

SL(6)672 – The Basic Payment Scheme (Tapering, Payment Entitlements and Closure) (Wales) Regulations 2025

Background and Purpose

The Basic Payment Scheme (Tapering, Payment Entitlements and Closure) (Wales) Regulations 2025 (“these Regulations”) amend assimilated law relating to the Basic Payment Scheme (BPS) in Wales. They provide for the tapering of payments under BPS from 2026 until its closure on 31 December 2028. The Regulations also introduce restrictions on the transfer and use of entitlements, prevent new entrants from accessing the scheme, and close the national and regional reserves. These changes are part of the Welsh Government’s transition to a new agricultural support framework under the Agriculture (Wales) Act 2023.

These Regulations are introduced alongside the Agricultural Support Schemes (Eligibility, Enforcement and Appeals) (Wales) Regulations 2025 and the Agriculture Subsidies and Grants Schemes (Appeals) (Wales) (Amendment) Regulations 2025, which are relevant to the new agricultural support framework.

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 three 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.

Regulation 8(2) amends Commission Delegated Regulation (EU) No. 639/2014 by omitting Article 26 (reversion to the national or regional reserve due to retention on transfer of payment entitlements). However, Westlaw indicates that Article 26 has already been repealed by regulation 8(5) of the Direct Payments to Farmers and Rural Affairs (Miscellaneous Amendments etc.) (Wales) (EU Exit) Regulations 2020/1556, which came into force on implementation period completion day (31 December 2020). The provisions in article 26 which remain in force, appear to apply to Northern Ireland and Scotland only.



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

In regulation 2, the definition of “the Direct Payments Regulation” does not use the full title of Regulation (EU) 1307/2013 as it does not include the date “of 17 December 2013” when citing the title. This approach is inconsistent with section 16 of the Agriculture (Wales) Act 2023 which cites the full title, and is inconsistent with references to other legislation in these Regulations, such as regulation 6(1) which does use the full title. Paragraph 6.21 of Writing Laws for Wales provides that the full title consists of, amongst other things, the date on which the instrument was adopted.

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

The Regulations omit provisions relating to the national and regional reserves. However, references to the national or the regional reserves in article 5A of the Direct Payments Regulation, and in article 23(3) of the Commission Implementing Regulation (EU) No 809/2014 have not been amended by these Regulations. The Welsh Government is asked to explain why further amendments have not been made.

Merits Scrutiny

One point is identified for reporting under Standing Order 21.3 in respect of this instrument.

4. 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.

Paragraph 5 of the Explanatory Memorandum to these Regulations provides that the Welsh Government conducted a public consultation in 2023 on the future of agricultural support in Wales. The EM states that:

*“stakeholders including farming unions, environmental organisations and rural communities **broadly supported** the phased transition and the principles underpinning the new support framework.”*

However, the EM does not refer to other consultation relevant to these Regulations. The Explanatory Memorandum to the Agriculture Support Schemes (Eligibility, Enforcement and Appeals) (Wales) Regulations 2025, refers to the Sustainable Farming Scheme - Keep Farmers Farming 2024 consultation exercise which received substantial engagement from the public, with 12,108 responses received. The EM provides:

*“Overall, the consensus from the farming community to the consultation was **unfavourable**, resulting in widespread protest at the steps of the Senedd on 28 February 2024...”*



*A wide range of opinions were expressed in response to the consultation; both supportive and unsupportive of the proposals. **Opposition to the proposals was most strongly expressed in response to the proposed Universal Actions and changes to the Basic Payment Scheme (BPS) during the transition phase to the SFS**.*

Welsh Government response

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

Legal Advisers

Legislation, Justice and Constitution Committee

12 November 2025



Senedd Cymru

Pwyllgor Deddfwriaeth, Cyfiawnder a'r Cyfansoddiad

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Welsh Parliament

Legislation, Justice and Constitution Committee