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Llywodraeth Cymru  
Welsh Government

Ein cyf/Our ref: MA/JJ/2983/22

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Dear Huw,

Thank you for your letter dated 14 March in which you requested a government response to the Committee's draft report from Senedd lawyers as part of their review of the Packaging Waste (Data Collection and Reporting) (Wales) Regulations 2023 ("the Regulations").

As requested, the response to the points raised in the draft report of the Committee is set out in the Annex to this letter.

In relation to your point on whether any of the matters raised in the report may have implications for the corresponding regulations for England, Northern Ireland, and Scotland, it is important to note that the corresponding regulations are already in force in those nations. As stated in my letter dated 10 March, the UK Government are planning to introduce an amending instrument to address outstanding policy issues and my officials are liaising with their counterparts in the other administrations to discuss the matters raised in the draft report.

Yours sincerely,

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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.

## **ANNEX**

### **Government Response: The Packaging Waste (Data Collection and Reporting) (Wales) Regulations 2023**

#### **Technical Scrutiny Point 1:**

The English text in the definition of “pub operating agreement” in regulation 2(1) is correct in using the phrase “on or from the premises”, Therefore the Welsh text will be amended to state “yn y fangre neu o’r fangre”. The Packaging Waste (Data Collection and Reporting) (Wales) Regulations 2023 have been withdrawn and will be amended before re-laying.

#### **Technical Scrutiny Points 2-5:**

The Welsh Government accepts technical scrutiny points 2 to 5. The Packaging Waste (Data Collection and Reporting) (Wales) Regulations 2023 have been withdrawn and will be amended before re-laying.

#### **Technical Scrutiny Point 6:**

With regards to the equivalence point that the Committee raises on the translation of the “Packaging (Essential Requirements) Regulations 2015”, the alternative translation, “deunydd pacio” was used here for consistency with the way the title has been translated in the past. However, as it is a courtesy title for regulations that only exist in English, it was agreed that consistency within these Regulations would be preferable to consistency with a previously used translation. The Welsh Government therefore accepts technical scrutiny point 6 and the Packaging Waste (Data Collection and Reporting) (Wales) Regulations 2023 have been withdrawn and will be amended before re-laying.

With regards to the point that the Committee raises with regards to the terminology of paragraphs (2) and (3) being inconsistent within regulation 6 of the Regulations, the Welsh Government accepts this technical scrutiny point and the Packaging Waste (Data Collection and Reporting) (Wales) Regulations 2023 have been withdrawn and will be amended before re-laying.

#### **Technical Scrutiny Point 7:**

The Welsh Government consider that the definition of “household packaging” in regulation 7(1) is sufficiently clear on the point that “household packaging” is any primary or shipment packaging which is not supplied to a business as the final user of that packaging. This is further clarified by regulation 7(2).

The overall packaging Extended Producer Responsibility (“EPR”) scheme is being introduced across all four nations of the UK with mirroring data reporting regulations being laid in each of the legislatures. The definition used is consistent with that used in the regulations in England, Scotland and Northern Ireland as a common definition is vital to aid compliance by businesses and ensure consistency of data collection and reporting across the UK.

An amendment to address this technical scrutiny point is not considered necessary.

### **Technical Scrutiny Points 8-11:**

The Welsh Government accepts technical scrutiny points 8 to 11. The Packaging Waste (Data Collection and Reporting) (Wales) Regulations 2023 have been withdrawn and will be amended before re-laying.

### **Technical Scrutiny Point 12:**

The Committee have commented that *“In paragraph 1(a) of Schedule 1, the term “commencement date” is defined as having a meaning “In this Schedule”. But, the definition doesn’t appear to be used in the Schedule, so this is defective drafting.”*

The term “commencement date” is defined in paragraph 1(a) of Schedule 1 as meaning *“the date on which these Regulations come into force”*. However, as that term is not used subsequently in the Schedule, the Welsh Government accepts technical scrutiny point 12. The Packaging Waste (Data Collection and Reporting) (Wales) Regulations 2023 have been withdrawn and will be amended before re-laying.

### **Technical Scrutiny Point 13:**

“Llunio” is listed as one of the possible translations of “conceive” in Geiriadur yr Academi (The Welsh Academy Dictionary). However, in the interests of consistency the Welsh Government accepts technical scrutiny point 11. The Packaging Waste (Data Collection and Reporting) (Wales) Regulations 2023 have been withdrawn and will be amended before re-laying.

### **Technical Scrutiny Point 14:**

We can confirm that in paragraph 15(c) of Schedule 1 the intention is to place a duty to keep records of “unfilled packaging” and “unfilled household packaging”. Technical scrutiny point 14 is accepted and the Packaging Waste (Data Collection and Reporting) (Wales) Regulations 2023 have been withdrawn and will be amended before re-laying.

### **Merits Scrutiny Point 15:**

The point is noted. However, the Welsh Government considers that the legislation is accessible since the public will have access to the Waste Directive on [legislation.gov.uk](http://legislation.gov.uk). An amendment to address this merits scrutiny point is therefore not considered necessary.

#### **Merits Scrutiny Point 16:**

The point is noted. However, the Welsh Government considers that the legislation is accessible since the public will have access to the Packaging (Essential Requirements) Regulations 2015 on [legislation.gov.uk](http://legislation.gov.uk). An amendment to address this merits scrutiny point is therefore not considered necessary.

#### **Merit Scrutiny Point 17:**

This point is noted. However, the Welsh Government has already consulted with stakeholders (including NRW) on the establishment of the new EPR scheme. In addition, the introduction of these Regulations is being supported by comprehensive UK-wide stakeholder engagement. This includes a series of awareness sessions targeted at those obligated under the regulations which is already underway and on-going. These are designed to communicate these changes and support businesses in understanding the obligations placed on them. An amendment to address this merits scrutiny point is therefore not considered necessary.

#### **Merits Scrutiny Point 18:**

This point is noted. However, the Welsh Government considers that the signposting in the Regulations ensures that the Regulations are accessible and provides clarity to producers on what their obligations are under the Regulations.

In addition, the introduction of these Regulations is being supported by comprehensive stakeholder engagement. This includes a series of awareness sessions targeted at those obligated under the Regulations which is already underway and on-going. These are designed to communicate these changes and support businesses in understanding the obligations placed on them.

#### **Merits Scrutiny Point 19:**

This point is noted. However, it was not considered necessary to define “reasonable period” given that what may be considered reasonable will likely differ depending on the level of information requested in each individual case. An amendment to address this merits scrutiny point is therefore not considered necessary.

#### **Merits Scrutiny Point 20:**

This point is noted. However, these Regulations will be superseded by the main set of Extended Producer Responsibility (“EPR”) Regulations which will introduce the other aspects of the packaging EPR reforms and so this requirement is timebound. Under the EPR Regulations the responsibility to publish lists of recycled items will move from NRW to a scheme administrator which will be established to operate the regime. An amendment to address this merits scrutiny point is therefore not considered necessary.

**Merits Scrutiny point 21:**

This point is noted. However, the Welsh Government would not want a situation where deemed consent is the default position and it is important that NRW as the regulator determines the application. An amendment to address this merits scrutiny point is therefore not considered necessary.

**Merits Scrutiny Point 22:**

The Welsh Government accepts this point. The Explanatory Memorandum has been withdrawn and will be amended before re-laying.