it does not appear to use the correct defined term.

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

In regulation 14(9)(a)(i), there’s a difference between the English and Welsh language texts. In the English text, there’s a reference to “Directive 2009/158” in the new text, but the Welsh text refers to “Directive 1/158”. The reference in the English text appears to be correct.

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

Regulation 16(1)(a) removes the reference to “distribution” from Article 1 of Directive 2002/99, but retains that term in other places within the Directive, including the definition of “all stages of the production, processing and distribution” contained in point 1 of Article 2 of that Directive. It is not clear whether the modifications have been made to distinguish between two scenarios – on one hand “production, processing and distribution”, as defined, and on the other “production and processing”.

The Welsh Government is asked to provide an explanation for the approach taken.

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

Regulation 16(3)(b)(iii) omits the definition of “products of animal origin” from Article 2 of Directive 2002/99, but that term is retained elsewhere in that Directive. Although that term is defined in other legislation, the modifications made to Directive 2002/99 do not appear to signpost the reader of the legislation where a definition of “products of animal origin” can be found to enable them to understand the meaning of those words. These issues could cause problems with the accessibility of the Regulations.

The Welsh Government is asked to explain how readers of Directive 2002/99 would be able to find a definition of “products of animal origin”.

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

Regulation 16(6)(a)(i)(bb) removes “suspected of being infected,” from Article 4 of Directive 2002/99. This appears to mean that it is no longer possible to authorise production, processing and distribution of products of animal origin which come from a territory or part of a territory subject to animal health restrictions but which do not come from a holding which is suspected of being infected (i.e. only if not coming from a holding which is infected). Such a change, which narrows the scope of a potential authorisation, appears to be more than a technical amendment.



The Welsh Government is asked to explain why the words “suspected of being infected” have been omitted from Article 4 of Directive 2002/99.

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

The Regulations modify some, but not all, provisions of Directives. For example, there is no modification of Articles 5, 6 and 10 of Directive 2002/99 (Veterinary certificates; Official veterinary controls; and Community inspections and audits). It is presumed that these Articles are not modified as they will not apply in Wales. However, there is no express reference of this being the case. These issues could cause problems with the accessibility of the Directives.

The Welsh Government is asked to explain how readers of the EU Directives will know which provisions contained in those Directives apply in Wales.

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

In regulation 16(6)(c), in the English text, there is a paragraph which is incorrectly numbered (iii) with the opening words “in the second subparagraph”. This should be numbered paragraph (ii) as already found in the Welsh text.

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

In regulation 16(9)(c)(ii), there is a difference between the Welsh and English texts. In the Welsh text, the words within the quotation marks identified for substitution do not include the definite article “the” before “Community legislation”. This will make a difference as to how the text will read following the modification.

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

Regulation 17(8)(e)(ii) removes the requirement to provide “a specimen veterinary certificate established in accordance with the procedure referred to in Article 14(2)” from Article 7(e) of Directive 2004/68. Whilst other procedures referred to in Article 14(2) have been replaced with provisions that may be set out by the appropriate authority by regulations, there is no similar replacement in relation to specimen veterinary certificates. Such a change, which removes requirements in place in relation to imports of live ungulates, appears to be more than a technical amendment.

The Welsh Government is asked to explain why the requirement to provide “a specimen veterinary certificate” has been omitted from Directive 2002/99.

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



Regulations 18(5)(e) and 19(13)(a) modify Article 4(6) of Directive 2009/156 and Article 16(1) of Directive 2009/158 respectively, to grant regulation making powers to the appropriate authority. The first point under Article 4(6) refers to “the distribution of the disease on its territory” and the first point under Article 16(1) refers to “the distribution of the disease in its territory”. These references appear to be no longer relevant in relation to Wales.

The Welsh Government is asked to explain why the reference to “territory” remains in Article 4(6)(a) of Directive 2009/156 and Article 16(1)(a) of Directive 2009/158.

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

Regulation 19 modifies Directive 2009/158. That Directive contains references to “competent veterinary authority” throughout, including in Article 2(11), which is amended by regulation 19(3)(b). It is not clear whether that definition is still relevant following the UK’s exit from the European Union, and there is no definition of “competent veterinary authority” in the Directive and no signpost to where such a definition can be found. These issues could cause problems with the accessibility of Directive 2009/158.

The Welsh Government is asked to explain whether the definition of “competent veterinary authority” remains relevant and if so how readers of Directive 2009/158 would be able to find a definition for the term.

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

In regulation 19(19)(b), there is a difference between the English and Welsh texts. The English text correctly identifies the text to be modified by the substitution as including a reference to “Article 33(2)” but the Welsh text incorrectly refers to “Article 33(33)”.

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

In regulation 19(21)(a)(iii), there is a difference between the English and Welsh texts. The English text incorrectly identifies the text to be modified by the substitution as saying “languages or the Member State”. The Welsh text correctly says “languages of the Member State”.

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

There is a difference between the English and Welsh texts at the beginning of Part 6. The English text has a Part heading saying “Amendment of the Animal Health (Miscellaneous Fees) (Wales) Regulations 2018”. There is no heading for Part 6 of the Welsh text and it is completely missing from the translation.

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



The Schedule lists the provisions of the Directives that contain functions conferred on the Welsh Ministers as appropriate authority, together with any other provisions that are either relevant or connected to the exercise of a listed function. It is not clear why the provisions of the Schedule have been drafted in the way they have. To assist with the accessibility of the legislation, an explanation of the approach taken in relation to the following provisions would be helpful:

- Reference to the third subparagraph of Article 9(2) of Directive 88/407 in paragraph 2(b).
- Reference to Article 8(a) and not Article 8(b) of Directive 92/65 in paragraph 6(e).
- Reference to the second subparagraph of Article 4(3) of Directive 2002/99 in paragraphs 8(c) and (d).
- Reference only to the second to fourth subparagraphs of Article 8(1) of Directive 2002/99, but not the fifth to tenth subparagraphs.
- Reference to individual subparagraphs in some cases, but not all, for example Articles 19(a) and 19(b) of Directive 92/65 in paragraphs 6(s) and 6(t); Articles 6(1), 6(2) and 6(3) of Directive 2004/68 in paragraph 9(e); the first and second subparagraphs of Article 4(6) of Directive 2009/156 in paragraph 10(c) and (d); and Articles 19(a), 19(b), 19(c) and 19(d) of Directive 2009/156 in paragraphs 10(q) to (t).
- No reference to Article 5(5)(a) of Directive 2009/156, in contrast to the reference to Article 5(5)(c) of that Directive.

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

In the Schedule, there are a few differences between the English and Welsh texts. In both paragraph 1(e) and (f), "Section" has been incorrectly translated as "Rhan" which means "Part" in Welsh SIs. Elsewhere, "Adran" has been correctly used as the translation for "Section" throughout the Regulations.

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

In the Schedule, in paragraph 3(g)(i), the drafting of the provision appears to be defective as points (h), (m) and (n) are all found in point 1. Therefore the reference to point "1" should be inserted in the opening words of sub-paragraph (g), so that it applies to paragraphs (i), (ii) and (iii).

## **Merits Scrutiny**

The following 7 points are identified for reporting under Standing Order 21.3 in respect of this instrument.



**28. 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 3(6) amends regulation 38 of the Trade in Animals and Related Products (Wales) Regulations 2011 (“the 2011 Regulations”). Regulation 38 of the 2011 Regulations currently provides that local authorities and port health authorities must charge a reasonable fee in relation to any official control activity in accordance with the charging provisions contained in Chapter 6, Title 2 of the EU Official Controls Regulation, and that such fee is payable by the operator responsible for the consignment or its representative. The amendment that regulation 3(6) of these Regulations makes to regulation 38 of the 2011 Regulations extends to the Welsh Ministers the duty to charge the fees referred to in regulation 38.

**29. 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**

These Regulations give the Welsh Ministers powers that are equivalent to powers given to UK Ministers in the Trade in Animals and Related Products (Amendment and Legislative Functions) Regulations 2022 (“the UK Regulations”).

The powers given to UK Ministers in the UK Regulations include powers to act in devolved areas in Wales. Therefore, there are concurrent powers in this area of law, i.e. there are powers that can be exercised in Wales by either:

- a) the Welsh Ministers under these Regulations, or
- b) UK Ministers under the UK Regulations (but only with the consent of the Welsh Ministers).

In a [letter](#) to the Legislation, Justice and Constitution Committee dated 21 October, Lesley Griffiths MS, Minister for Rural Affairs and North Wales, and Trefnydd said that the Welsh Ministers would consent to UK Ministers using their powers under the UK Regulations in devolved areas only in “exceptional circumstances”.

Also, as regards the use of the powers by the Welsh Ministers under these Regulations, we note the important context provided by the Common Framework on Animal Health and Welfare and its requirements for cross-government engagement.

**30. 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.**

Regulation 6 states that regulations made by the Welsh Ministers under any of the functions mentioned in the Schedule are to be made using the negative scrutiny procedure. Regulation 6(3) states that such regulations can amend, repeal or revoke any enactment, which means that the regulation making powers are Henry VIII powers. The Welsh Government is asked to confirm why the negative procedure is appropriate for these regulation making powers. The



Welsh Government is also asked to confirm whether regulation 6 changes the current procedure that is applied to these regulation making powers.

**31. 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 Regulations provide the Welsh Ministers with regulation making powers under several Directives to replace procedures which were previously included under those Directives. It is unclear what the intentions and the timescales are for the use of these additional powers. Specifically, what are the reasons for adding additional regulation making powers into the Directives?

**32. 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.**

In addition to the specific points made above, these Regulations do not provide a reader with a straightforward route to understanding what the law is in this area. A number of pieces of legislation are being amended in a piecemeal fashion by these Regulations. It is very difficult to ascertain the legislative position generally, and to find the information needed to understand the requirements in this area.

In particular, the approach found in regulations 2 and 8 in relation to interpretation provisions appear to mark a novel departure from the approach usually found in Welsh statutory instruments.

All of the regulations in Part 5 relating to Directives include provisions that modify the existing interpretation provisions already found in those Directives (by modifying the existing definitions or introducing new definitions). From a practical point of view, it means that readers of those EU Directives on legislation.gov.uk, Westlaw and LexisNexis should be alerted to the existence of those modifications. However, the other definitions for those EU Directives found in regulations 2 and 8 will not be included in the textual comments for the EU Directives on those online resources which means that readers will not necessarily be aware of their existence. Therefore, it could be argued that it undermines the accessibility of Welsh Law (see section 1 of the Legislation (Wales) Act 2019). The Welsh Government is asked to explain why it took the approach of including definitions in regulations 2 and 8 rather than including them in the regulations that modify the interpretation provisions in each Directive.

Similarly, in regulation 8(2), the terms “national reference laboratory” and “official laboratory” are defined but are not used in these Regulations or in the modifications to the EU Directives found in Part 5. This approach could potentially confuse or mislead readers of these Regulations. The defined terms are used in the existing text of some of the Directives listed in Part 5, even if they are not used in the modifications found in these Regulations. The Welsh Government is therefore asked to explain why it did not modify the interpretation provisions found in those Directives for the purposes of accessibility



### **33. 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.**

Limited consultation has taken place in relation to these Regulations. The Explanatory Memorandum explains that:

*No consultation requirement arises from the use of the [European Union] Withdrawal Act [2018], and there are no policy changes therefore we do not expect this instrument to have an impact on stakeholders. Conditions for importation of animal or animal products or approval of establishments for example are not being affected by these modifications. This instrument does not introduce any new duties or obligations to users or enforcement agencies. These modifications will allow the existing rules to continue to apply in Wales following our departure from the EU.*

*There is a consultation requirement for changes by virtue of regulation 3(8) which amends Schedule 3, paragraph (8) of TARP Wales. Consultation was led by the UK Government on a GB-wide basis in 2021 and the responses were very favourable.*

The preamble to the Regulations state that:

*...the Welsh Ministers have consulted such bodies and persons as appear to the Welsh Ministers to be representative of the interests likely to be substantially affected by these Regulations and such other bodies or persons as the Welsh Ministers consider appropriate.*

This appears to be inconsistent with the final paragraph of the quote from the Explanatory Memorandum above, which states that the consultation was led by the UK Government. Clarification is therefore requested from the Welsh Government as to how the consultation took place.

### **34. 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.**

Over 70 typographical errors and errors in the footnotes to these Regulations have been found, which have been notified separately to Welsh Government officials. The Committee notes that footnotes do not form part of the Regulations themselves, but they are a useful tool for readers of legislation only insofar as they are accurate and the Committee therefore encourages the Welsh Government to ensure that this is the case.

## **Welsh Government response**

A Welsh Government response is required to the technical reporting points and the merits points except for point 28 and 34.

## **Committee Consideration**

The Committee considered the instrument at its meeting on 12 December 2022 and reports to the Senedd in line with the reporting points above.



## **Government Response: The Trade in Animals and Related Products (Amendment and Legislative Functions) and Animal Health (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2022**

### **Technical Scrutiny point 1**

Amendments introduced to the Trade in Animals and Related Products (Wales) Regulations 2011 will direct readers to the modifications introduced by these Regulations.

The Directives modified by part 5 of the draft Regulations are implemented in relation to Wales by the Trade in Animals and Related Products (Wales) Regulations 2011. Therefore, any person wishing to consider the application of the Directives in relation to Wales would consider the 2011 Regulations. Amendments to the 2011 Regulations, within regulation 3(2) and (4) of the draft Regulations, require a reader to consider the draft Regulations.

### **Technical Scrutiny point 2**

Regulation 5(1) & (2) confer the role of appropriate authority on the Welsh Ministers.

### **Technical Scrutiny point 3**

The Government has considered and as the use of the term British Isles in this provision is consistent with its ordinarily understood meaning, reflect that the footnote is not necessary and will remove it on publication.

### **Technical Scrutiny point 4**

The Directives, as modified by Part 5 of the draft Regulations, acquire ongoing legal effect in relation to Wales, by virtue of the draft Regulations and the Trade in Animals and Related Products (Wales) Regulations 2011. Therefore, it is more appropriate to consider the Directives as part of these Regulations, rather than these Regulations as part of those Directives. The definition within regulation 8(2) is therefore effective.

A definition of the draft Regulations is introduced by amendment of the 2011 Regulations, by regulation 3(2).

### **Technical Scrutiny point 5**

We refer to our response to technical scrutiny point 2.

### **Technical Scrutiny point 6**

Directive 89/556 provides for animal health conditions applicable to trade in bovine embryos. Article 7 provides that only embryos from authorised third countries may be imported. Article 8 provides that in relation to those countries, embryos they must have been collected, processed, stored, and transported in accordance with Chapter II of Annex A. The Welsh Ministers consider a power rather than a duty to legislate for a protocol is appropriate because

there is now an accepted protocol already in place based on international standards contained in the Manual of the International Embryo Transfer Society.

#### **Technical Scrutiny point 7**

The Government accepts the reporting point. The Government considers that, despite the minor translation error, the legislative intention is clear in both languages. The Government proposes to correct the error on making.

#### **Technical Scrutiny point 8**

The Government accepts the reporting point. The Government proposes to correct the error by an amending instrument at the next available opportunity. An amendment will be made early in 2023.

#### **Technical Scrutiny point 9**

The Government accepts the reporting point. The Government considers that, despite the minor translation error, the legislative intention is clear in both languages. The Government proposes to correct the error on making.

#### **Technical Scrutiny point 10**

Regulation 13(2) confirms Articles 2 and 6 of, and Annexes A, B, C and D to, this Directive only apply by virtue of these draft Regulations, and only for the purposes of references to those provisions in Directive 92/65 and Regulation (EU) No 206/2010. Neither “dealer” or “approved dealer’s premises” are used in those parts of Directive 91/68 that, by virtue of these Regulations will have ongoing legal effect, nor used in Regulation 206/2010.

#### **Technical Scrutiny point 11**

The Government accepts the first point reported, in relation to the use of the term “Directive 92/65/EEC” rather than “Directive 92/65” and propose correcting on making. Regulation (EC) No 853/2004 correctly refers to the defined term.

#### **Technical Scrutiny point 12**

The Government accepts the reporting point. This is clear minor typographical error, and the Government will correct the error on making.

#### **Technical Scrutiny point 13**

Distribution is removed from Article 1 of the Directive because, in the context of that provision, it refers to distribution, or movement within the European Union. The same rationale applies to Article 7. It is retained for the same rationale in in the heading of chapter 1.

Distribution is though retained in the definition of Articles 2, and 4 because it refers to the production process by which a food of animal origin is produced and reaches a further operator in the retail chain, or the consumer.

Article 3 applies to food business operators in third countries rather than in Wales, and therefore in that context distribution was not considered relevant.

In article 4, the term distribution is relevant, in terms of what might be authorised within Wales under that derogation.

#### **Technical Scrutiny point 14**

The definition of “products of animal origin” in the Directive is deleted because it has been superseded by a definition within Regulation (EU) 2017/625, the Official Controls Regulation, which is retained EU law by virtue of the European Union (Withdrawal) Act 2018. Modifications made to the opening paragraph of Article 2 to the Directive confirm definitions the Official Controls Definition apply to the Directive.

The Trade in Animals and Related Products (Wales) Regulations 2011, the Official Controls Regulation, these draft Regulations and numerous individual direct principal EU Regulations across animal health, animal welfare, food and feed hygiene and food safety will all work in tandem. In particular, the Official Controls regime is the verification system by which compliance with the substantive standards set in retained direct EU law is verified.

#### **Technical Scrutiny point 15**

Regulation 16(6)(a)(i)(bb) maintains the wording “suspected of being infected” and is referred to locate new wording “may be authorised” immediately after it.

#### **Technical Scrutiny point 16**

The Directives modified by Part 5 are not currently part of the domestic statute book, because Directives were not retained by the European Union (Withdrawal) Act 2018.

It is correct that only the provisions modified will apply in relation to Wales, by virtue of their inclusion in these draft Regulations. The Directive provisions modified in Part 5 are enforced, in relation to Wales, by the Trade in Animals and Related Products (Wales) Regulations 2011 and amendments to those Regulations, in draft regulation 3 (3) signpost readers to these Regulations, and the modified Directives.

#### **Technical Scrutiny point 17**

The Government accept the point and will correct the formatting error on making.

#### **Technical Scrutiny point 18**

The Government accept the point. This is clear minor typographical error, and the Government will correct this error on making.

### **Technical Scrutiny point 19**

The amendments within regulation 17(8)(e)(i) & (ii) remove the requirement for animals to be accompanied by a veterinary certificate prepared in compliance by a European Union Committee in accordance with article 14 of the Directive.

The new provision provides for animals to be accompanied by a relevant health certificate, in the form published by the Welsh Ministers, as appropriate authority, from time to time. The Welsh Ministers can publish the certificate administratively, and we are content that this amendment is a technical operability amendment.

### **Technical Scrutiny point 20**

The Government accepts it would have been consistent with other similar modifications if the references to “the territory” had been replaced with a reference to Wales. However, we are content the effect of the provision is clear and there is no real risk of confusion.

### **Technical Scrutiny point 21**

The term “central veterinary authority” is used in relation to third country’s responsibility of approving an approved laboratory in Article 2 of Directive 2009/158. It is not “competent veterinary authority” but ‘approved laboratory’ which is defined in article 2(11).

The definition of approved laboratory is simply amended to exclude the notion an approved laboratory must be located in a Member State, as it would not make sense in the domestic context.

There is no definition of “competent veterinary authority” in the Directive therefore it is not being amended by the Regulations, and the term is used generically as it will apply in many different countries.

### **Technical Scrutiny point 22**

The Government accepts the reporting point. The Welsh text includes a clear typographical error, and the Government will seek to correct it on making.

### **Technical Scrutiny point 23**

The Government accepts the reporting point. The English text includes a clear typographical error, and the Government will seek to correct it on making.

### **Technical Scrutiny point 24**

The Government accepts the reporting point. The part heading for Part 6 is missing from the Welsh text. As this is not an operative part of the draft Regulations, we will seek to correct this formatting error on making.

### **Technical Scrutiny point 25**

In Directive 88/407, the purpose of listing the third sub-paragraph of Article 9(2), is because it is relevant to the Welsh Minister's regulation making power in Article 8(1).

In Direction 92/65, the purpose of listing the third subparagraph of Article 8(a) is because it contains the Welsh Ministers' regulation making power. Article 8(b) is relevant to a person wishing to import bumble bees under the requirements of the Trade in Animals and Related Products (Wales) Regulations 2011, rather than relevant to the exercise of the Welsh Ministers' regulation making powers.

In Directive 2002/99, paragraph 8(d) lists the Welsh Ministers' regulation making power set out in Article 4(3), the second sub paragraph, which relates to the need to maintain animal health protection standards in the event the Welsh Minister's legislate under the first sub paragraph of Article 4(3), to derogate from Article 3. It is also listed in paragraph 8(c) because it is relevant to the exercise of that derogation power.

In Directive 2002/99, in relation to Article 8(1) of Directive 2002/99, article 8 has sub-paragraphs numbered 1 to 5, however there are no sub paragraphs 5- 10.

In relation to all the provisions listed under bullet point number 5 under technical scrutiny point 25, the policy intention was to reference provisions together with the Welsh Minister's regulation making powers, because they are considered relevant to the exercise of those regulation making power.

In relation to Articles 19(a) and 19(b) of Directive 92/65, in paragraph 6(s) and 6(t), it was not considered necessary to specifically reference any other provisions. In relation to Articles 6(1), (2) and (3) of Directive 2004/68, the regulation making power is set out in Article 6(1), but Articles 2(2) & (3) are relevant to it.

In relation to the separate listing of the first and second sub-paragraphs of Article 4(6) of Directive 2009/156 in paragraphs 10(2) and 10(d), they are separately listed because the provisions contain two separate regulation making powers.

In relation to the references to Articles 19(1) – (d) in paragraphs 10(g) to (t) of the Schedule, we consider they could have been listed in a single paragraph, and it would not have altered the legal effect, but in separating them the different application in different circumstances is highlighted.

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.

### **Technical Scrutiny point 26**

The Government accepts the reporting point. The Government considers that, despite the minor translation error, the legislative intention is clear in both languages. The Government proposes to correct on making.

### **Technical Scrutiny point 27**

The Government accepts the reporting point. The Government does not consider that this clear typographical error gives rise to a risk of confusion. The Government will seek for this error to be corrected on making.

### **Merits Scrutiny point 29**

It doesn't appear a government response is required to this reporting point.

### **Merits Scrutiny point 30**

Regulation 6(3) provides that Welsh Ministers' regulations made under functions listed in the Schedule to the draft Regulations may include consequential, incidental, supplementary transitional or saving provision, including provision amending, repealing or revoking *any* enactment. However, the extent of the power to amend, repeal or revoke *any* enactment is therefore limited to such consequential, incidental, supplementary transitional or saving provision as is included in Welsh Ministers' Regulations, and so we consider the negative scrutiny procedure appropriate.

### **Merits Scrutiny point 31**

The policy intention is to provide the Welsh Ministers with regulation making functions that will enable them to make future modifications of the Directives to keep pace with future relevant policy, economic, scientific and technical developments. These new Welsh Ministers' functions replace such updating functions that were vested in EU bodies by the Directives.

### **Merits Scrutiny point 32**

The drafting approach is necessarily novel and complex in consequence of the existing legislative context. They will apply in a highly regulated policy area, and interact with a number of other lengthy and complex items of domestic and retained EU legislation. In particular the Official Controls regime and the Trade in Animals and Related Products (Wales) Regulations 2011.

In relation to copies of the Directives available publicly, you correctly note that the modifications made by these Regulations would not be read into those copies. However the Directives as a whole, as they exist outside of these draft Regulations, do not form part of the statute book. Part 5 modifies the Directives only for the purposes of the draft Regulations and the Trade in Animal and Related Products (Wales) Regulations 2011. In relation to the draft Regulations, the functions listed in the Schedule are functions of the draft Regulations, drafted by reference to the Directives. The Trade in Animals and Related Products (Wales) Regulations 2011 cross-refers to the draft Directives and so the application of the draft Regulations, and the incorporation of the modified Directive texts will be clear to the reader.

### **Merits Scrutiny point 33**

Noted. The preamble confirms that in so far as the Regulations utilise Articles 48(b) and 144(6) of Regulation (EU) 2017/625, the consultation requirement in Article 144(7) of Regulation (EU) 2017/625 has been met. Articles 48(b) and 144(6) in relation to regulation 3(8) only.

The consultation was done by the UK Government, with oversight of the Welsh Government, before The UKG then implemented this policy change in the Exemptions from Official Controls at Border Control Posts (Amendment) Regulations 2021.

At the time, the UK Government in agreement with Welsh Government, consulted all the relevant stakeholders from the life sciences industry sector and the response to the 2021 Regulations was positive.

Various industry bodies and leading organisations were engaged, representative of the sector as a whole across GB. These stakeholders operate at GB or UK-wide level, so it was not considered necessary for Welsh Ministers to consult the same stakeholders separately in Wales.

Lesley Griffiths MS

Minister for Rural Affairs and North Wales, and Trefnydd

Lynne Neagle MS

Deputy Minister for Mental Health and Wellbeing

12 December 2022

Dear both

The Trade in Animals and Related Products (Amendment and Legislative Functions) and Animal Health (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2022 and The Food and Feed (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2022

At our meeting today, on 12 December 2022, we considered The Trade in Animals and Related Products (Amendment and Legislative Functions) and Animal Health (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2022 (the TARP 2022 Regulations) and The Food and Feed (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2022 (the Food 2022 Regulations). It is disappointing that we have not had a response to the 34 reporting points we have raised in relation to the TARP 2022 Regulations, particularly given the potential implications of the defective drafting we have identified. With regards to the Food 2022 Regulations, we were able to consider the Welsh Government's response to our reporting points.

We are concerned that it would appear the Welsh Government is continuing with its plans to seek the Senedd's approval for these regulations, despite both instruments being defective. We have therefore taken the decision to write to you urgently, following our consideration of these regulations in our meeting this afternoon.

We believe it is crucial that more information is provided to the Senedd before you ask its Members to approve regulations which contain known errors, and which could reduce the effectiveness, operability and accessibility of the law particularly for stakeholders and citizens directly affected by it.

The Trade in Animals and Related Products (Amendment and Legislative Functions) and Animal Health (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2022

Q1. The powers used to make these Regulations expire on 31 December 2022. Could you therefore please provide details of the powers that would be used to make corrections to any defective elements of the legislation?

Q2. What limitations would there be (if any) on laying legislation which is not defective after 31 December 2022 (instead of continuing with the existing Regulations before the Senedd)?

Q3. What would be the impact of not making these Regulations before 31 December 2022?

Q4. Why have you decided not to exercise powers contained in the *European Union (Withdrawal) Act 2018* to permit the use of the urgent (made affirmative) procedure as a means of correcting the defective drafting highlighted by the Committee?

Q5. Please could you indicate which points you agree / disagree with in our report in respect of these Regulations, so that Members can understand your position?

Q6. Please could you outline what the practical effect is of this legislation being made with deficiencies versus the practical effect of not making this legislation, including any health, safety and / or biosecurity risks?

Q7. Could you please confirm whether this situation gives rise to Northern Ireland/Great Britain divergence?

Q8. How do you intend to deal with correcting the defective Regulations should they be approved by the Senedd and to what timescale?

The Food and Feed (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2022

In the Welsh Government's response you state that you will correct the errors identified in reporting points 2, 3 and 5 "at the next available opportunity" and that you anticipate "that there will be a suitable statutory instrument... taken forward in the first half of 2023".

The Food and Feed (Miscellaneous Amendments) (Wales) (EU Exit) Regulations are being made using powers in paragraph 1(1) of Schedule 2 and paragraph 21(b) of Schedule 7 to the *European Union (Withdrawal) Act 2018* and in sections 66(1), 74A(1) and 84 of the *Agriculture Act 1970*.

Q9. Again, we request confirmation about which powers will be exercised to make the appropriate correcting statutory instrument?

Q10. What would be the impact of not making these Regulations before 31 December 2022?

Q11. What impact assessment has the Welsh Government carried out to come to the decision that it is preferable to amend this defective legislation in the New Year rather than withdraw it and make new regulations using other powers?

Q12. When will the correcting Regulations be laid before the Senedd?

Q13. Could you please confirm whether this situation gives rise to Northern Ireland/Great Britain divergence?

We would urge you to address these questions during the relevant Plenary debates on Tuesday 13 December, and we expect a full written response to our questions as soon as possible.

I am copying this letter to the Senedd's Business Committee.

Yours sincerely,

*Huw Irranca-Davies*

Huw Irranca-Davies  
Chair

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



Lynne Neagle AS/MS  
Y Dirprwy Weinidog Iechyd Meddwl a Llesiant  
Deputy Minister for Mental Health and Wellbeing

Llywodraeth Cymru  
Welsh Government

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

13 December 2022

Dear Huw

**The Trade in Animals and Related Products (Amendment and Legislative Functions)  
and Animal Health (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2022  
(‘TARP ALF’)**

**The Food and Feed (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2022**

Thank you for your letter of 12 December 2022 regarding the above titled SIs. The Government can only apologise for the time taken to respond to the report on the TARP ALF. The Report was made available to us on Wednesday 7 December and the reporting points needed detailed and thorough consideration which has taken considerable time.

TARP ALF, in particular, has been an extremely long and technically complex, 100-page instrument for officials to draft, which is a consequence of the already complex legislative context the Regulations will operate in, namely 11 EU directives, 9 retained EU regulations and 2 domestic sets of regulations, totalling several hundred pages of legislation.

The Government is grateful to the LJC Committee for its scrutiny and accepts a small number of reporting points require amendments, but is confident the Regulations, with proposed correction, remain effective, operable, and accessible. On balance, the Government considers it appropriate to proceed with submitting the Regulations to a vote in the Senedd.

The Welsh Government has carefully considered the points raised by the LJCC and are confident they can be resolved because they do not have a substantial impact upon the operation of the Regulations and should not prevent the Regulations from being made

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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.

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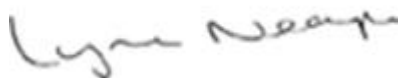
In relation to the questions on your letter, please find the Government's responses in the Annex below.

Regards

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

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## ANNEX

### **The Trade in Animals and Related Products (Amendment and Legislative Functions) and Animal Health (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2022**

**Q1. The powers used to make these Regulations expire on 31 December 2022. Could you therefore please provide details of the powers that would be used to make corrections to any defective elements of the legislation?**

We propose relying on powers under the Animal Health Act 1981.

**Q2. What limitations would there be (if any) on laying legislation which is not defective after 31 December 2022 (instead of continuing with the existing Regulations before the Senedd)?**

If the SI is not made before 31 December 2022, then the enabling powers will be lost to the Welsh Ministers, namely those under the EU Withdrawal Act.

Officials have started identifying alternative legal powers, to assemble an equivalent package of tools for the Welsh Ministers; however, the Government is not optimistic it will achieve good coverage. This is because at the start of this project, all UK administrations assessed what powers were in these Directives, that would be “lost” if not retained under EUWA. If a domestic alternative was available, it would not be necessary to transfer the Commission powers over, as that would have consisted of duplication.

**Q3. What would be the impact of not making these Regulations before 31 December 2022?**

There are various impacts. First, the enabling powers for this SI will expire on 31 December 2022 so, from a policy and legal resource point of view, this would mean restarting the work from the beginning and trying to identify new powers to make the corrections.

The difficulty with this approach is these Regulations create regulation-making powers and vest them in the Welsh Ministers. Domestic primary legislation generally sets out regulation making powers and does not permit further regulation making powers to be created in those regulations. We estimate a full analysis of available administrative and regulation making powers and trying to match them to their provisions made in this SI would take 4-6 months, during which time the inconsistencies in our domestic rulebook these Regulations are seeking to fix will be maintained.

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**Q4. Why have you decided not to exercise powers contained in the European Union (Withdrawal) Act 2018 to permit the use of the urgent (made affirmative) procedure as a means of correcting the defective drafting highlighted by the Committee?**

The Government considered this option and found it not to be a workable solution given volume of work required within a significantly compressed timescale. The government does not accept 18 scrutiny points from the LJCC report; therefore, a re-laid draft would still contain the provisions to which they relate.

Further, in relation to the general comments on the drafting, we could not significantly re-draft before the 31 December. Therefore the “new” regulations would only resolve around 50% of the reporting points, the same ones we can resolve on publication and by a small amending instrument if we proceed with this laid draft.

Whilst we hope our government response will resolve the 18 scrutiny points the Government does not accept, we would not want to risk pre-judging that exercise. We considered therefore the situation, and the ask of the Senedd was the same or very similar in each scenario, but under the made affirmative procedure, there was an added issue that the Withdrawal Act powers would already have expired before the Senedd voted on the “new” Regulations.

**Q5. Please could you indicate which points you agree / disagree with in our report in respect of these Regulations, so that Members can understand your position?**

The Government agrees with approximately half of the reporting points, with two of them requiring an amendment to the Regulations. Full details have been provided in the formal response to the LJCC report of 7 December.

Of the 34 reporting points, it is proposed a short amending instrument will resolve 2 of the reporting points.

12 reporting points are minor errors that can be corrected on publication.

In relation to 18 points, officials are content they can provide a rationale for the drafting that should resolve the LJCC’s concerns.

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The Regulations incorporate into Welsh law import animal health and animal products provisions set in EU Directives and provides they will be enforced by the Trade in Animals and Related Products (Wales) Regulations 2011 at the point of entry, where consignments are checked, and compliance verified before consignments enter Wales.

Not making the Regulations will prolong an existing risk of an inconsistent framework for import controls. Making the Regulations now addresses that risk, when taken together with the Government's commitment to resolve the accepted reporting points. In relation to the two points which require an amendment, we consider the risk associated with those two points negligible from a biosecurity point of view in the short term.

In the short intervening period before the amendment is made, these discrepancies can be managed operationally and there will be no adverse impact on traders nor any risk of compromising animal health and welfare.

**Q7. Could you please confirm whether this situation gives rise to Northern Ireland/Great Britain divergence?**

If the Regulations are not made now, then Wales would continue to have deficiencies in its legal framework for the control of imports, whilst England and Scotland would not.

There are no special implications with respect to Northern Ireland since Northern Ireland is legally aligned with the EU Animal Health Regulation, so is already divergent from its GB counterparts.

**Q8. How do you intend to deal with correcting the defective Regulations should they be approved by the Senedd and to what timescale?**

The Welsh Government is committed to introduce an amending statutory instrument in respect of the two points we agree need rectifying, early in 2023 (January). In tandem, we will address the small minor scrutiny points on making and publication.

**The Food and Feed (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2022**

**Q9. Again, we request confirmation about which powers will be exercised to make the appropriate correcting statutory instrument?**

Corrections to the 'Food 2022 Regulations' technical scrutiny points raised by the LJCC will be addressed using differing powers. Points 1 and 4 concern minor typographical errors and are proposed to be addressed by correction slips. Points 2 and 3 highlight minor incomplete amendments to two food related instruments. It is proposed to make further amendments those SIs (as they are amended by the Food 2022 Regulations) to address points 2 and 3 made using powers under section 16 of the Food Safety Act 1990. Point 5 highlights an error in the Welsh language text being inserted into an animal feed related instrument. It is proposed further amendments to that SI (as it is amended by the Food 2022 Regulations) to address the point would be made using powers under section 74A(1) (66(1) and 84) of the Agriculture Act 1970.

**Q10 . What would be the impact of not making these Regulations before 31 December 2022?**

Should the 'Food 2022 Regulations' not be made before 11pm on 31 December 2022, it would not be possible for them to be made at a later date in their current form as the powers in the European Union (Withdrawal) Act 2018 expire at that point.

Alternative powers are available for most provisions with the exception that there are no alternative powers available to make regulation 4(8). This provision is a new regulation-making power for the Welsh Ministers to amend the lists of undesirable substances in relation to animal feed.

Not proceeding with these proposed changes would create a period of divergence in terms of accessibility for the relevant legislation within Wales compared to England and Scotland, until such time as it might be possible to bring the Welsh Regulations into alignment with the other GB regulations.

**Q11. What impact assessment has the Welsh Government carried out to come to the decision that it is preferable to amend this defective legislation in the New Year rather than withdraw it and make new regulations using other powers?**

A review of the 'Food 2022 Regulations' has confirmed that it would not be possible for them to be made in the New Year in its current form under alternative powers. Changes within the 'Food 2022 Regulations' rely upon powers in the European Union (Withdrawal) Act 2018, which would have expired. The additional resource implications for the Senedd (including further scrutiny from Legislation, Justice and Constitution Committee), for FSA and for Welsh Government of withdrawal and remaking under alternative powers have been considered. Implications for stakeholders concerning an unknown period divergence in the form (although not operability) of the relevant legislation as it applies in Wales compared to England and Scotland has also been considered.

The conclusion reached is that addressing the points via correction slip and by a future appropriate legislative vehicle is the most proportionate and effective approach given the very minor nature of the errors identified - in particular as the errors do not substantively affect the operability of the 'Food 2022 Regulations' or the operability of the legislation as amended by the Regulations.

**Q12. When will the correcting Regulations be laid before the Senedd?**

FSA and Welsh Government have identified a suitable planned legislative vehicle that could be used to make the proposed further amendments. This Statutory Instrument does not have a working title yet, but it will contain authorisations relating to novel foods, food additives, and food flavourings. We propose to include the minor further amendments required to address the reporting points identified by the LJCC within this SI. This is currently intended to be made towards the end of the first quarter, or early in the second quarter of 2023.

**Q13. Could you please confirm whether this situation gives rise to Northern Ireland/Great Britain divergence?**

This situation does not give rise to Northern Ireland/Great Britain divergence. The 'Food 2022 Regulations' address issues of accessibility and clarity caused by the current incorporation, by cross reference of provisions of certain EU Directives as those Directives had effect as at implementation period completion day. The Regulations transpose those provisions directly into the Welsh domestic legislation. There are no substantive changes being made to the operation of the legislation.



# Agenda Item 4.3

## **SL(6)291 – The Food and Feed (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2022**

### **Background and Purpose**

The Food and Feed (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2022 make amendments to subordinate legislation, which apply in relation to Wales, in the fields of food and feed safety and hygiene.

In particular, these Regulations:

- correct deficiencies in Welsh domestic legislation relating to food and feed hygiene and safety, removing cross-references to EU Directives and transposing certain Annexes to those Directives into domestic legislation;
- correct references within Welsh domestic legislation defining enforcement authorities in relation to animal feed.

### **Procedure**

Affirmative.

The Welsh Ministers have laid a draft of the Regulations before the Senedd. The Welsh Ministers cannot make the Regulations unless the Senedd approves the draft Regulations.

### **Technical Scrutiny**

The following 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 the preamble on page 5, the European Union (Withdrawal) Act 2018 is incorrectly referred to as the European Union (Withdrawal) Act 2020 [*emphasis added*].

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

Regulation 2(4)(b) amends regulation 12(2) of the Materials and Articles in Contact with Food (Wales) Regulations 2012.

Prior to being amended, the relevant wording in the provision read:

*"...substances listed in the **first part** of Annex II and subject to the restrictions set out in that **part**." [*emphasis added*]*



Following the amendment the provision reads:

*"...substances listed in **table 1** of Schedule 6 and subject to the restrictions set out in that **part.**" [emphasis added]*

Given that the table in Schedule 6 is not split into parts (as opposed to Annex II which is), the remaining reference to "part" left in regulation 2(4)(b) should be replaced with "table".

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

In regulation 3(2)(a)(ii), in the Welsh text, the corresponding English definition was included in brackets and italics of the existing definition of "*Rheoliadau'r UE*".

However, the amendment made by regulation 3(2)(a)(ii) does not amend the English definition that appears in brackets and italics after the amended definition in the Welsh text. As a result, the new amended Welsh definition will still have the original English definition in brackets afterwards ("*the EU Regulations*") rather than the new English definition ("*the retained EU Regulations*"). This will confuse rather than aid the reader by linking the new Welsh definition with the old English definition.

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

In regulation 3(8), in the Welsh text, the description of the amendment fails to precisely identify where to insert the new text - it states that the new text should be inserted after "*Rheoliadau'r UE*" [emphasis added] in regulation 19(2) of the 2013 Regulations.

However, it should say "*Reoliadau'r UE*" [emphasis added] as the words appear in a mutated form in paragraph (2) of regulation 19. The (unmutated) words "*Rheoliadau'r UE*" do not appear anywhere in regulation 19(2) of the 2013 Regulations.

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

In Schedule 3, in Table 1 in the new Schedule 1B, in the Welsh text, "*feed materials*" has been incorrectly translated as "*deunyddiau blawd*" [emphasis added] which means "*meal materials*" in each place the words corresponding to "*seaweed meal and feed materials derived from seaweed*" appear in the second column for entry no. 1, Arsenic.

The correct translation for "*feed materials*" is "*deunyddiau bwyd anifeiliaid*" [emphasis added] as found elsewhere in that Table, and in the existing regulation 15(7)(c) of the Animal Feed (Composition, Marketing and Use) (Wales) Regulations 2016.



## Merits Scrutiny

No points are identified for reporting under Standing Order 21.3 in respect of this instrument.

## Welsh Government response

A Welsh Government response is required.

## Committee Consideration

The Committee considered the instrument at its meeting on 5 December 2022 and reports to the Senedd in line with the reporting points above.



Senedd Cymru

**Pwyllgor Deddfwriaeth, Cyfiawnder a'r Cyfansoddiad**

—

Welsh Parliament **Pack Page 54**

**Legislation, Justice and Constitution Committee**

**Government Response: *The Food and Feed (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2022***

***Technical Scrutiny point 1***

The Government accepts the point.

The Government does not consider that the minor typographical error affects the validity of the instrument. The error and correct reference are clear from the context and the footnote.

The Government does consider correction to be appropriate, for clarity – and will seek for this to be done as soon as possible by correction slip.

***Technical Scrutiny point 2***

The Government accepts the point.

The Government considers that, despite the error, the legislative intention is clear that the restrictions applicable to the substances listed in the new Schedule 6 to S.I. 2012/2705 (W. 291) are to be found in that Schedule.

The Government proposes to correct the error at the next available opportunity. It is anticipated that there will likely be a suitable statutory instrument for the correction taken forward in the first half of 2023.

***Technical Scrutiny point 3***

The Government accepts the point.

The Government considers that there is no real risk of confusion despite the error. The amendment to the defined Welsh term itself is correct. There is no other definition in the English text of regulation 2(1) of S.I. 2013/2591 (W. 255) with which the Welsh definition could be confused.

The Government proposes to correct the error in the Welsh text at the next available opportunity. It is anticipated that there will likely be a suitable statutory instrument for the correction taken forward in the first half of 2023.

***Technical Scrutiny point 4***

The Government accepts the point.

The minor typographical error appears in the text identifying the location of the proposed amendment to regulation 19(2) of S.I. 2013/2591 (W. 255). The Government does not consider that this clear typographical error gives rise to a risk of confusion as to intended location for the insertion of the amendment.

The Government will seek for this error to be corrected by correction slip.

***Technical Scrutiny point 5***

The Government accepts the point.

The Explanatory Notes confirm that the new Schedule 1B to S.I. 2016/386 (W. 120) is a transposed copy of Annex 1 to Directive 2002/32/EC as that Directive had effect immediately prior to implementation period completion day. It is clear that there is no substantive change being made. The text in question “*seaweed meal and feed materials derived from seaweed*” has been an established aspect of that Annex since 2003, so stakeholders will be familiar with the correct coverage. The Government considers that, when interpreting the legislation, it is clear that there is an error in the Welsh text, and that the English text contains the correct intended wording to be applied.

The Government proposes to correct the error in the Welsh text at the next available opportunity. It is anticipated that there will likely be a suitable statutory instrument for the correction taken forward in the first half of 2023.

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



Lynne Neagle AS/MS  
Y Dirprwy Weinidog Iechyd Meddwl a Llesiant  
Deputy Minister for Mental Health and Wellbeing

Llywodraeth Cymru  
Welsh Government

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

13 December 2022

Dear Huw

**The Trade in Animals and Related Products (Amendment and Legislative Functions)  
and Animal Health (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2022  
(‘TARP ALF’)**

**The Food and Feed (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2022**

Thank you for your letter of 12 December 2022 regarding the above titled SIs. The Government can only apologise for the time taken to respond to the report on the TARP ALF. The Report was made available to us on Wednesday 7 December and the reporting points needed detailed and thorough consideration which has taken considerable time.

TARP ALF, in particular, has been an extremely long and technically complex, 100-page instrument for officials to draft, which is a consequence of the already complex legislative context the Regulations will operate in, namely 11 EU directives, 9 retained EU regulations and 2 domestic sets of regulations, totalling several hundred pages of legislation.

The Government is grateful to the LJC Committee for its scrutiny and accepts a small number of reporting points require amendments, but is confident the Regulations, with proposed correction, remain effective, operable, and accessible. On balance, the Government considers it appropriate to proceed with submitting the Regulations to a vote in the Senedd.

The Welsh Government has carefully considered the points raised by the LJCC and are confident they can be resolved because they do not have a substantial impact upon the operation of the Regulations and should not prevent the Regulations from being made

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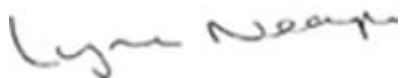
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Lesley Griffiths MS

Minister for Rural Affairs and North Wales, and Trefnydd

Lynne Neagle MS

Deputy Minister for Mental Health and Wellbeing

12 December 2022

Dear both

The Trade in Animals and Related Products (Amendment and Legislative Functions) and Animal Health (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2022 and The Food and Feed (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2022

At our meeting today, on 12 December 2022, we considered The Trade in Animals and Related Products (Amendment and Legislative Functions) and Animal Health (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2022 (the TARP 2022 Regulations) and The Food and Feed (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2022 (the Food 2022 Regulations). It is disappointing that we have not had a response to the 34 reporting points we have raised in relation to the TARP 2022 Regulations, particularly given the potential implications of the defective drafting we have identified. With regards to the Food 2022 Regulations, we were able to consider the Welsh Government's response to our reporting points.

We are concerned that it would appear the Welsh Government is continuing with its plans to seek the Senedd's approval for these regulations, despite both instruments being defective. We have therefore taken the decision to write to you urgently, following our consideration of these regulations in our meeting this afternoon.

We believe it is crucial that more information is provided to the Senedd before you ask its Members to approve regulations which contain known errors, and which could reduce the effectiveness, operability and accessibility of the law particularly for stakeholders and citizens directly affected by it.

The Trade in Animals and Related Products (Amendment and Legislative Functions) and Animal Health (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2022

Q1. The powers used to make these Regulations expire on 31 December 2022. Could you therefore please provide details of the powers that would be used to make corrections to any defective elements of the legislation?

Q2. What limitations would there be (if any) on laying legislation which is not defective after 31 December 2022 (instead of continuing with the existing Regulations before the Senedd)?

Q3. What would be the impact of not making these Regulations before 31 December 2022?

Q4. Why have you decided not to exercise powers contained in the *European Union (Withdrawal) Act 2018* to permit the use of the urgent (made affirmative) procedure as a means of correcting the defective drafting highlighted by the Committee?

Q5. Please could you indicate which points you agree / disagree with in our report in respect of these Regulations, so that Members can understand your position?

Q6. Please could you outline what the practical effect is of this legislation being made with deficiencies versus the practical effect of not making this legislation, including any health, safety and / or biosecurity risks?

Q7. Could you please confirm whether this situation gives rise to Northern Ireland/Great Britain divergence?

Q8. How do you intend to deal with correcting the defective Regulations should they be approved by the Senedd and to what timescale?

The Food and Feed (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2022

In the Welsh Government's response you state that you will correct the errors identified in reporting points 2, 3 and 5 "at the next available opportunity" and that you anticipate "that there will be a suitable statutory instrument... taken forward in the first half of 2023".

The Food and Feed (Miscellaneous Amendments) (Wales) (EU Exit) Regulations are being made using powers in paragraph 1(1) of Schedule 2 and paragraph 21(b) of Schedule 7 to the *European Union (Withdrawal) Act 2018* and in sections 66(1), 74A(1) and 84 of the *Agriculture Act 1970*.

Q9. Again, we request confirmation about which powers will be exercised to make the appropriate correcting statutory instrument?

Q10. What would be the impact of not making these Regulations before 31 December 2022?

Q11. What impact assessment has the Welsh Government carried out to come to the decision that it is preferable to amend this defective legislation in the New Year rather than withdraw it and make new regulations using other powers?

Q12. When will the correcting Regulations be laid before the Senedd?

Q13. Could you please confirm whether this situation gives rise to Northern Ireland/Great Britain divergence?

We would urge you to address these questions during the relevant Plenary debates on Tuesday 13 December, and we expect a full written response to our questions as soon as possible.

I am copying this letter to the Senedd's Business Committee.

Yours sincerely,

*Huw Irranca-Davies*

Huw Irranca-Davies  
Chair

# Common Frameworks

December 2022



The Welsh Parliament is the democratically elected body that represents the interests of Wales and its people. Commonly known as the Senedd, it makes laws for Wales, agrees Welsh taxes and holds the Welsh Government to account.

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# Common Frameworks

December 2022



# About the Committee

The Committee was established on 23 June 2021. Its remit can be found at:  
[www.senedd.wales/SeneddEconomy](http://www.senedd.wales/SeneddEconomy)

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Current Committee membership:



**Committee Chair:  
Paul Davies MS**  
Welsh Conservatives



**Hefin David MS**  
Welsh Labour



**Luke Fletcher MS**  
Plaid Cymru



**Samuel Kurtz MS**  
Welsh Conservatives



**Vikki Howells MS**  
Welsh Labour



**Sarah Murphy MS**  
Welsh Labour

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## Foreword

The four governments of the UK agreed to work together to develop common frameworks in 2017. Common frameworks are agreements between the UK and devolved governments on how to manage divergence in certain policy areas formerly governed or coordinated at an EU level.

Most common frameworks came into effect on a provisional basis at the end of the Brexit transition process on 31 December 2020 but have yet to be finalised. The legislatures of the UK have been tasked with scrutinising these provisional frameworks and making recommendations on their content to their respective governments prior to final versions being agreed.

In the Senedd, scrutiny has been carried out by the relevant subject committees with the Legislation, Justice and Constitution Committee keeping an overview of the programme as a whole.

The Economy, Trade and Rural Affairs Committee was tasked with scrutinising seven frameworks within its remit. This included the Fisheries Management and Support Framework, which was considered alongside scrutiny of the **Draft Joint Fisheries Statement**. Due to the close links between the areas covered by the remaining six frameworks, the Committee opted to consider these frameworks together. This report identifies common themes and recommendations that the Committee identified across the six frameworks, in addition to specific issues that relate to the individual frameworks.

The report makes 46 recommendations in total. Some call on the Welsh Government to take specific actions in the delivery of the framework programme in Wales. Others call for changes to the content of the frameworks themselves.

In making recommendations, the Committee has considered carefully the work of its counterpart committees across the UK and has found many areas of common concern and interest.

The frameworks form an important part of the constitutional governance of the UK post-Brexit and it is vital that we get them right.



**Paul Davies MS,**  
Chair

## Recommendations

- Recommendation 1.** The Welsh Government should ensure that the views of Welsh stakeholders are sought on the provisional common frameworks and taken into account before they are finalised. ....Page 13
- Recommendation 2.** The Welsh Government should keep the Committee updated on progress towards finalising the provisional common frameworks. ....Page 13
- Recommendation 3.** The Welsh Government should explain how it will ensure that a full quality assurance and proofing exercise is carried out on these provisional common frameworks before final versions are published. ....Page 14
- Recommendation 4.** We agree with the House of Lords Common Frameworks Scrutiny Committee that, while a standardised approach may not always be possible, where frameworks have diverged from the standard model, the reasons for this should be clearly explained. ....Page 15
- Recommendation 5.** We agree with the House of Lords Common Frameworks Scrutiny Committee that the common frameworks should **include** clear terms of reference for all working groups and diagrams clearly showing the relationships between them. ....Page 15
- Recommendation 6.** The Welsh Government should commit that the frameworks will lead to no dilution of public consultation or of parliamentary scrutiny in policymaking or the legislative process. ....Page 16
- Recommendation 7.** The Welsh Government should set out how it will identify, manage and mitigate any risk that the frameworks might limit the role of the Welsh Government, the Senedd or stakeholders in making law and policy for Wales. ....Page 17
- Recommendation 8.** The Welsh Government should make it clear to the Senedd and stakeholders wherever proposed legislation or policy is being taken through any of these common frameworks. ....Page 17
- Recommendation 9.** The Welsh Government should inform the Senedd if proposals for legislation or policy changes result from decision-making processes in any of these common frameworks. ....Page 17

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**Recommendation 10.** The Welsh Government should seek intergovernmental agreement to amend these common frameworks to clarify that changes to law and policy in areas where the Welsh Government had regulatory flexibility while the UK was an EU Member State should not be bound by requirements for joint decision-making or bound by dispute resolution processes. ....Page 18

**Recommendation 11.** The Welsh Government should clearly set out the reasons for making the animal health and welfare framework broad in scope, and should confirm that it has at least the same flexibility to develop policy and legislation as it did before leaving the EU.....Page 18

**Recommendation 12.** The Welsh Government should seek intergovernmental agreement to amend common frameworks to ensure that they set out clearly when decisions will be in scope and the reasons for this. ....Page 18

**Recommendation 13.** The Welsh Government should engage with stakeholders to ensure that the scope of common frameworks is widely understood. ....Page 18

**Recommendation 14.** The Welsh Government should seek intergovernmental agreement that each framework should set out where divergence is acceptable in a clear, consistent and accessible way.....Page 19

**Recommendation 15.** The Welsh Government should explain how it will ensure that processes for determining whether divergence is acceptable are open and accessible to the Senedd and stakeholders. ....Page 19

**Recommendation 16.** The Welsh Government should seek intergovernmental agreement to update the frameworks to reference the agreed new interministerial dispute resolution process, following the implementation of the Intergovernmental Relations Review. ....Page 19

**Recommendation 17.** The Welsh Government should explain how it will ensure that the pausing of actions under dispute does not lead to undue delays to decisions. ....Page 20

**Recommendation 18.** The Welsh Government should seek intergovernmental agreement that each of these common frameworks should provide for the governments to seek independent advice during the dispute resolution process. ....Page 20

**Recommendation 19.** The Welsh Government should seek intergovernmental agreement that each framework should provide for disputes escalated to Ministerial level to be notified to parliaments. ....Page 20

**Recommendation 20.** To support transparency, the Welsh Government should seek intergovernmental agreement to include reference in these common frameworks to the UK Internal Market Act 2020 and the exclusions process as relevant. ....Page 21

**Recommendation 21.** The Welsh Government should confirm that any proposed changes to retained EU law in scope of these common frameworks will be taken through relevant framework processes. ....Page 22

**Recommendation 22.** The Welsh Government should explain how it will ensure decisions on aligning with or diverging from retained EU law are clear to the Senedd in scrutiny of legislation in these common framework areas. ....Page 22

**Recommendation 23.** The Welsh Government should keep the Senedd updated on any measures agreed on lessening the detrimental impacts of divergence between Great Britain and Northern Ireland as a result of the Protocol in these common framework areas. ....Page 22

**Recommendation 24.** The Welsh Government should seek intergovernmental agreement to include the text above as part of the standard wording on the Protocol in these common frameworks. ....Page 23

**Recommendation 25.** We agree with the House of Lords Common Frameworks Scrutiny Committee that all common frameworks that intersect with the Protocol should be updated to ensure frequent information sharing between parties to the framework on forthcoming EU legislation. ....Page 23

**Recommendation 26.** The Welsh Government should confirm its understanding of why the frameworks take different approaches towards their role in the development of international policy. ....Page 24

**Recommendation 27.** The Welsh Government should explain arrangements for ensuring effective representation for Wales in the development of UK international policy in these common framework areas. ....Page 24

**Recommendation 28.** The Welsh Government should seek intergovernmental agreement that each common framework should include a standardised section on the UK-EU Trade and Cooperation Agreement, setting out relevant provisions, their accompanying TCA committee, and how the governments will work together on implementation. ....Page 24

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- Recommendation 29.** The Welsh Government should explain how discussions between the governments through the common frameworks will feed into the work of the Interministerial Group on UK-EU Relations..... Page 24
- Recommendation 30.** The Welsh Government should explain how it will seek to ensure that disagreements on international trade negotiations in these common framework areas can be addressed through the common frameworks, and disputes escalated and resolved effectively. .... Page 25
- Recommendation 31.** The Welsh Government should explain how discussions on international trade through these common frameworks will feed into the work of the Interministerial Forum on Trade. .... Page 25
- Recommendation 32.** The Welsh Government should pursue intergovernmental agreement on reporting regularly on common frameworks and update the Senedd on progress..... Page 26
- Recommendation 33.** The Welsh Government should seek intergovernmental agreement that each framework should be updated to provide for parliamentary and stakeholder engagement during the review and amendment process and for parliaments to be updated following the conclusion of a review. .... Page 26
- Recommendation 34.** The Welsh Government should seek intergovernmental agreement to amend the framework to reflect the role of NRW in delivering plant health functions in Wales. .... Page 27
- Recommendation 35.** The Welsh Government should ensure that any errors in this common framework are corrected before it is finalised..... Page 28
- Recommendation 36.** The Welsh Government should seek intergovernmental agreement to amend the frameworks to include terms of reference for these groups..... Page 28
- Recommendation 37.** The Welsh Government should keep the Committee updated on progress towards developing and publishing the protocols. .... Page 29
- Recommendation 38.** The Welsh Government should ensure clear information on governance arrangements is set out before it is finalised. .... Page 30
- Recommendation 39.** The Welsh Government should seek intergovernmental agreement to clarify whether sustainable farming schemes are (a) within scope of the framework and (b) included in the agricultural support payments of which the Policy Collaboration Group will be regularly notified..... Page 30
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**Recommendation 40.** We agree with the House of Lords Common Frameworks Scrutiny Committee that reviews of this framework should include analysis of how it is interacting with the Subsidy Control Act. ....Page 31

**Recommendation 41.** The Welsh Government should keep the Senedd updated on progress towards publishing the final Concordat on the WTO Agreement on Agriculture. ....Page 31

**Recommendation 42.** The Welsh Government should seek intergovernmental agreement to amend the framework to make clear that reviews will move to a three-yearly basis only after consultation with stakeholders. ....Page 32

**Recommendation 43.** The Welsh Government should seek intergovernmental agreement to amend the framework to set out governance structures clearly, and in particular the role, membership and functions of the Fertilisers Liaison Group. ....Page 33

**Recommendation 44.** The Welsh Government should clearly set out the reasons for making the fertilisers framework broad in scope, and should confirm that it has at least the same flexibility to develop policy and legislation as it did before leaving the EU. ....Page 34

**Recommendation 45.** The Welsh Government should clearly set out the reasons for making the organic production framework broad in scope, and should confirm that it has at least the same flexibility to develop policy and legislation as it did before leaving the EU. ....Page 35

**Recommendation 46.** The Welsh Government should keep the Committee updated on the establishment of the UK Expert Group on Organic Production. ....Page 35

## 1. Introduction

Common frameworks are agreements between government on how to manage divergence in certain areas that were previously governed or coordinated at EU level.

**1.** Common frameworks have been in operation on a provisional basis since the end of the Brexit transition period on 31 December 2020. In February 2022, the **UK Government published** provisional common frameworks on:

- animal health and welfare,
- plant health,
- plant varieties and seeds,
- organics,
- fertilisers,
- agricultural support.

**2.** The Committee considered the provisional common frameworks in spring 2022, hearing from Welsh Government officials in private in a **technical briefing session** and **corresponding with the Welsh Government**. The **Committee also held a consultation** to gather views from stakeholders.

**3.** This report first considers cross-cutting issues across all these common frameworks, before turning to consider each framework in turn.

## 2. Cross-cutting issues

### The aims of the common frameworks programme

4. The **Joint Ministerial Committee (European Negotiations) agreed** principles for common frameworks in October 2017 and criteria for where they should be established.
5. In evidence to the Committee, stakeholders welcomed the ambition to strengthen intergovernmental cooperation and collaboration.
6. **NFU Cymru said** that there should be the “closest possible levels of cooperation” between the UK and devolved governments on agriculture, environment and food, arguing that common frameworks were particularly important for minimising barriers to trade within the UK and ensuring that the UK upholds international obligations. **RSPCA Cymru** and the **Farmers’ Union Wales** also highlighted the benefits of close intergovernmental working.
7. Potential risks of the common framework approach were also highlighted. **RSPCA Cymru** argued that the framework should not unduly inhibit a government that wished to raise standards in a policy area such as animal welfare. It also raised concerns that it was unclear if common frameworks could risk restricting the power of legislatures, for example if backbench parliamentarians tabled proposals for legislation that had not been subject to the common framework process.
8. In considering these common frameworks, the Committee has sought to understand how their benefits can be fully realised and risks recognised and mitigated.

### The development of the common frameworks

9. The provisional common frameworks considered by the Committee came into effect from the end of the transition period in December 2020. They were published for scrutiny in February 2022.
10. There was therefore a period of more than a year in which the provisional common frameworks were in operation on a provisional basis, but not available to the Senedd or the public.
11. Following the elections to the Northern Ireland Assembly in May 2022, it is not clear when the provisional common frameworks will be finalised, or what progress has been made towards this.

**12.** The governments have agreed in principle to report on common frameworks on a regular basis. However, it is not clear when the frameworks will be finalised and reporting will begin. This means it is unclear how parliaments and stakeholders will be kept informed of how common frameworks are working in the meantime.

### **Stakeholder input during development**

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**13.** In response to correspondence from the Committee, the Welsh Government provided some information about stakeholder engagement in the development of the common frameworks.

**14.** For example, the **Welsh Government provided the Committee** with an indicative list of Welsh stakeholders consulted on the provisional common framework on animal health and welfare.

**15.** The Welsh Government noted that stakeholder feedback on the animal health and welfare common framework and on “a number of other frameworks” had been limited.

**16.** However, some concerns were raised with the Committee about the level of stakeholder engagement. The **Farmers’ Union Wales** told the Committee that to its knowledge the Welsh Government had not sought the views of key Welsh stakeholders before the agricultural support framework was drafted and agreed.

**Recommendation 1.** The Welsh Government should ensure that the views of Welsh stakeholders are sought on the provisional common frameworks and taken into account before they are finalised.

**Recommendation 2.** The Welsh Government should keep the Committee updated on progress towards finalising the provisional common frameworks.

### **The quality, clarity and consistency of common framework documents**

**17.** Common frameworks set new processes that will shape how the Welsh Government can make decisions. This means that it is important for the Senedd and stakeholders to understand how they will work in practice.

**18.** However, the Committee has found understanding these common framework documents challenging, in keeping with the **House of Lords Common Frameworks Scrutiny Committee** and the **Northern Ireland Assembly Agriculture, Environment and Rural Affairs Committee** (2017-2022 mandate).

**19.** The common frameworks did not generally appear to have been drafted with external audiences in mind. Complex governance structures are described with minimal explanation, and governance groups referenced without terms of reference. For example, committees across the UK have highlighted issues with the complexity of the governance structures in the plant health frameworks.

**20.** Several of the common frameworks have significant errors, such as describing governance structures inconsistently, using black-and-white for colour-coded diagrams, repeating sections of text, or featuring inaccurate cross-references.

**21.** There are also inconsistencies between the approaches in different frameworks. Although standard text is generally used for sections used across different common frameworks there is frequently deviation from this standard text without obvious reason.

**22.** For example the **House of Lords Common Frameworks Scrutiny Committee** and the **Northern Ireland Assembly Agriculture, Environment and Rural Affairs Committee** (2017-22 mandate) have set out detailed concerns about the quality and clarity of the animal health and welfare common framework document

**23.** In response to the Committee's concerns about errors and inconsistencies in the animal health and welfare framework, the organics framework, the agricultural support framework and the fertilisers framework, the **Welsh Government said** that time constraints may have been a factor. Given common frameworks have been in development since 2017, this is surprising.

**24.** These problems with quality, clarity and consistency raise questions about:

- the processes by which common frameworks were developed and signed off by junior officials, senior officials and Ministers in all four governments;
- the seriousness with which the four governments regard common frameworks;
- the extent to which common frameworks are in fact used to shape decision-making; and
- how the Senedd and stakeholders will be able to understand how common frameworks are working in practice.

**Recommendation 3.** The Welsh Government should explain how it will ensure that a full quality assurance and proofing exercise is carried out on these provisional common frameworks before final versions are published.

**Recommendation 4.** We agree with the [House of Lords Common Frameworks Scrutiny Committee](#) that, while a standardised approach may not always be possible, where frameworks have diverged from the standard model, the reasons for this should be clearly explained.

**Recommendation 5.** We agree with the [House of Lords Common Frameworks Scrutiny Committee](#) that the common frameworks should **include** clear terms of reference for all working groups and diagrams clearly showing the relationships between them.

## Implications for making law and policy for Wales

### Welsh Government and Senedd decision-making

**25.** These common frameworks generally set processes for the governments to work together and decide when to follow the same rules and when to diverge. If the governments do not agree what approach to take, disputes can be raised.

Example: animal health and welfare

This framework provides that:

- the governments will notify each other of potential policy changes early on, and in time to have joint discussions about their implications;
- before one government diverges, the governments must see if they can agree a common approach that minimises divergence while still accommodating that party's wishes;
- if a government still wants to diverge, they should set out why this is still the most suitable course of action. There should be an assessment of the implications for the UK internal market, the negotiation and implementation of international agreements, and biosecurity. Policy officials and Chief Veterinary Officers will consider the impact of the changes; and
- if the governments cannot agree whether to take the same approach or diverge, the dispute resolution process can be used.

**26.** In evidence to the Committee, some stakeholders raised concerns about the impact of the common frameworks on how the Senedd and Welsh Government can exercise their competence.

**27.** [RSPCA Cymru](#) highlighted the potential impact of intergovernmental joint decision-making on the role of non-government Members of the Senedd. It called for a commitment

that frameworks should not preclude or diminish proposals on changing standards and the law from being approved in the four legislatures if they are not proposed by the governments.

**28.** The Committee asked the Welsh Government about the impact of the processes for making joint decisions in the animal health and welfare framework on the competence of the Senedd and Welsh Government.

**29.** The **Welsh Government said** that the animal health and welfare framework did not prevent or inhibit the Welsh Ministers' executive competence to implement new policies or the Senedd's competence to pass legislation.

**30.** However, it is not clear how the common frameworks can set processes for the governments to make decisions jointly about how to use their powers, while simultaneously having no impact on how the Senedd and Welsh Government exercise those powers.

### **The role of stakeholders in making decisions**

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**31.** These common frameworks do not generally set out defined routes for stakeholders to provide input into intergovernmental decision-making.

**32.** In its submission to the Committee, **NFU Cymru** said that it understood that it would be open to stakeholders to make representations to the Market Monitoring Group in the agricultural support common framework.

**33.** However, it said it was regrettable that no formal route was set out for stakeholders to provide input into the Market Monitoring Group or the Policy Collaboration Group.

**34.** In some instances, these common frameworks also appear to limit the scope for governments to engage with stakeholders on proposed policy changes.

**35.** **RSPCA Cymru** noted in its submission to the Committee that it was unclear if and when proposals would have to proceed through common frameworks before beginning the legislative process.

**36.** It called for there to be a clear process to understand what proposals would be subject to common framework processes, and an explanation across civic society of how this process will work.

**Recommendation 6.** The Welsh Government should commit that the frameworks will lead to no dilution of public consultation or of parliamentary scrutiny in policymaking or the legislative process.

**Recommendation 7.** The Welsh Government should set out how it will identify, manage and mitigate any risk that the frameworks might limit the role of the Welsh Government, the Senedd or stakeholders in making law and policy for Wales.

### **Practical impact**

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**37.** There remains uncertainty about how the governments use the common frameworks to make decisions jointly, both now and in future.

**38.** In correspondence with the Committee, the Welsh Government provided some examples of constructive joint working through common frameworks, such as creating a cross-government programme board to address changes to the **EU Animal Health Regulations** (AHR) in domestic law.

**39.** However, the Welsh Government has in some instances raised concerns that the governments have not in fact used common frameworks to work together on planned changes to law and policy within their scope.

**40.** The **Counsel General raised** concerns that provisions of the UK Genetic Technologies (Precision Breeding) Bill have not been taken through relevant common frameworks.

**41.** This suggests that it may prove difficult for the Senedd and stakeholders to understand when the governments are working together on changes to law and policy through the common frameworks and where they are not. This risks undermining transparency and confidence in the policymaking and legislative process.

**Recommendation 8.** The Welsh Government should make it clear to the Senedd and stakeholders wherever proposed legislation or policy is being taken through any of these common frameworks.

**Recommendation 9.** The Welsh Government should inform the Senedd if proposals for legislation or policy changes result from decision-making processes in any of these common frameworks.

### **Scope**

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**42.** As part of the principles for common frameworks, the governments agreed that they should maintain, as a minimum, equivalent flexibility for tailoring policies to the specific needs of each territory as was afforded by EU rules when the UK was member.

**43.** These common frameworks take varying approaches to their scope. For example, the animal health and welfare framework states that all retained EU and domestic law in the policy area is in scope, unless the governments agree otherwise.

**44.** The **Welsh Government told the committee** that this is because the majority of animal health and welfare legislation is retained EU law, and so it would “not make practical sense to have separate structures under the Framework for discussions and decision-making on both retained EU law and non-retained AH&W law”.

**45.** However, it appears that this approach means that the governments will make joint decisions on all animal health and welfare policy and legislation through the common framework, even where they would previously have had autonomy to regulate differently when the UK was in the EU.

**46.** It is not clear why this is considered consistent with the principle that frameworks should maintain equivalent flexibility to EU rules when the UK was an EU Member State.

**Recommendation 10.** The Welsh Government should seek intergovernmental agreement to amend these common frameworks to clarify that changes to law and policy in areas where the Welsh Government had regulatory flexibility while the UK was an EU Member State should not be bound by requirements for joint decision-making or bound by dispute resolution processes.

**Recommendation 11.** The Welsh Government should clearly set out the reasons for making the animal health and welfare framework broad in scope, and should confirm that it has at least the same flexibility to develop policy and legislation as it did before leaving the EU.

**Recommendation 12.** The Welsh Government should seek intergovernmental agreement to amend common frameworks to ensure that they set out clearly when decisions will be in scope and the reasons for this.

**Recommendation 13.** The Welsh Government should engage with stakeholders to ensure that the scope of common frameworks is widely understood.

### **Determining when divergence is acceptable**

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**47.** The common frameworks set varying parameters for the governments to take into account when deciding when divergence is acceptable.

**48.** Divergence is described in different ways in different frameworks, and sometimes in different ways within a framework.

**49.** For example, the agricultural support framework refers to divergence in different ways in different sections, such as ‘problematic’ divergence, ‘unwanted’ divergence, ‘negative impact’ or divergence, and reference to demonstrating why ‘divergent policy is necessary’.

**50.** This may make it difficult for the Senedd and stakeholders to know whether divergence is likely to be deemed acceptable or not.

**Recommendation 14.** The Welsh Government should seek intergovernmental agreement that each framework should set out where divergence is acceptable in a clear, consistent and accessible way.

**Recommendation 15.** The Welsh Government should explain how it will ensure that processes for determining whether divergence is acceptable are open and accessible to the Senedd and stakeholders.

### **Resolving disputes**

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**51.** The common frameworks set out processes by which disputes between the governments can be escalated from official to ministerial level.

**52.** If a dispute cannot be resolved, the frameworks provide that it can be escalated to the interministerial dispute resolution process set out in the Memorandum of Understanding on Devolution.

**53.** In January 2022, the **governments agreed** to make changes to the interministerial dispute resolution process as part of the Intergovernmental Relations Review.

**54.** Although stakeholders welcomed the dispute resolution processes in the frameworks, **RSPCA Cymru** and **NFU Cymru** noted uncertainty about how they would work in practice. The revised intergovernmental dispute resolution process remains untested.

**Recommendation 16.** The Welsh Government should seek intergovernmental agreement to update the frameworks to reference the agreed new interministerial dispute resolution process, following the implementation of the Intergovernmental Relations Review.

**55.** Time limits for dispute resolution are not set. The animal health and welfare common framework explicitly provides that actions under dispute should be paused pending resolution.

**56.** The Committee asked the Welsh Government about the impact of this on the development of law and policy for Wales in scrutiny of the animal health and welfare common framework. The **Welsh Government said**:

*"The initial pausing of any actions under dispute is an agreed part of the dispute resolution mechanism in frameworks, but it would depend on the case as the nature of diseases might mean pausing action pending a dispute could leave risks unmitigated."*

**57.** This suggests that the pausing of actions under dispute could lead to delays to decisions critical to human, animal or plant health.

**58.** It is not clear how the governments will balance the need to seek to make decisions collaboratively and resolve disputes through the agreed process with the need to make time-critical decisions quickly.

**Recommendation 17.** The Welsh Government should explain how it will ensure that the pausing of actions under dispute does not lead to undue delays to decisions.

**59.** These common frameworks do not generally provide for external input into the dispute resolution process to be sought as standards. The agricultural support framework sets out that third party advice may be sought during dispute resolution.

**60.** In evidence to the Committee, **RSPCA Cymru** said that it understood that initial plans for common frameworks had envisaged the establishment of an independent board of experts to consider disputes.

**61.** The common frameworks do not provide for disputes to be notified to the Senedd or stakeholders. However, the **Welsh Government has committed** to notify the Senedd of disputes escalated through common frameworks to Ministers. This is welcome.

**Recommendation 18.** The Welsh Government should seek intergovernmental agreement that each of these common frameworks should provide for the governments to seek independent advice during the dispute resolution process.

**Recommendation 19.** The Welsh Government should seek intergovernmental agreement that each framework should provide for disputes escalated to Ministerial level to be notified to parliaments.

### **Managing the impact of the UK Internal Market Act 2020**

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**62.** In 2017, the **Joint Ministerial Committee (European Negotiations) agreed that common frameworks** should be established where needed to ensure the functioning of the UK internal market.

- 63.** The **UK Internal Market Act** sets market access principles in law. These principles are intended to ensure that, in general, goods and services sold, and professional qualifications recognised, in one part of the UK can be sold or recognised in another part. The Fifth Senedd voted not to grant consent to the UK Internal Market Bill.
- 64.** There are some exclusions from the market access principles, for example for threats to human, animal or plant health. Sections 10 and 18 of the Act allow the UK Government to make regulations to create new exclusions from the market access principles.
- 65.** The market access principles are likely to have a significant impact on the development of law and policy in most policy areas covered by these frameworks.
- 66.** In December 2021, the governments agreed a process for **considering and agreeing exclusions from the UK Internal Market Act in common framework areas**.
- 67.** In submissions to the Committee, **stakeholders raised concerns** about the impact of the Act on the development of Welsh law and policy.
- 68.** However, **Dr Mary Dobbs, Dr Viviane Gravey and Dr Ludivine Petetin argued** that common frameworks were now “a potential instrument to protect devolution”, in that they could provide a route for the Welsh Government to secure exclusions from the market access principles and informally to influence law and policy elsewhere in the UK.
- 69.** The common frameworks do not make any reference to the exclusions process. The **House of Lords Common Frameworks Scrutiny Committee has recommended** that common frameworks should be updated to reference the agreed exclusions process.
- 70.** In March 2022, the **Welsh Government told the Committee** that it did not consider it appropriate to include reference to the exclusions process in view of its legal challenge to the Act.

**Recommendation 20.** To support transparency, the Welsh Government should seek intergovernmental agreement to include reference in these common frameworks to the UK Internal Market Act 2020 and the exclusions process as relevant.

## **Managing the impact of the Retained EU Law Bill**

- 71.** The previous **UK Government set out plans** to introduce a Retained EU Law Bill (or “Brexit Freedoms Bill”) to make it easier to change or repeal retained EU law (REUL) and to remove the special status it has in UK law.

**72.** The **UK Government has said** that it will not seek to make changes to retained EU law within common frameworks “without following the ministerially-agreed processes in each framework.”

**Recommendation 21.** The Welsh Government should confirm that any proposed changes to retained EU law in scope of these common frameworks will be taken through relevant framework processes.

**Recommendation 22.** The Welsh Government should explain how it will ensure decisions on aligning with or diverging from retained EU law are clear to the Senedd in scrutiny of legislation in these common framework areas.

### **Managing divergence from the EU and Northern Ireland**

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**73.** Under the Northern Ireland Protocol, EU law applies to and in Northern Ireland in policy areas covered by these common frameworks.

**74.** Divergence between legislation in Great Britain and Northern Ireland and the EU has increased since the end of the transition period. The **Northern Ireland Assembly Agriculture, Environment and Rural Affairs Committee** (2017-2022 mandate) raised concerns during its scrutiny of these common frameworks about the impact of divergence on businesses in Northern Ireland.

**75.** In scrutiny of the organic production common framework, the **Welsh Government told the Committee** that the governments were working together through the framework to develop law and policy for Great Britain in such a way as to lessen the detrimental impact of divergence on Northern Ireland.

**Recommendation 23.** The Welsh Government should keep the Senedd updated on any measures agreed on lessening the detrimental impacts of divergence between Great Britain and Northern Ireland as a result of the Protocol in these common framework areas.

**76.** The common frameworks generally include standardised wording on how the governments will address divergence arising from NI remaining aligned to changes in the EU, as agreed in the Protocol.

**77.** The **Northern Ireland Assembly’s Agriculture, Environment and Rural Affairs Committee (2017-2022 mandate)** noted during its scrutiny that the animal health and welfare common framework offers clearer guidance on how divergence as a result of the Protocol will be managed than other frameworks, stating that:

*"If Northern Ireland has to diverge in order to maintain parity with the EU the same review process will be followed and the same assessments are made as whether it would be in the best interests of GB to follow suit or to allow divergence."*

**78.** The Committee recommended that this wording should be adopted across the common frameworks.

**Recommendation 24.** The Welsh Government should seek intergovernmental agreement to include the text above as part of the standard wording on the Protocol in these common frameworks.

**Recommendation 25.** We agree with the House of Lords Common Frameworks Scrutiny Committee that all common frameworks that intersect with the Protocol should be updated to ensure frequent information sharing between parties to the framework on forthcoming EU legislation.

## Managing international obligations

**79.** In 2017, the Joint Ministerial Committee (European Negotiations) agreed that common frameworks should be established where needed to ensure compliance with international obligations.

**80.** These common frameworks set out commitments for the UK and devolved governments to work together on the negotiation and implementation of international obligations.

**81.** Standard text in each of the frameworks provides that international policy formulation will be based on "the current Devolution MoU and its accompanying International Relations Concordat" and that they "will automatically use any updated IR Concordat, and the wider outcomes of the Joint IGR Review".

**82.** The International Relations Concordat was last updated in 2013; it was not revised in 2022 as part of the Intergovernmental Relations Review. The Concordat does not explicitly reflect the UK Government's increased role in agreeing post-Brexit international obligations in areas previously within EU competence, such as trade.

**83.** The Committee asked the Welsh Government about how the frameworks would affect the scope for devolved engagement in the formulation of international policy. Responses varied.

**Recommendation 26.** The Welsh Government should confirm its understanding of why the frameworks take different approaches towards their role in the development of international policy.

**Recommendation 27.** The Welsh Government should explain arrangements for ensuring effective representation for Wales in the development of UK international policy in these common framework areas.

### **Managing engagement with the UK-EU institutional framework**

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**84.** Most of these common frameworks include standard text confirming the **UK Government's commitments to the devolved governments** on devolved engagement in the UK-EU institutional framework. The Welsh Government has expressed dissatisfaction with these arrangements.

**85.** The agricultural support common framework does not specifically mention the UK-EU Trade and Cooperation Agreement (TCA). Agricultural support is exempt from the state aid provisions in the TCA, but this framework will interact with a number of other frameworks that make explicit references to the TCA. The Concordat to this framework also appears not to have been updated to reflect the agreement and ratification of the TCA.

**86.** The UK and devolved governments held the inaugural meeting of the **UK-EU Relations Interministerial Group** in February 2022. It is not clear how discussions between the governments through these common frameworks will feed into the work of the interministerial group.

**Recommendation 28.** The Welsh Government should seek intergovernmental agreement that each common framework should include a standardised section on the UK-EU Trade and Cooperation Agreement, setting out relevant provisions, their accompanying TCA committee, and how the governments will work together on implementation.

**Recommendation 29.** The Welsh Government should explain how discussions between the governments through the common frameworks will feed into the work of the Interministerial Group on UK-EU Relations.

### **Managing engagement in international trade negotiations**

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**87.** These common frameworks set out how the governments will work together on the negotiation and implementation of international trade agreements. Standard text in each of the frameworks (except for agricultural support) states that they will enable the governments to "ascertain the impact of international trade on managing policy divergence".

- 88.** In evidence to the Committee on the animal health and welfare framework, the **Welsh Government said** that the framework allows the Welsh Government to influence the UK Government’s position on animal health and welfare policy issues in trade negotiations, and to escalate discussions to interministerial level.
- 89.** However, the Welsh Government has previously raised concerns about engagement with the UK Government on trade negotiations in these common framework areas.
- 90.** In December 2021, the **Minister for Economy said** that he was “disappointed” that Welsh Government representations about the impact of the UK-Australia free trade agreement for animal welfare standards “appear to have not been taken on board”.
- 91.** In its submission to the Committee, **RSPCA Cymru raised concerns** that it appeared that there had not been reference to the common frameworks principles in consideration of the impact of beef and lamb tariffs in the New Zealand and Australia free trade agreements.
- 92.** The UK Government published terms of reference for the **Interministerial Group on Trade** in August 2022. It is not clear how discussions between the governments through these common frameworks will feed into the work of the interministerial group.

**Recommendation 30.** The Welsh Government should explain how it will seek to ensure that disagreements on international trade negotiations in these common framework areas can be addressed through the common frameworks, and disputes escalated and resolved effectively.

**Recommendation 31.** The Welsh Government should explain how discussions on international trade through these common frameworks will feed into the work of the Interministerial Forum on Trade.

## Future reporting

- 93.** During the Fifth Senedd, the **Welsh Government committed** unilaterally to report annually on the common frameworks programme as a whole.
- 94.** The **Counsel General confirmed in November 2021** that the governments had all agreed in principle to future reporting on common frameworks. He said that Welsh Government officials were preparing a paper for all four governments to agree an approach to this.
- 95.** In March 2022, the **Counsel General said** that the “exact format of the annual reporting mechanism is currently being worked through at an official level”.

**Recommendation 32.** The Welsh Government should pursue intergovernmental agreement on reporting regularly on common frameworks and update the Senedd on progress.

### Review and amendment

**96.** These common frameworks set out processes by which they may be reviewed and amended periodically. Most of the frameworks (except for animal health and welfare) provide that third party advice may be sought during the review and amendment.

**97.** The Welsh Government has committed to notifying the Senedd and stakeholders when a common framework is reviewed, and to consider their recommendations before the review process is concluded. This is welcome.

**98.** The House of Lords Common Frameworks Scrutiny Committee has recommended that there should be an open and well-publicised stakeholder consultation process during future reviews of common frameworks, and that parliaments should be updated following the conclusion of each review.

**Recommendation 33.** The Welsh Government should seek intergovernmental agreement that each framework should be updated to provide for parliamentary and stakeholder engagement during the review and amendment process and for parliaments to be updated following the conclusion of a review.

## 3. Plant health

**99.** The plant health common framework covers requirements for the import, export and movement of plants and plant products, surveillance and risk assessment of plant pests and outbreak management, and the protection of plant biosecurity.

### Key issues

#### Natural Resources Wales

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**100.** Natural Resources Wales (NRW) is responsible for delivering the Welsh Ministers' plant health (forestry) functions. The framework does not provide for NRW to be represented in its governance structures.

**101.** The Welsh Government told the Committee that NRW attended delivery-level meetings as appropriate.

**Recommendation 34.** The Welsh Government should seek intergovernmental agreement to amend the framework to reflect the role of NRW in delivering plant health functions in Wales.

## 4. Plant varieties and seeds

**102.** The plant varieties and seeds common framework covers the property rights of plant breeders, plant variety registration, and standards for the marketing and certification of seed and other plant propagating material.

### Key issues

#### Quality and clarity

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**103.** The Northern Ireland Assembly Agriculture, Environment and Rural Affairs Committee has raised concerns about the quality of the framework document, including significant duplication.

**104.** On page 38 of the framework, there is reference to review of the concordat every six years. This appears to be an error.

**Recommendation 35.** The Welsh Government should ensure that any errors in this common framework are corrected before it is finalised.

#### Terms of reference for governance groups

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**105.** The framework sets out tiers of governance for making decisions and resolving disputes.

**106.** The framework does not provide terms of reference or information about membership for the Plant Varieties and Seeds Committee or National Lists and Seeds Committee, saying that they are under review.

**107.** The Welsh Government told the Committee that there was no intention to provide terms of reference for governance groups, but that they could be provided on request.

**Recommendation 36.** The Welsh Government should seek intergovernmental agreement to amend the frameworks to include terms of reference for these groups.

#### Protocols for decision-making

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**108.** The framework refers to, but does not include, four protocols for making decisions in specific areas, on:

- proposals for legislation;

- granting derogations to allow temporary marketing of seed of a lower germination standard;
- handling applications from other countries for their plant material to be recognised as equivalent to UK plant material; and
- international representation and coordination.

**109.** The framework says these protocols will “follow”. In the absence of these protocols, it is not possible to assess the framework’s decision-making processes fully.

**110.** The **Welsh Government told the Committee** that the intention was that the protocols would be issued for technical stakeholder engagement later in 2022 and made available in due course.

**Recommendation 37.** The Welsh Government should keep the Committee updated on progress towards developing and publishing the protocols.

## 5. Agricultural support

**111.** The agricultural support common framework covers direct support to farmers and market intervention support, crisis management mechanisms, cross-border farms and data collection.

**112.** The four governments of the UK are in the process of developing new agricultural support schemes as a replacement for the Common Agricultural Policy. The framework will therefore play a key role in managing divergence in this new context.

**113.** In its submission to the Committee, the **Farmers' Union of Wales noted** that the framework sets out ways of working, but highlighted the absence of more defined frameworks for agricultural support across the UK. It raised concerns that this could lead to perverse outcomes and increase the likelihood of disputes.

### Key issues

#### Quality and clarity

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**114.** The Welsh Government also provided the Committee with further information about the governance of the framework and committed to tell the Senedd when crisis management groups were set up. This is welcome.

**Recommendation 38.** The Welsh Government should ensure clear information on governance arrangements is set out before it is finalised.

#### Scope

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**115.** The agricultural support framework states that not all agricultural spending will be notified to the Agriculture Policy Collaboration Group (PCG), only spending relating to market price support, payments based on outputs or production and export support (page 28).

**116.** In correspondence with the Committee, the Welsh Government confirmed that sustainable land management schemes were also in scope of the framework. This is surprising given that such spending is not listed as notifiable to the PCG.

**Recommendation 39.** The Welsh Government should seek intergovernmental agreement to clarify whether sustainable farming schemes are (a) within scope of the framework and (b) included in the agricultural support payments of which the Policy Collaboration Group will be regularly notified.

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## Subsidy Control Act 2022

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**117.** The Subsidy Control Act 2022 sets out a new regulatory regime for subsidy control to replace the EU state aid regime, granting powers to UK Ministers to manage this regime.

**118.** Concern about the interaction between the Act and the framework has been raised by the House of Lords Common Frameworks Scrutiny Committee, the Senedd's Legislation, Justice and Constitution Committee and the Farmers' Union of Wales.

**Recommendation 40.** We agree with the House of Lords Common Frameworks Scrutiny Committee that reviews of this framework should include analysis of how it is interacting with the Subsidy Control Act.

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## Concordat on WTO Agreement on Agriculture

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**119.** The Agriculture Act 2020 gave powers to the UK Secretary of State to make regulations to set ceilings on some types of government support to ensure the UK meets its obligations under the World Trade Organisation (WTO) Agreement on Agriculture.

**120.** The UK Government agreed to develop a Concordat with the devolved governments setting out how it would use these regulation-making powers. The framework says it is in draft form, but once agreed will operate alongside this framework.

**121.** The Welsh Government told the Committee that this Concordat was being considered by Ministers in all four governments and that a timetable for publication would be agreed following approval.

**Recommendation 41.** The Welsh Government should keep the Senedd updated on progress towards publishing the final Concordat on the WTO Agreement on Agriculture.

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## Review and amendment

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**122.** The timescales for review of the framework are unclear. It says the Concordat will be reviewed one year after the agreement. Further reviews will continue annually; and it can then be reviewed every three years.

**123.** The Welsh Government confirmed in correspondence with the Committee that the framework would be amended to clarify that reviews will take place annually until the reviewers agree that a three-year review period is satisfactory. This commitment is welcome.

**124.** In evidence to the Committee, **NFU Cymru argued** that it might be appropriate for reviews to take place on an annual basis for some time, and in any event until the framework is bedded in.

**Recommendation 42.** The Welsh Government should seek intergovernmental agreement to amend the framework to make clear that reviews will move to a three-yearly basis only after consultation with stakeholders.

## 6. Fertilisers

**125.** The fertilisers framework covers not only processes for managing regulation in areas previously governed by EU law, but the governments' approach to fertilisers policy as a whole.

**126.** The framework recognises that a "major shift" in fertilisers regulation to modernise the system for governance "will result in significant change to UK wide policy work over the coming years". This means that the framework will face an early test.

### Key issues

#### Quality and clarity

**127.** The framework states that the main structure for making decisions on fertiliser policy will be a new UK Fertilisers Regulatory Committee (UKFRC).

**128.** The diagrams and detailed descriptions of the decision-making process also mention a Fertilisers Liaison Group but do not explain what this Group is or how it relates to the UKFRC.

**129.** The Welsh Government provided the Committee with further information to clarify the roles of the UKFRC and the Fertilisers Liaison Group.

**Recommendation 43.** The Welsh Government should seek intergovernmental agreement to amend the framework to set out governance structures clearly, and in particular the role, membership and functions of the Fertilisers Liaison Group.

#### Scope

**130.** The framework documents imply that the framework is broad in scope and will cover not only processes for managing regulation in areas previously governed by the EU, but fertilisers policy as a whole.

**131.** The Committee asked the Welsh Government if it had the same flexibility in developing legislation and policy under the framework as it did during EU membership.

**132.** The Welsh Government said that:

*"The Welsh Government's ability to legislate and develop policy in respect of fertilisers has not diminished following the end of the transition period."*

**133.** This response does not directly address the question of whether there is equivalent flexibility.

**Recommendation 44.** The Welsh Government should clearly set out the reasons for making the fertilisers framework broad in scope, and should confirm that it has at least the same flexibility to develop policy and legislation as it did before leaving the EU.

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## 7. Organic production

**134.** This framework covers organic production standards and certification, labelling and trade of organic produce, organic aquaculture and official controls.

**135.** There is now divergence between Great Britain and Northern Ireland/the EU on organics regulation due to the implementation of the new EU Regulation 848/2018.

### Key issues

#### Scope

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**136.** The organic production framework is broad in scope and will cover processes for managing regulation in areas previously governed by the EU, but also organics law and policy as a whole

**137.** This broad scope may mean that the Welsh Government and the Senedd may have less regulatory flexibility under the framework than they would have had when in the EU.

**Recommendation 45.** The Welsh Government should clearly set out the reasons for making the organic production framework broad in scope, and should confirm that it has at least the same flexibility to develop policy and legislation as it did before leaving the EU.

#### UK Expert Group on Organic Production

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**138.** The framework states that a UK Expert Group on Organic Production (UK EGOP) will be established, saying that developing an appropriate evidence base will be essential for the operation of the framework. The UK EGOP is yet to be established. It is therefore unclear what evidence is currently being used to make decisions.

**139.** The Welsh Government told the Committee that the establishment of the EGOP had progressed more slowly than expected, and that it was now expected that recruitment would begin in the next few months.

**Recommendation 46.** The Welsh Government should keep the Committee updated on the establishment of the UK Expert Group on Organic Production.

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**WRITTEN STATEMENT  
BY  
THE WELSH GOVERNMENT**

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**TITLE**            **Transfer of the functions of NHS Digital to NHS England**

**DATE**            **12 December 2022**

**BY**                **Eluned Morgan MS, Minister for Health and Social Services**

Members of the Senedd will wish to be aware I have given my consent to the UK Government's Secretary of State of Health exercising a subordinate legislation-making power in a devolved area in relation to Wales.

On 9 November the Secretary of State for Health, Rt Mark Barclay MP, wrote to me seeking consent to The Health and Social Care Information Centre (Transfer of Functions, Abolition and Transitional Provisions) Regulations 2023 as required by section 108(1)(3) of the Health and Care Act 2022.

The regulations transfer existing functions of NHS Digital to NHS England, without removing any statutory provisions relating to the protection of people's data. In accordance with section 103(2) of the Health and Care Act 2022, the Secretary of State considers that the transfer of NHS Digital's functions to NHS England serves the purpose of improving the exercise of public functions, having regard to efficiency, effectiveness, economy and securing appropriate accountability to Ministers.

The regulations were laid before Parliament on 15 December 2022 to come into force on 31 January 2023.



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

[SeneddLJC@senedd.wales](mailto:SeneddLJC@senedd.wales)

14<sup>th</sup> December 2022

Dear Huw,

I wish to inform the Legislation, Justice and Constitution Committee of my intention to consent to The Health and Social Care Information Centre (Transfer of Functions, Abolition and Transitional Provisions) Regulations 2023.

On 9 November the Secretary of State for Health, Rt Mark Barclay MP, wrote to Devolved Governments seeking consent to this Statutory Instrument (SI) as required by section 108(1)(3) of the Health and Care Act 2022.

The SI transfers existing functions of NHS Digital to NHS England, without removing any statutory provisions relating to the protection of people's data. In accordance with section 103(2) of the Health and Care Act 2022, the Secretary of State considers that the transfer of NHS Digital's functions to NHS England serves the purpose of improving the exercise of public functions, having regard to efficiency, effectiveness, economy and securing appropriate accountability to Ministers.

The amendments being made to Welsh legislation, are consequential to the transfer of functions to NHS England and the subsequent abolition of NHS Digital. These amendments are limited to references to NHS Digital either being removed or replaced by a reference to NHS England, so that the organisation can continue the same function, or account for the abolition of NHS Digital. However, some of the functions being transferred relate to roles that NHS Digital currently plays in relation to Devolved Governments. These are functions which may currently be conferred on NHS Digital if provided for in regulations made under section 7A or 18 of the Medicines and Medical Devices Act 2021, which relate to medicines information systems and medical devices systems. In addition, functions under section 255 of the Health and Social Care Act 2022, which enable a devolved authority to request that NHS Digital establish and operate a system for the collection or analysis of information, where the information is required to support the provision of adult health or social care.

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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.

**Back Page 106**  
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.

The Secretary of State for Health, Rt Mark Barclay MP, is therefore seeking the Welsh Ministers' consent to the SI which effects the transfer.

In this case the provisions could not be made by Welsh Ministers in exercise of our own powers as this is a Secretary of State for Health function only.

In accordance with Standing Order 15.2, and Inter-Institutional Relations Agreement 2021-2022, I will lay a Written Statement before the Senedd within three working days of the Regulations being laid before the UK Parliament.

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



Llywodraeth Cymru  
Welsh Government

Huw Irranca-Davies MS,  
Chair, Legislation, Justice and Constitution Committee  
Welsh Parliament  
Cardiff Bay  
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CF99 1SN

20 December 2022

Dear Huw

Thank you for your letter dated 7 December.

If I take each of your points in turn:

**Please can you explain why you believe separate Wales only, bilingual regulations, made in parallel with the UK Government, would lead to “unnecessary complication of the statute book”?**

I considered options for taking forward the proposed amending regulations which includes the option for Welsh Government to draft its own Statutory Instrument (SI) which addresses all amendments. However, to ensure alignment and enforcement with the rest of GB and EU, on this occasion it was felt necessary to progress on this basis. This proposed SI makes minor amendments to existing regulations rather than creating any new policy.

Consent to the GBSI has not precluded the Welsh Ministers from taking a different approach upon receipt of any such future request, should it be considered that an alternative approach is warranted and/or preferable.

**Please can you confirm that the Regulations are a Great Britain-wide (GB-wide) statutory instrument and that they are intended, from your perspective, to form part of a single GB legislative framework rather than a Welsh or, as your letter suggests, a UK framework?**

This GBSI makes minor amendments and forms part of a single GB legislative framework. This is consistent with the approach taken in respect of previous legislative amendments in this area. However, amendments are also required through the Baby Food Regulations in Wales by Welsh Ministers, via Welsh legislation.

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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.

## **Is all legislation in this policy area GB-wide or do divergences exist?**

Not all legislation in this area is done on a GB basis as some regulatory making powers have been transferred to Welsh Ministers. In those cases, Welsh Ministers would make Wales specific amendment regulations.

## **Your letter refers to amendments being made. Please can you provide more specific detail about each of these amendments (as the terms “update” and “standardise” are relatively vague)?**

These amendments will correct errors: updating the units of measure for the labelling of zinc in food supplements, and a previously missed amendment to add zinc chloride and ferrous bisglycinate as permitted sources of vitamins and minerals for use in processed based baby foods (baby foods) (the latter being applicable only to England in these Regulations as separate Welsh only Regulations will make the equivalent changes for Wales); to use different sources for certain vitamins and minerals to be added to food supplements, baby foods and infant formula and follow-on formula (IFFOF) and for consistency in labelling between food supplements and other types of food containing copper. The definition of pesticide residue will be updated from the terminology used in Regulation (EC) No 1107/2009 (concerning the placing of plant protection products on the market) to a more precise definition of residues taken from Regulation (EC) No 396/2005 (on maximum residue levels of pesticides in or on food and feed of plant and animal origin), providing more clarity and consistency with the definition which is used in the legislation for general food.

## **What is the rationale for making the amendments set out in the Regulations? For example, are they for the purpose of keeping pace with changes to EU legislation, or do they reflect developments in the scientific evidence?**

The purpose of these amendments is to ensure continued alignment with GB and EU on these matters.

## **What is your view on whether these Regulations will lead to divergence with EU standards for similar products?**

The EU has made legislation to make the same amendments which are already applicable in corresponding nutrition regulations across the EU.

## **What is your view on whether the Regulations improve pre-Brexit food standards?**

These amendments are technical in nature and correct errors only, which aims to protect specific vulnerable groups of consumers by regulating the content and marketing of food products specifically created for and marketed to them, which align with the EU on these matters.

## **Can you confirm if these regulations were considered through the relevant Common Framework or Frameworks and, if so, which ones?**

Yes, the joint approach was discussed as part of the Nutrition Related Labelling, Composition and Standards Working Group (NLCS). On the 9th March 2021 the European Commission amended Annex II of Directive 2002/46/EC to allow magnesium citrate malate to be a form of magnesium chloride and nicotinamide riboside chloride as a form of niacin used in the manufacture of food supplements. Following this legislative change in the EU and NLCS policy group considered the amends and following a risk assessment and risk

management processes set out in the NLCS framework (including scientific assessment), received GB ministerial consent to authorise nicotinamide riboside chloride as a form of niacin and magnesium citrate malate as a form of magnesium which can be used in food supplements.

**What action are you taking to promote accessibility of this legislation to those affected by it, including Welsh-speaking citizens given that the Regulations are in English only?**

Regulations are aimed at business and manufacturing of products and are technical in nature, however specific engagement will be undertaken with relevant stakeholders and bilingual information provided on the Welsh Government website.

**Can you confirm what consultation has been undertaken with Welsh stakeholders on these Regulations?**

The UK Government's Department of Health and Social Care in conjunction with Devolved Administrations launched a three-week UK wide consultation, inviting comments from the food and nutrition industry, representative groups, the public and other interested parties across the UK on the proposed approach.

**How will this legislation be affected in the future should the UK Government's Retained EU Law (Revocation and Reform) Bill become law, particularly if there is any policy divergence between the Welsh and UK Governments?**

We are in early discussion with UKG, Scotland and Northern Ireland about the implications of this Bill but we are not aware of any plans for policy divergence.

**When agreeing to GB-wide regulations, what discussions did you have about the impact of the Retained EU Law (Revocation and Reform) Bill (the REUL Bill) and what was the outcome?**

This was not considered as part of this amending SI. However, The NLCS policy group are currently considering how best to discuss the future of the REUL and NIP bill work and whether this should be through the existing group or a separate sub-group with the appropriate colleagues.

**Given that retained direct EU legislation is subject to the sunset in the Retained EU Law (Revocation and Reform) Bill, did you consider making separate Welsh legislation outside the framework of REUL?**

Making separate Welsh legislation outside the framework was not considered. However, we will be working with the UK Government to ensure that the retained direct EU legislation in this area is not allowed to sunset but is preserved or "assimilated" under the Bill.

**Does the Welsh Government intend to revisit these Regulations if the REUL Bill becomes law?**

No. We have no plans to revisit these regulations.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Lynne Neagle', written in a cursive style.

**Lynne Neagle AS/MS**

Y Dirprwy Weinidog Iechyd Meddwl a Llesiant  
Deputy Minister for Mental Health and Wellbeing

Lynne Neagle MS  
Deputy Minister for Health and Wellbeing

7 December 2022

Dear Lynne

**Food Supplement and Food for Specific Groups (Miscellaneous Amendments) Regulations 2022**

Thank you for your letter of ~~21 November~~ regarding the above proposed UK Government Regulations.

In your letter you state:

*"There is no divergence between the Welsh Government and the UK Government (Department of Health and Social Care) on the policy for the corrections. Therefore, making separate SIs in Wales and England would lead to duplication, and unnecessary complication of the statute book. Consenting to a UK wide SI ensures that there is a single legislative framework across the UK which promotes clarity and accessibility. In this circumstance, the Welsh Government considers it appropriate that the UK Government legislates on our behalf in this instance."*

We would welcome clarification on the following issues:

1. Please can you explain why you believe separate Wales only, bilingual regulations, made in parallel with the UK Government, would lead to "unnecessary complication of the statute book"?
2. Please can you confirm that the Regulations are a Great Britain-wide (GB-wide) statutory instrument and that they are intended, from your perspective, to form part of a single GB legislative framework rather than a Welsh or, as your letter suggests, a UK framework?



3. Is all legislation in this policy area GB-wide or do divergences exist?
4. Your letter refers to amendments being made. Please can you provide more specific detail about each of these amendments (as the terms “update” and “standardise” are relatively vague)?
5. What is the rationale for making the amendments set out in the Regulations? For example, are they for the purpose of keeping pace with changes to EU legislation, or do they reflect developments in the scientific evidence?
6. What is your view on whether these Regulations will lead to divergence with EU standards for similar products?
7. What is your view on whether the Regulations improve pre-Brexit food standards?
8. Can you confirm if these regulations were considered through the relevant Common Framework or Frameworks and, if so, which ones?
9. What action are you taking to promote accessibility of this legislation to those affected by it, including Welsh-speaking citizens given that the Regulations are in English only?
10. Can you confirm what consultation has been undertaken with Welsh stakeholders on these Regulations?
11. How will this legislation be affected in the future should the UK Government’s Retained EU Law (Revocation and Reform) Bill become law, particularly if there is any policy divergence between the Welsh and UK Governments?
12. When agreeing to GB-wide regulations, what discussions did you have about the impact of the Retained EU Law (Revocation and Reform) Bill (the REUL Bill) and what was the outcome?
13. Given that retained direct EU legislation is subject to the sunset in the Retained EU Law (Revocation and Reform) Bill, did you consider making separate Welsh legislation outside the framework of REUL?
14. Does the Welsh Government intend to revisit these Regulations if the REUL Bill becomes law?

I would be grateful to receive a response by 5 January 2022.

I am copying this letter to Russell George MS, Chair of the Health and Social Care Committee and Jane Bryant MS, Chair, Children, Young People and Education Committee.

Yours sincerely,

*Huw Irranca-Davies*

Huw Irranca-Davies

Chair



**Mick Antoniw AS/MS**  
**Y Cwnsler Cyffredinol a Gweinidog y Cyfansoddiad**  
**Counsel General and Minister for the Constitution**

## Agenda Item 6.3



Llywodraeth Cymru  
Welsh Government

Huw Irranca-Davies MS  
Chair, Legislation, Justice and Constitution Committee  
Senedd Cymru  
[SeneddLJC@senedd.wales](mailto:SeneddLJC@senedd.wales)

20 December 2022

Dear Huw

In my letter of 16 November, I informed the Committee that I had given consent to the Secretary of State to exercise a subordinate legislative power in a devolved area for Wales by making The Producer Responsibility Obligations (Packaging Waste) (Amendment) (England and Wales) Regulations 2022.

I am now writing to inform the Committee that The Producer Responsibility Obligations (Packaging Waste) (Amendment) (England and Wales) Regulations 2022 were laid before the UK Parliament under the negative procedure on 23 November 2022 and will come into force on 1 January 2023. I have laid a written statement which can be found at: - [Eich cyf \(senedd.wales\)](#)

The Secretary of State makes these regulations in exercise of powers conferred by section 50 of and paragraphs 1(1) and 2(2) of Schedule 4 to the Environment Act 2021. The SI amends the Producer Responsibility Obligations (Packaging Waste) Regulations 2007 (S.I. 2007/871), which impose obligations on packaging producers to recycle packaging to meet overall recycling and material-specific recycling targets. In doing so, the regulations revise the overall and materials specific recycling targets for 2023 on obligated producers in England and Wales.

Yours sincerely,

**Mick Antoniw AS/MS**  
**Y Cwnsler Cyffredinol a Gweinidog y Cyfansoddiad**  
**Counsel General and Minister for the Constitution**

Canolfan Cyswllt Cyntaf / First Point of Contact Centre:  
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[Gohebiaeth.Mick.Antoniw@llyw.cymru](mailto:Gohebiaeth.Mick.Antoniw@llyw.cymru)  
[Correspondence.Mick.Antoniw@gov.Wales](mailto:Correspondence.Mick.Antoniw@gov.Wales)

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.

# Agenda Item 6.4

Y Gweinidog Newid Hinsawdd  
Minister for Climate Change



Llywodraeth Cymru  
Welsh Government

Eich cyf/Your ref  
Ein cyf/Our ref

23 December 2022

Dear Huw,

In accordance with the inter-institutional relations agreement, I wish to notify you a further meeting of the Inter-Ministerial Group for Environment, Food and Rural Affairs was held on 5 December.

The meeting was chaired by Lord Richard Benyon, Minister for Biosecurity, Marine and Rural Affairs, UK Government. The meeting was also attended by Mairi Gougeon MSP, Cabinet Secretary for Rural Affairs and the Islands, Scottish Government; Lorna Slater MSP, Minister for Green Skills, Circular Economy and Biodiversity, Scottish Government; Mrs Katrina Godfrey, Permanent Secretary, Department of Agriculture Environment and Rural Affairs, Northern Ireland Government (in lieu of Minister); James Davies MP, Parliamentary Under-Secretary of State for Wales; and John Lamont MP, Under-Secretary of State for Scotland.

At the meeting we discussed the issues currently impacting on the poultry and egg sector, as requested by Lesley Griffiths, Minister for Rural Affairs, North Wales and Trefnydd, following concerns raised by our stakeholders.

We discussed the status of the Retained EU Law (Reform and Revocation) Bill. I requested Defra provide officials with details on its plans as soon as possible.

Lord Benyon gave an update on Offshore Wind Environment Improvement Package, and proposed reforms to consenting of offshore wind projects. While I agree with the intentions of the work, I emphasised my concerns over the proposed legislation and stressed that the devolution settlement must be respected.

Borders and the implementation of the Target Operating Model, were discussed next and I outlined the importance of UKG engaging early with devolved governments.

Finally, we spoke about the upcoming COP15 meeting and discussed our ambitions and our collective response on biodiversity.

The next meeting will be held on Monday 23 January 2023.

Canolfan Cyswllt Cyntaf / First Point of Contact Centre:  
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Caerdydd • Cardiff  
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[Gohebiaeth.Julie.James@llyw.cymru](mailto:Gohebiaeth.Julie.James@llyw.cymru)  
[Correspondence.Julie.James@gov.Wales](mailto:Correspondence.Julie.James@gov.Wales)

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.

A communique regarding this meeting will be published on the UK Government website at <https://www.gov.uk/government/publications/communique-from-the-inter-ministerial-group-for-environment-food-and-rural-affairs>.

I am copying this letter to the Climate Change, Environment, and Infrastructure Committee and to the Economy, Trade and Rural Affairs Committee

Yours sincerely



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



Llywodraeth Cymru  
Welsh Government

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## **WRITTEN STATEMENT BY THE WELSH GOVERNMENT**

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**TITLE**        **Attendance at Inter-Governmental meeting on 5 December.**

**DATE**        **23 December 2022**

**BY**            **Julie James MS, Minister for Climate Change**

In accordance with the inter-institutional relations agreement, I wish to notify you a further meeting of the Inter-Ministerial Group for Environment, Food and Rural Affairs was held on 5 December.

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At the meeting we discussed the issues currently impacting on the poultry and egg sector, as requested by Lesley Griffiths, Minister for Rural Affairs, North Wales and Trefnydd, following concerns raised by our stakeholders.

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Borders and the implementation of the Target Operating Model were discussed next, and I outlined the importance of UKG engaging early with devolved governments.

Finally, we spoke about the upcoming COP15 meeting and discussed our ambitions and our collective response on biodiversity.

The next meeting will be held on Monday 23 January 2023.

[A communique regarding this meeting will be published on the UK Government website \(external link\).](#)

This statement is being issued during recess in order to keep members informed. Should members wish me to make a further statement or to answer questions on this when the Senedd returns I would be happy to do so.



Paul Davies MS  
Chair of Economy, Trade, and Rural  
Affairs Committee

[SeneddEconomy@senedd.wales](mailto:SeneddEconomy@senedd.wales)

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

[SeneddLJC@assembly.wales](mailto:SeneddLJC@assembly.wales)

23 December 2022

Dear Paul, Huw

I wanted to let you know, per the inter-institutional relations agreement, that a meeting of the Inter-Ministerial Group on Trade is scheduled for 9 January 2023.

The agenda consists of:

- Introductions
- Information Sharing
- CPTPP
- India
- GCC

I will update you further following the meeting.

Yours sincerely,

**Vaughan Gething AS/MS**  
Gweinidog yr Economi  
Minister for Economy

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[YPCCGB@llyw.cymru](mailto:YPCCGB@llyw.cymru) [PSCGMET@gov.wales](mailto:PSCGMET@gov.wales)

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.

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**WRITTEN STATEMENT  
BY  
THE WELSH GOVERNMENT**

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**TITLE** Outcome of the Education Ministers Council meeting

**DATE** 23 December 2022

**BY** Minister for Education and Welsh Language

In accordance with the inter-institutional relations agreement, I can report I chaired the third meeting of the UK Education Ministers Council (UKEMC) on Friday 9 December at the Welsh Government Buildings in Cathays Park, Cardiff.

Shirley-Anne Somerville MSP, Cabinet Secretary for Education and Skills attended for the Scottish Government. The Rt. Hon. Gillian Keegan MP, Secretary of State for Education attended for the UK Government and Mark Browne, Permanent Secretary to the Department for Education and Mark Lee, Director Tertiary Education represented Northern Ireland via video link.

The group discussed challenges and recent developments in the areas of: the rising cost of living; general and vocational qualifications; and lifelong learning.

Mike James, Chief Executive of Cardiff and Vale College, gave a presentation on the broad offer from the post-16 sector.

Amongst other things I highlighted the work the Welsh Government has been doing on Universal Primary Free School Meals, the significant changes taking place in the qualifications landscape in Wales and my vision for Wales to be a second chance nation.

It was agreed the UK Government will host the next meeting of the UKEMC.

This statement is being issued during recess in order to keep members informed. Should members wish me to make a further statement or to answer questions on this when the Senedd returns I would be happy to do so.

# Agenda Item 7/1s

Gweinidog y Gymraeg ac Addysg  
Minister for Education and Welsh Language



Llywodraeth Cymru  
Welsh Government

Eich cyf/Your ref: Correspondence received  
from Education Otherwise  
Ein cyf/Our ref: EHE letter to LJC Committee

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

29 November 2022

Dear Huw,

Thank you for your letter of 2 November 2022 regarding correspondence received by the Legislation, Justice and Constitution Committee from Education Otherwise.

The legal framework underpinning the new statutory guidance for elective home education and the database proposal is set out in the [draft statutory guidance](#) published for consultation in 2019.

In short, our intention is to issue:

- 1) new statutory guidance to local authorities under section 436A of the Education Act 1996 (“the 1996 Act”);
- 2) new regulations, the draft Children Act 2004 Education Database (Wales) Regulations (“the draft Database Regulations”), under section 29 of the Children Act 2004 (“the 2004 Act”); and
- 3) new regulations, the draft Education (Information about Children in Independent Schools) (Wales) Regulations (“the draft Information Regulations”) under section 537A of the 1996 Act.

We are committed to ensuring that all children and young people in Wales receive a suitable education and given the chance to thrive and fulfil their potential, in all educational settings. The Government has adopted the UNCRC<sup>1</sup> as the basis for all its work for children and young people. The Rights of Children and Young Persons (Wales) Measure 2011<sup>2</sup> imposes a duty on Welsh Ministers to have due regard to children’s rights, as set out in the UNCRC.

<sup>1</sup> <http://www.unicef.org.uk/what-we-do/un-convention-child-rights/>

<sup>2</sup> <http://www.legislation.gov.uk/mwa/2011/2/contents>

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[Correspondence.Jeremy.Miles@gov.wales](mailto:Correspondence.Jeremy.Miles@gov.wales)

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.

The Children's Rights Scheme 2014<sup>3</sup> sets out the arrangements for Welsh Ministers to comply with the duty to have due regard to children's rights when exercising any functions.

Article 28 of the UNCRC states that all children have a right to an education and that primary education should be compulsory and free. Article 29 states that education should develop each child's personality and talents to the full.

In line with Government policy, a Children's Rights Impact Assessment ([CRIA](#))<sup>4</sup> was published on the Government's website in January 2020, in parallel with the consultation on the Children Act 2004 Education Database (Wales) Regulations 2020 and the Education (Information about Children in Independent Schools) (Wales) Regulations 2020<sup>5</sup>.

With reference to safeguarding, we have acknowledged in our correspondence with EHE representative groups and families that there is no evidence to suggest that home educated children are at greater risk of neglect or abuse than children who are educated at school. However, as with any child regardless of where they are educated, there may be circumstances which, individually or combined, give practitioners cause to seek further information about a child. Part 7 of the Social Services and Well-being (Wales) Act 2014 (the 2014 Act) sets out what must and should be done to safeguard children and adults. This applies to all children regardless of where and how they receive their education.

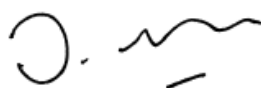
Children who are home educated are not the target of truancy sweeps but could come into contact with local authority officers as they may be being educated outside of traditional school hours and mainstream educational settings.

In such circumstances local authority officers would be expected to make informal enquiries as to the educational status of the child, in order to establish that they are receiving a suitable and efficient education, in line with section 436A of the Education Act 1996.

Finally, I'd like to assure you that the correspondence from Education Otherwise along with the views of all stakeholders have and continue to be given due consideration by officials in the formulation of this policy.

I hope you find this information helpful.

Yours sincerely,



**Jeremy Miles AS/MS**

Gweinidog y Gymraeg ac Addysg  
Minister for Education and Welsh Language

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<sup>3</sup> <https://gov.wales/sites/default/files/publications/2020-10/childrens-rights-scheme-2014.pdf>

<sup>4</sup> <https://gov.wales/sites/default/files/consultations/2020-01/children-rights-impact-assessment.pdf>

<sup>5</sup> <https://gov.wales/local-authority-education-databases>

Jeremy Miles MS

Minister for Education and Welsh Language

2 November 2022

Dear Jeremy

Correspondence received from Education Otherwise

I attach a copy of an e-mail we have received from Education Otherwise regarding guidance on home schooling.

I would be grateful if you could ensure it is taken into consideration during the development of your proposals in this policy area.

Please let me know if there are any matters within my Committee's remit that you think it would be appropriate to draw to my attention at this stage.

Yours sincerely,



Huw Irranca-Davies

Chair

## E-mail received from Education Otherwise

Dear Mr Irranca Davies,

Ref: Proposals for statutory home education guidance

I am writing to you as Chair of Education Otherwise and in your capacity of chair of the Legislation, Justice and Constitution Committee. Education Otherwise is the home education charity, established 45 years ago and working to promote choices in education.

You will be aware of proposals to introduce statutory guidance for home educating families, a draft of which was issued for consultation in 2019. You will not be aware that your colleague and Education Minister Mr Jeremy Miles has confirmed his intention to issue statutory guidance which mandates meetings between education staff and home educated children. The purpose of this communication is to raise concerns in respect of that intention which relate to the legal position.

The first concern is an obvious one: Government cannot create legislation through guidance and statutory guidance which mandates meetings between children and public servants would be doing just that. There is simply no legislative basis to create such a mandate.

The draft guidance relies in part at least, on the United Nations Convention on the Rights of the Child (UNCRC) to justify mandatory interviews with children. However, the UNCRC does not support such a mandate:

- Article 5: 'States parties shall respect the responsibilities, rights and duties of parents.....to provide in a manner consistent with the evolving capacities of the child, appropriate direction and guidance in the exercise by the child of their rights recognised in the present convention'. It is the duty and responsibility of the parent to mediate the rights of the child and to guide the child in exercising those rights, it is not the duty of the State to do so. This proposal puts the duty on the State, which is contra to the UNCRC Art.5.

- Article 12: 'States parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child...the child shall in particular be given the opportunity to be heard in any administrative proceedings affecting the child..' This is a duty to assure the child the right to express their views, not to mandate that the child must express those views, as is proposed. The child should not be forced to express their views in interview with any official, as to force such a requirement would be contra to the UNCRC art. 12.

- Article 13: ' The child shall have the right to freedom of expression; this right shall include the right to seek, receive and impart information and ideas of all kind.....through any other media of the child's

choice'. Again, this is a right and not a mandate. The proposal seeks to mandate that the child give their views which is contra to the UNCRC Art. 13.

- Article 14: 'States parties shall respect the right and duties of the parents....to provide direction to the child in the exercise of his or her right in a manner consistent with the evolving capacities of the child'. Again, this right and duty is the parent's and not the State's.

- Article 16: 'No child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home, or correspondence, nor to unlawful attacks on his or her honour and reputation'. This proposal inherently causes stigmatisation to the child, which damages their honour and reputation. In cases where the parent is prosecuted, which prosecutions are public record, this stigmatisation would increase exponentially. This is contra to the UNCRC article 16. Further, the proposal interferes with the child's privacy and family in a manner contra to the UNCRC article 16.

- Article 19: refers to protection of children from abuse and neglect whilst in the care of the parent and 'Such protective measures should as appropriate, include effective procedures for the establishment of social programmes to provide necessary support for the child and those who have care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow up of instances of child maltreatment'.

It is important to note that such investigations as proposed by this draft must be appropriate and necessary. There is no evidence whatsoever to suggest that home educated children are subject to 'maltreatment' and there is evidence to suggest that those children are less vulnerable to such maltreatment than are schooled children and under 5 year olds. Consequently, it is not possible to suggest that the proposed measures of mandatory interviews are either necessary or proportionate.

- Article 37: 'States parties shall ensure that no child be subjected to.....or degrading treatment'. The proposals would subject home educated children to degrading treatment, in that those children would be stigmatised, belittled and face possible emotional psychological and financial abuse.

- Article 40: 'States parties recognise the right of every child alleged as, accused of, or recognised as having infringed the penal law to be treated in a manner consistent with the promotion of the child's sense of dignity' and s2 (b) (iv) goes on to state that the child should 'not be compelled to give testimony'.

Even where the child is being dealt with under the penal system, that child may not be compelled to give evidence and yet this draft proposes that the child will be so compelled. This is contra to the UNCRC article 40.

The intention to mandate meetings between home educated children and education staff also fails to take account of extant precedent which states that LAs should not as a matter of policy insist on inspection of the home in order to ensure that education is suitable (Regina v Surrey Quarter Sessions



Appeals Committee, ex parte Tweedie [QPR] 61 LGR 464). This was a case where there were exceptional circumstances. To mandate such meetings as a matter of course would be neither reasonable nor proportionate. Although the guidance states that 'Such a meeting does not have to take place in the home; it can take place in a mutually agreed location,' the Tweedie case centred around an undertaking to allow meetings 'in the home' and remains valid precedent to support my point.

The Welsh Ministers intend to make regulations that will require local health boards to disclose to a local authority non medical information to assist them in identifying children in their locality' (Extract from draft guidance). All patient information attracts the common law duty of confidentiality and a medical professional cannot disclose data of any form other than under very distinct circumstances including by consent or where legislation (not guidance) sets aside the common law duty of confidentiality.

The draft guidance states that if professionals come across a home educated child during truancy sweeps, they will need to notify the relevant local authority and that parents may need to verify any information given to them in such cases. Those involved in truancy sweeps have no legal right to require a child to provide their personal details, nor to detain a home educated child. There is furthermore no legislative basis for sharing of data provided by a home educated child or parent during such a sweep.

There are several other points that have no basis in legislation and appear to be intended to seek to introduce legislation by way of guidance, which is not legally permissible. However, these points are illustrative of the overarching problem with the draft and the Minister's stated intention to proceed with it.

I ask that you examine the legal situation in respect of this guidance in the light of these concerns. You may wish to refer to advice received from Counsel in respect of some of the points above.

Wendy Charles-Warner  
Chair, Education Otherwise

2 November 2022

Dear Ms Charles-Warner

Thank you for your e-mail of 26 August 2022. I apologise for the delay in responding.

It may be helpful if I first set out the role of the Legislation, Justice and Constitution Committee in respect of subordinate legislation. We report on subordinate legislation laid before the Senedd by the Welsh Government and details are available on the Senedd's [subordinate legislation webpages](#). In doing so, the Committee's scrutiny is guided by the requirements set out in the Senedd's [Standing Orders](#) (specifically Standing Orders 21.2 and 21.3).

In accordance with the Standing Orders, we are able to consider any subordinate legislation related to home schooling that is laid before the Senedd.

However it is not our role to comment on draft guidance prepared by the Welsh Government for the purposes of a consultation exercise.

This being the case I have written to the Minister for Education and Welsh Language, Jeremy Miles MS, enclosing a copy of your e-mail for him to consider (copy enclosed). I am grateful for the interest you have shown in the work of the Committee.

Yours sincerely,



Huw Irranca-Davies  
Chair

Elin Jones MS  
Y Llywydd  
Chair, Business Committee

8 December 2022

Annwyl Elin,

### Legislative consent memoranda

You will be aware that the Local Government and Housing Committee is currently considering legislative consent memoranda (LCMs) in relation to two Bills: the Social Housing (Regulation) Bill and the Levelling-up and Regeneration Bill. We have already considered three other LCMs, as well as a number of supplementary LCMs, during the Sixth Senedd. Whereas our predecessor committee considered a total of six LCMs during the entirety of the Fifth Senedd. As a result, the Committee agreed that I should write to you to raise our concerns at the increased use of UK Bills and the legislative consent convention to legislate in devolved areas, rather than via Senedd legislation. I have previously raised the Committee's concerns to the Legislation, Justice and Constitution Committee and the Welsh Government.

Primary legislation brought forward by Welsh Government allows for full scrutiny by the Senedd.

As Members of the Senedd, it is our responsibility to ensure that all primary legislation relating to devolved areas is thoroughly scrutinised and tested with stakeholders to ensure it meet the needs of the people of Wales. We strongly believe that the short amount of time allocated to the legislative consent process is insufficient to enable us to fully understand the impact of provisions on the lives of people in Wales. We are concerned that legislating in this way could disadvantage people in Wales as they have fewer opportunities to feed their views to those making the legislation and we do not have sufficient time to consult Welsh stakeholders on the provisions.

I am copying this letter to the Chair of the Legislation, Justice and Constitution Committee.

Yours sincerely



John

John Griffiths MS

Chair, Local Government and Housing Committee

Croesewir gohebiaeth yn Gymraeg neu Saesneg.

We welcome correspondence in Welsh or English.



Chair, Children, Young People, and Education Committee

Chair, Climate Change, Environment, and Infrastructure Committee

Chair, Culture, Communications, Welsh Language, Sport, and International  
Relations Committee

Chair, Economy, Trade, and Rural Affairs Committee

Chair, Equality and Social Justice Committee

Chair, Health and Social Care Committee

Chair, Legislation, Justice and Constitution Committee

Chair, Local Government and Housing Committee

12 December 2022

Dear Committee Chairs,

### Draft Budget 2023-24

I wrote to you prior to the summer recess in relation to the Finance Committee's pre-Budget engagement work and the Committee's Plenary debate on the Welsh Government's Spending Priorities for the forthcoming Budget. I am now writing to provide a further update on the Draft Budget scrutiny.

### Consultation

At the start of the autumn term, the Finance Committee undertook a consultation seeking information on the Draft Budget on behalf of all Committees. We received 29 responses which are available on the Finance Committee webpage.

### Timetable

As you will be aware the publication of the Welsh Government's Draft Budget has been delayed again this year due to the UK Autumn Statement that was announced on 17 November. The Minister for Finance and Local Government (the Minister) has confirmed that she will publish the outline and detailed Draft Budget together on 13 December. The Minister will appear before the Finance Committee on 14 December for an initial evidence session on the Draft Budget.

## Budget focus

The focus of this year's budget is likely to centre on the cost of living crisis, rising energy costs and high inflation. In addition, the Finance Committee has identified a number of areas which we would like to see the focus of scrutiny, these are:

- what impact are inflationary pressures having on revenue and capital budgets and how has this changed affordability of previous plans;
- 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 the impact of cost of living crisis 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).

In addition, the following areas were identified as priorities during the Committee's stakeholder and engagement events during the summer term:

- tackling inequality and poverty – what are the priorities and how suitable is the current support given the proportion of people living in relative income poverty in Wales?

- NHS waiting lists – is there evidence of a robust plan, supported by adequate resources, to address the record number of people in Wales on waiting lists for planned or non-urgent NHS treatment, is it clear this is a priority for the Welsh Government?
- children and young people – is sufficient funding being provided and appropriately directed to support children and young people whose education, development, mental health and well-being have been affected by the pandemic?
- issues for long term sustainability of NHS, social care, further and higher education, local government and other public services, including how they can make efficiencies and transform how they deliver services.
- economy and infrastructure – are the right schemes being prioritised to support Welsh businesses and the economy, how does the Welsh Government enable Wales to prosper post COVID-19 and Brexit?
- how should the Budget address the needs of people living in rural communities and develop rural economies?
- creating a greener Wales – are Welsh Government’s plans to move to a greener economy clear and is sufficient investment being made to tackle climate change and its impacts? Do these plans need to be revised to reflect the increased urgency to reduce reliance on gas and oil given the war in Ukraine?
- third sector and volunteering – how can the Welsh Government support third sector organisations as they deal with financial challenges and increased demand for some services as a result of the cost of living crisis and pandemic.
- taxation – How should the Welsh Government use its tax raising and borrowing powers and do you feel these powers should be expanded, kept the same or reduced?

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.

### Budget Process Protocol

As mentioned, the publication of the Welsh Government Draft Budget has been delayed again this year. This is the fourth consecutive year there has been a delay, which has resulted in curtailed scrutiny periods for the Senedd. The Finance Committee therefore believes the time is right to review the [Budget Process Protocol](#) that was introduced in 2017. Whilst the protocol has many benefits, we believe it requires updating to reflect established practices and recent experiences, particularly the trend in recent years for the publication of the Welsh Government’s Draft Budget to be delayed in

light of the timing of UK fiscal events. I have recently written to the Minister proposing changes in the following areas:

- formalising the Committee's pre-budget engagement and scrutiny work; and
- providing greater certainty in relation to the timing of the Draft Budget.

The Minister has previously expressed a willingness to engage with the Finance Committee on this issue, and we hope that she will consider these changes to be proportionate. I will update Committee Chairs on this issue once I have received the Minister's response. The Finance Committee hopes that these changes can be addressed and implemented ahead of the 2024-25 budget round.

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](mailto:seneddfinance@senedd.wales).

Yours sincerely,



Peredur Owen Griffiths  
Chair, Finance Committee

Croesewir gohebiaeth yn Gymraeg neu Saesneg.

We welcome correspondence in Welsh or English.



Rebecca Evans AS/MS  
Y Gweinidog Cyllid a Llywodraeth Leol  
Minister for Finance and Local Government

Agenda Item 7.4  


Ein cyf/Our ref: RE/807/22

Llywodraeth Cymru  
Welsh Government

Elin Jones MS  
By Email: Llywydd@senedd.wales

12 December 2022

Dear Llywydd,

### Procurement Bill

The Procurement Bill (“the Bill”) was introduced into the UK Parliament on 11 May 2022 and the passage of the Bill started in the House of Lords. I laid a Legislative Consent Memorandum (LCM) in the Senedd on 9 June. I have subsequently laid supplementary LCMs on 11 July and 6 December as this bill has progressed through UK Parliament.

Six non-Governmental amendments were agreed on 28 and 30 November during report stage in the House of Lords. Due to the complexity of developing the supplementary LCM for the Government amendments which was laid before the Senedd on 6 December, it was not possible to include these amendments. A supplementary LCM covering these non-Governmental amendments will therefore be laid by 23 December at the latest, which I acknowledge will be more than two weeks after the first of the non-Governmental amendments being agreed.

I am copying this letter to the Counsel General and Minister for the Constitution, Mick Antoniw MS, the Minister for Rural Affairs and North Wales, and Trefnydd, Lesley Griffiths MS, and the Chair of the Legislation, Justice and Constitution Committee, Huw Irranca-Davies MS, for information.

Yours sincerely,



**Rebecca Evans AS/MS**  
Y Gweinidog Cyllid a Llywodraeth Leol  
Minister for Finance and Local Government

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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.



Llywodraeth Cymru  
Welsh Government

Eich cyf/Your ref  
Ein cyf/Our ref

Paul Davies MS  
Chair of the Economy, Trade and Rural Affairs Committee  
Welsh Parliament  
Cardiff Bay,  
CF99 1SN  
SeneddEconomy@senedd.wales

12 December 2022

Dear Paul,

Thank you for your letter of 21 November in relation to how Welsh Government is supporting and promoting cyber security and the wider industry. As you reference in your letter, cyber is a fast-paced area with constant new developments and innovation. I recognise the importance of cyber security and that it spans many areas, making up an 'eco-system' which provides opportunity to bring advantages to our citizens, public services and economy. For this reason, as outlined in our [Digital Strategy for Wales](#) we are developing a Cyber Action Plan for Wales which will bring together a coherent statement of ambition and activity on cyber in Wales.

Cyber is already a great strength for Wales. We have one of the biggest cyber ecosystems in the UK, and one of the strongest in Europe thanks to our partnerships between industry, academia and government. As noted in the Legislation, Justice and Constitution Committee's report, the Welsh Government's International Strategy identifies cyber as one of three of Wales' centres of excellence. Following the publication of the International Strategy the '*Priority Regional Relationships and Networks 2020-2025 Action Plan*', also outlines how we will use cyber to strengthen our relations with regions that have synergies with our work.

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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.

With regards to the Second Additional Protocol to the Council of Europe Convention on Cybercrime, we note the Committee's report and agreed actions. As you highlight, prevention, detection and investigation of crime are reserved matters. My responsibilities as First Minister do include national security, including counter terrorism and cyber security and we are taking essential steps to reduce the cyber risks to Wales. As I announced at CYBERUK22, work is underway to procure and set up a Cyber Security Operations Centre (CymruSOC) for 18 Welsh Local Authorities and 3 Fire & Rescue Services. CymruSOC will bring together these services with Government, the National Cyber Security Centre (NCSC), and a technical expert, enabling a level of information and resource-sharing that will allow for a strong 'Defend as One' posture.

You asked what work we have undertaken to upskill our workforce around real risk, governance and policy cyber security skills. Our Digital Strategy for Wales outlines our aim to create a workforce that has the digital skills, capability and confidence to excel in the workplace and in everyday life. We see cyber skills as an important part of delivering this aim and in developing the Cyber Action Plan, we are looking at how to leverage the benefits of our multiple existing interventions, to attract and develop the cyber skills we need as a nation by cultivating cyber talent from school age through to the workforce.

From the perspective of government and public services, we work closely with the NCSC to provide leadership to organisations across Wales, particularly in the public sector, to use and apply the NCSC's advice and guidance. This will help keep our citizens safe and protected online and, crucially, ensure our public services are secure and trusted. We are working with our public services to encourage an organisational culture where cyber is everyone's business from leadership to front line. We have been working with executive boards across the public sector, via our unique outward loan post to the NCSC, to inform them of their cyber security and resilience responsibilities. In addition to this work, we are providing a facilitated version of the NCSC Exercise in a Box model to Welsh public sector bodies and we are undertaking a pilot scheme to foster greater observance of the NCSC's Cyber Assessment Framework (CAF).

We are providing NCSC Cyber Essentials/Essentials+ certification to over 20% of Welsh law firms and this model will be watched closely to ascertain potential viability for other sectors in Wales.

At school age, you may be aware of the wider CyberFirst programme which is designed to identify and nurture a diverse range of talented young people into a cyber security career. We work closely with the NCSC to raise awareness of the cyber opportunities for learners and schools in Wales. In 2020, we supported the NCSC to pilot the CyberFirst Schools/colleges scheme. Schools and colleges from across Wales have achieved CyberFirst recognition at Gold, Silver and Bronze levels. Through our work with the NCSC we have now secured funding to support the delivery of the CyberFirst Wales for schools programme on a national basis following strong delivery in pathfinder areas of Wales. This will be implemented by the National Digital Exploitation Centre (NDEC) in collaboration with the University of South Wales. This digital / coding initiative looking at enhancing the cyber security IT skills for learners will launch in 2023 and be delivered in schools collaboratively with Technocamps.

Wales has a strong higher education offering with partnerships between universities and industry to develop students on the pathway towards a career in cyber. Offering accredited,

world class initiatives and partnering with industry makes Wales an attractive place for students to study and follow a pathway into a career in cyber.

This is also supported by Cyber Security apprenticeships in Wales which respond to regional and national skills shortages and help drive awareness and interest in the sector. We have extensive IT and digital apprenticeship provision in Wales with nine sub-degree programmes (levels 2, 3, 4 and 5) and three degree level apprenticeship frameworks including a Cyber Security Degree Apprenticeship. For upskilling adults, our ReAct+ adult employability programme offers individualised support to unemployed adults 18+ which could include college and university leavers who have studied cyber security. This can help boost the employability of people in the cyber security industry post qualification.

Additionally, the Cyber Innovation Hub is supported by our £3million investment made by Welsh Government over 2 years, with £3 million of co-funding from Cardiff Capital Region and £3.5 million of in-kind match funding from consortium partners. This will strongly support both the cyber skill and employability agenda for Wales with its aims to train more than 1,500 cyber-skilled individuals and grow the cyber security sector in Wales more than 50% by 2030. The Hub brings industry, government, defence and academic partners together to grow the Welsh cybersecurity sector, enabling Wales to take advantage of the anticipated growth of the sector in the UK, and globally, by investing in a coordinated approach to skills, innovation and new enterprise creation. This initiative will support us to ensure that we have a pool of talent ready to meet the demand of a growing sector and provide people with opportunities to develop skills for a sector which could provide a lifelong career. The Hub's approach of addressing market-led innovation challenges and driving rapid development of new, innovative solutions will help support and provide opportunities in cyber and this is just one part of a strong and growing cyber ecosystem in Wales.

You also asked whether Welsh Government is taking any action to encourage more women into the cyber sector. We're aware that a critical thread through the cyber career pipeline is diversity and the importance of developing a diverse workforce, reflective of our society in Wales. We support, through engagement with our communication channels with schools, the NCSC's annual CyberFirst Girls Competition. Schools can enter teams of Year 8 girls to compete in cyber-themed challenges designed to inspire interest in technology careers and increase uptake of Computing GCSE subjects by female students. Wales also has one of the most active 'Women in Cyber Clusters' which regularly engages with UK and European conferences to discuss the subject and its work in Wales. We recognise that more can be done around the diversity of the cyber workforce and encouraging women into the sector, and this is being considered as part of the development of the Cyber Action Plan.

Finally, your letter asks about the sale of Nexperia BV's share in Nexperia Newport Limited. Our immediate priority now is to safeguard the future of the hundreds of highly skilled jobs in Newport. We remain fully committed to ensuring the continued development of our compound semiconductor cluster in South East Wales and the role it plays on a wider UK scale. In light of the UK Government's decision, UK ministers now clearly view the compound semiconductor sector in Wales as a strategic national asset as well as being internationally recognised. We therefore call on the UK Government to invest in the sector to safeguard its future. We don't have national security responsibilities, nor do we have any insight into the reasons why the UK government came to the conclusion that it did. What I think has become much clearer in the aftermath of the decision is that the sale of the company is not going to happen quickly. The investment that will be needed to move Nexperia - or the successor to Nexperia - from a fab manufacturing chips for Nexperia's

customers to one making other semi-conductor products for a new owner is also likely to take many hundreds of millions of pounds. This is a very, very consequential decision that has been made and it will be BEIS that will now have to help deal with the consequences of that decision. The issue of Nexperia and how its transition to new ownership is to be supported I think is a matter for the UK government given that they made the decision in the first place.

A handwritten signature in black ink that reads "Mark Drakeford". The signature is written in a cursive, slightly slanted style.

**MARK DRAKEFORD**

Mark Drakeford MS  
First Minister

21 November 2022

Dear Mark,

I am writing following the Legislation, Justice and Constitution Committee's Report on International Agreements Considered on 26th September 2022. The report discussed, amongst other international agreements, the Second Additional Protocol to the Council of Europe Convention on Cybercrime and highlights your role in relation to "national security, including counterterrorism and cyber security".

Cyber security is a fast developing area with a lot of opportunity. I am looking forward to following the development of the new South Wales Cyber Security Hub. A strong cyber security sector will bring high quality jobs and support a host of innovative businesses.

As well as being a burgeoning, emerging industry in its own right, cyber security is of course also absolutely vital for securing our businesses and public sector bodies against potential harm. As such it is vital that we ensure Wales has a well-skilled cyber security workforce.

Following on from the LJC report I would be keen to hear your views on the Second Additional Protocol to the Council of Europe Convention on Cybercrime.

I would also like some more detail on the way the Welsh Government is supporting and promoting cyber security and the wider industry. Please can you let me know:

- In addition to the financial support for the hub, what work has the Welsh Government undertaken to upskill our workforce around real risk, governance and policy cyber security skills?



- Does Welsh Government have any plans to help boost the employability of people in the cyber security industry post qualification?
- Currently the cyber security sector is male dominated, is or will the Welsh Government be taking any action to encourage more women into the sector?

I also note that the UK Government has ordered Nexperia BV to sell 86% of its share in Nexperia Newport Limited, the Semi-Conductor manufacturer in Newport formerly known as Wafer Fab. The order cited two reasons for the forced sale:

- Technology and know-how that could result from a potential reintroduction of compound semiconductor activities at the Newport site, and the potential for those activities to undermine UK capabilities; and
- The location of the site could facilitate access to technological expertise and know-how in the South Wales Cluster ("the Cluster"), and the links between the site and the Cluster may prevent the Cluster being engaged in future projects relevant to national security.

I note from the news coverage the Welsh Government said the UK Government's announcement had brought "welcome clarity" and it's priority is to "safeguard jobs." As you will now have had time to consider the facts of the matter please could you set out any implications as you see them of this sale and any actions the Welsh Government will be taking as a result?

I have copied this letter to Huw Irranca-Davies MS, Chair of the Legislation, Justice and Constitution Committee and Delyth Jewell MS, Chair of the Culture, Communications, Welsh Language, Sport, and International Relations Committee.

Kind regards,



Paul Davies MS

Chair: Economy, Trade and Rural Affairs Committee

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



Ein cyf/Our ref:3654/22

Huw Irranca-Davies  
Chair, Legislation, Justice and Constitution Committee  
Welsh Parliament  
Cardiff Bay  
CF99 1SN

14 December 2022

Dear Huw,

Thank you for you for providing me with a copy of the of Legislation, Justice and Constitution Committee report on the Welsh Government's Legislative Consent Memorandum in relation to the Trade (Australia and New Zealand) Bill.

I have considered the recommendations in the report and have outlined my responses below:

**Recommendation 1. The Senedd's consent should also be sought for clause 4 and paragraph 4 of Schedule 2, and any future memoranda in respect of the Bill should identify them accordingly.**

I accept that paragraph 4 of Schedule 2 requires consent, and I wrote to the Committee on the 25 August to confirm this. With regards to clause 4, clause 4 is a technical provision which is concerned with how the law is brought into force rather than the substance of the rules set down in the law, as a matter of practice we do not generally include these technical clauses within Legislative Consent Memoranda.

**Recommendation 2. The Minister should keep the Committee up to date with the timing of the Bill's passage through the UK Parliament.**

I accept this recommendation and have instructed my officials to ensure that the Committee is regularly informed of the Bill's passage through the UK Parliament.

**Recommendation 3. The Minister should provide an update regarding his engagement with the UK Government within three weeks of the date of this report being laid.**

I accept this recommendation. I understand the committee are disappointed that there had been no reply to the letter which I had written in May. There were several changes in Ministerial positions at the Department for International Trade during this period, but I am pleased to confirm that I recently met with the Parliamentary Under Secretary of State (Minister for International Trade), Nigel Huddleston MP, to discuss the Bill.

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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.

It was a constructive meeting, and I raised the concerns we have with the Bill. There was agreement that more frequent meetings would be held to ensure that we can continue the dialogue on this Bill.

I trust the responses are helpful to the Committee.

Yours sincerely,

A handwritten signature in black ink that reads "Vaughan Gething". The signature is written in a cursive, flowing style.

**Vaughan Gething AS/MS**  
Gweinidog yr Economi  
Minister for Economy

Huw Irranca-Davies MS  
Chair of the Legislation, Justice and Constitution Committee  
Welsh Parliament  
Cardiff Bay  
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15 December 2022

Dear Huw,

### **Social Partnership and Public Procurement (Wales) Bill**

During the General Principles debate on the Social Partnership and Public Procurement (Wales) Bill on 29 November 2022 I stated that I would write to you to confirm in more detail the Welsh Government's responses to your Committee's recommendations.

I confirmed in the debate that the Welsh Government would not be accepting recommendation 1 because we do not consider it appropriate to include within the Bill's 'Interpretation' section a definition which is set out elsewhere only in statutory guidance. The guidance referred to is issued under a separate power (as opposed to duty) in another Act and serves a specific purpose which may not align with the duties under this Bill and, indeed, that guidance may change in the future or could, potentially, be withdrawn by a future Government. As I said in plenary, the Bill provides for Welsh Ministers to issue guidance to public bodies on the operation of the Social Partnership Duty and that is the appropriate way in which to deal with matters like this.

Recommendation 2 is accepted. We will develop and publish advice to assist individuals and organisations to improve their understanding of fair work, their awareness of the benefits of fair work, and illustrative examples of steps that organisations can take to promote fair work. This advice will be of particular interest to those organisations who are subject to the provisions of the Social Partnership and Public Procurement (Wales) Bill and the trade unions who represent workers in those organisations. However, we also intend to make the advice of broader interest to businesses, employers, and trade unions more generally.

I set out my reasons for rejecting recommendation 3 during the debate. We will not be applying the negative procedure to the power to issue the public services outsourcing and workforce code because the Code is not legislative, and as such it would not be appropriate for it to be made subject to the negative procedure as if it had legislative force. The Code will however be subject to wide consultation, which will help ensure it is targeted to the

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audience it addresses.

The Welsh Government accepts recommendations 4 and 5 and we will bring forward amendments at stage 2 to add to the Bill a specific duty to consult in relation to the Code to be made under section 32 and the guidance to be made under section 31.

Recommendation 6 is not accepted for the reasons I set out in plenary: namely that we will be developing the Code in social partnership and in consultation with stakeholders. In order to do this we will need to engage these groups from the beginning. This approach means we will not be in a position to publish a draft version of the Code before stage 3 takes place in March.

I said during the debate that I would provide you with further details as to why recommendations 7 and 8 are rejected. These recommendations ask that we amend the Bill so that the regulations to be made under sections 38(3)(a) and 38(3)(b) are subject to the affirmative procedure, rather than the negative procedure. The Committee is aware that in determining which procedure is most appropriate Ministers apply the principles set out in the [Welsh Government guidelines on subordinate legislation: draft affirmative or negative assembly procedure](#).

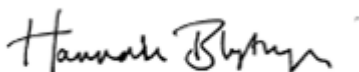
Any regulations we make under 38(3)(a) and 38(3)(b) will be to provide details of any further matters (in addition to those already set out in sections 38(1) and (2)) that contracting authorities' procurement strategies must contain. This is essentially a future-proofing arrangement to ensure that any changes in procurement practice - which could be dictated by wider statutory changes over which the Welsh Government may have no discretion - are able to be applied if this should become necessary. We are satisfied that the negative procedure provides sufficient opportunity for democratic scrutiny of any regulations made in exercise of this power.

Finally, in relation to recommendation 9, I wish to reiterate the apology I made in plenary to the Committee: the reference to a 'convention' in my letter of 15 October was included in error and I acknowledge that no such convention exists.

I trust that the information provided in this letter is useful to the Committee. I will also ensure that the Committee Clerk is informed as soon as our stage 2 government amendments have been published on the Documents Laid webpage.

I have attached for information copies of the letters I have sent to the chairs of the Equality and Social Justice Committee and the Finance Committee, and I am sending a copy of this letter to the chairs of both of those Committees also.

Yours sincerely,



**Hannah Blythyn AS/MS**  
Y Dirprwy Weinidog Partneriaeth Gymdeithasol  
Deputy Minister for Social Partnership

**Jeremy Miles AS/MS**  
**Gweinidog y Gymraeg ac Addysg**  
**Minister for Education and Welsh Language**

## Agenda Item 7.8



Llywodraeth Cymru  
Welsh Government

Ein cyf/Our ref MA/JMEWL/3567/22

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Jayne Bryant MS  
Chair  
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Huw Irranca-Davies MS  
Chair  
Legislation, Justice and Constitution Committee  
Senedd Cymru  
[SeneddLJC@senedd.wales](mailto:SeneddLJC@senedd.wales)

16 December 2022

Dear Llywydd, Jayne and Huw,

Further to the LCM on the Schools Bill that I laid on 7 July 2022, I am writing to inform you that whilst the Report Stage concluded in the House of Lords on 18 July, my officials have been informed that the Bill will not proceed to third reading. Therefore, the Legislative Consent Memorandum is no longer required.

I would like to thank Members of the Senedd, the Legislative, Justice and Constitution Committee and the Children, Young People and Education Committee for their consideration of this matter. I have considered the reports of the Committees, but do not now propose to respond to them formally.

My officials will continue to work with the Department for Education and if there are any plans to bring forward a similar Bill, I will of course keep you and Members informed.

I am copying this letter to the Counsel General and Minister for the Constitution, Mick Antoniw MS, the Minister for Rural Affairs and North Wales, and Trefnydd, Lesley Griffiths MS, and Members of the Senedd.

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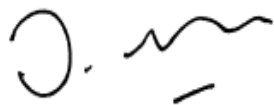
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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

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 black ink, consisting of a large 'J' followed by a series of wavy lines and a short horizontal stroke at the end.

**Jeremy Miles AS/MS**

Gweinidog y Gymraeg ac Addysg

Minister for Education and Welsh Language

Huw Irranca-Davies MS  
Legislation, Justice and Constitution Committee  
Welsh Parliament  
Cardiff Bay,  
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[SeneddLJC@senedd.wales](mailto:SeneddLJC@senedd.wales)

19 December 2022

Dear Huw,

Thank you for your letter of 9 December 2022 regarding the National Health Service (Charges to Overseas Visitors) (Amendment) (No. 4) (Wales) Regulations 2022.

The Welsh Government publishes most of its documents in Welsh under the requirements of the Welsh Language Standards (“the Standards”). It then prioritises a small number of documents for translation under the requirements of the Standards, to ensure that we prioritise the documents which will have the most impact on users. This includes Explanatory Memoranda accompanying Statutory Instruments. Under the requirements of Standard 47 we may consider the subject matter of the document, along with its anticipated audience in order to make the best use of our translation resource, in a reasonable and proportionate way.

The Welsh Language Commissioner’s office has helpfully provided guidance in undertaking this process to decide whether a document is subject to Standard 47 in the Code of Practice for the Welsh Language Standards (No 1) Regulations 2015. The process is based on the following questions listed in the Code of Practice:

- Does the subject matter of the document relate to an issue relevant to a large number of persons?
- Does the subject matter of the document relate to an issue which impacts on, or is of importance to, a large number of persons?
- Does the subject matter of the document deal with issues relating to the Welsh language (e.g. Welsh medium education)?
- Does the subject matter of the document relate to an area of special interest in terms of the Welsh language (e.g. education / housing / health care / arts / economy)?
- Will the document be displayed publicly?

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[Correspondence.Eluned.Morgan@gov.wales](mailto:Correspondence.Eluned.Morgan@gov.wales)

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.

- Is the subject matter of the document likely to be of general interest to Welsh speakers?
- Do you know if a large percentage or number of the anticipated audience speaks Welsh?
- Has more than one person asked for the document to be available in Welsh?
- Is the document likely to draw public interest and a public response (e.g. on social media)?
- Does the document require a response from persons?
- Does the target audience include persons (such as groups and organisations) for whom the Welsh language is an important consideration or who operate in Welsh?
- Is the target audience located in an area with a large percentage or number of Welsh speakers?

In considering this EM we also considered the precedence set by EMs accompanying three other amendments to these Regulations made in the past year that were not laid in Welsh. We also considered the fact that the people being affected by the amendments made to the Regs are not likely to speak Welsh (i.e. visitors from Malta and the Bailiwick of Guernsey making use of NHS services in Wales). Many documents produced by the Welsh Government for the attention of staff in Local Health Boards are produced in English only, as they are not documents produced for discussion with patients / service users and are often of specialist, technical nature and of interest to a very narrow audience within those organisations.

The Welsh Local Health Boards are regarded as a small target audience as these Regulations would be accessed by an extremely small number of people working in each of the seven Welsh Local Health Boards, specifically those leading on overseas visitors process and policy.

I trust this answers your query and provides assurance that we take a very reasonable and proportionate approach to allocating our translation resources in order to make the best use of those resources.

Yours sincerely,



**Eluned Morgan AS/MS**

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

Eluned Morgan MS  
Minister for Health and Social Services

9 December 2022

Dear Eluned

The National Health Service (Charges to Overseas Visitors) (Amendment) (No. 4) (Wales) Regulations 2022

We considered The National Health Service (Charges to Overseas Visitors) (Amendment) (No. 4) (Wales) Regulations 2022 at our meeting on 5 December 2022.

You will know that our report contains two merits reporting points, the second of which noted that the Explanatory Memorandum to the Regulations has been laid in English only, and we asked the Welsh Government to provide an explanation.

In response we were told:

*"Explanatory Memoranda for subordinate legislation are prioritised for publication in Welsh (in line with Standard 47 of the Welsh Language Standards). A Welsh language version is published if the subject matter of the Explanatory Memorandum suggests that one should be available in Welsh, or the anticipated audience will expect to see a Welsh language version. In this instance, the Welsh Government deemed that a Welsh Language version of the Explanatory Memorandum was unnecessary due to the narrow and specific nature of the Regulations and the small target audience (ie. Welsh Local Health Boards)."*

While we have in our report acknowledged that Standing Order 15.4 requires all laid documents to be bilingual "so far as is appropriate in the circumstances and reasonably practicable", we would welcome further clarity as to why the Welsh Government considers the local health boards in Wales to be a "small target audience".

We would welcome a response by 3 January 2023.

Yours sincerely,

*Huw Irranca-Davies*

Huw Irranca-Davies

Chair



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

[SeneddLJC@senedd.wales](mailto:SeneddLJC@senedd.wales)

22 December 2022

Dear Huw

**Written Statement laid under Standing Order 30C – The Animals and Animal Health, Feed and Food, Plants and Plant Health (Amendment) Regulations 2022**

Thank you for your letter of 7 December regarding the Written Statement laid on 21 November and the information provided to the Committee but not in the Written Statement.

The Written Statement laid on 21 November sought only to correct the record by withdrawing the original Written Statement laid in error on 21 October, replacing it with a revised version and informing you of the laying of a SICM before the Senedd.

I confirm the commitment in my letter of 21 November to ensure, that for new Written Statements, relevant information provided to committees will be included in Written Statements in accordance with Standing Orders in the future.

Yours sincerely



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

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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.

Lesley Griffiths MS

Minister for Rural Affairs, North Wales and Trefnydd

7 December 2022

Dear Lesley

Written Statement laid under Standing Order 30C – The Animals and Animal Health, Feed and Food, Plants and Plant Health (Amendment) Regulations 2022

Thank you for your letter of 21 November in respect of the above Written Statement which you laid on the same day, to replace the original Written Statement in respect of the Animals and Animal Health, Feed and Food, Plants and Plant Health (Amendment) Regulations 2022 (the Regulations), which you laid on 21 October.

In my letter of 14 November in respect of the original Written Statement, I shared my Committee's belief that the Welsh Government should ensure that future statements laid under Standing Order 30C include practical examples of the changes to be made by the Regulations to which they relate. This was in light of the fact that these practical examples were only included in correspondence to my Committee. I therefore acknowledge the commitment you made in your letter to ensure all relevant information provided to committees is included in Written Statements in accordance with Standing Orders in the future.

At our meeting of 28 November, we considered the replacement Written Statement which you laid on 21 November, and were disappointed to find that it did not include practical examples of the Regulations' effect.

I hope this was an oversight, and would welcome confirmation that the commitment you made in your letter of 21 November still stands.



Yours sincerely,

*Huw Irranca-Davies*

Huw Irranca-Davies

Chair

# Agenda Item 9

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

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# Agenda Item 11

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# Agenda Item 12

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

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



Llywodraeth Cymru  
Welsh Government

Elin Jones MS  
Llywydd  
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27 June 2022

Dear Elin

The UK Government introduced the Genetic Technologies (Precision Breeding) Bill to the House of Commons on 25 May. The Bill is 30 pages long, consists of 48 parts and is complex in nature. The Bill gives effect to a new, divergent policy, which although nominally restricted to England, will have important effects across the whole of the UK. It cuts across devolved areas including plant varieties and seeds, genetic modification and animal health and welfare. It also impacts more widely on the Welsh economy, trade, food and feed safety and public health. It is a framework Bill which provides the Secretary of State with considerable subordinate legislative powers.

There has been no meaningful engagement by UK Ministers at a Ministerial level, and approaches to my officials were only made shortly before the Bill was published. Officials have been presented with limited detail of the UK Government's policy intentions or the likely impacts the Bill will have in Wales.

I am extremely concerned that the UK Government has chosen not to work within the Common Frameworks that are in place in several of these policy areas. These Frameworks have been jointly agreed by the four Governments of the UK and are currently being scrutinised by legislatures across the UK. This departure from the spirit of the Common Frameworks means the consequences for areas which are devolved in Wales have not been properly considered. There will also be wider consequences for the UK internal market, for international trade and for our international obligations.

Due to very limited prior consultation by the UK Government and the complexity of the Bill, it has not yet been possible to fully consider the consequences for Wales. However, once this has been done and we have a clear picture of the devolution consequences for Wales, it may be necessary to lay a Legislative Consent Memorandum (LCM).

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[Correspondence.Julie.James@gov.Wales](mailto:Correspondence.Julie.James@gov.Wales)

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.

We are already outside the normal two-week Standing Order 29 deadline for the laying of an LCM, in part due to the late engagement by UK Government. A draft version of the Bill was only shared with us on the day before its introduction. The Bill is expected to move through the UK Parliament at pace with House of Commons Second reading having taken place on 15 June, Commons Committee stage scheduled to commence on 28 June, and, if passed, the Bill is expected to receive Royal Assent by December 2022.

I am copying this letter to the Counsel General and Minister for the Constitution, Mick Antoniw MS, the Minister for Rural Affairs and North Wales, and Trefnydd, Lesley Griffiths MS and the Chair of the Legislation, Justice and Constitution Committee, Huw Irranca-Davies MS.

Yours sincerely

A handwritten signature in blue ink that reads "Julie James". The signature is written in a cursive, flowing style.

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

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# Agenda Item 13

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

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