

SL(6)367 - The Welsh Language Standards (No. 9) Regulations 2023

Background and Purpose

The Welsh Language (Wales) Measure 2011 (“the 2011 Measure”) makes provision for the specification of standards of conduct in relation to the Welsh language (“standards”). These replace the system of Welsh language schemes provided for by the Welsh Language Act 1993.

Section 26 of the 2011 Measure enables the Welsh Ministers to specify standards, and section 39 enables them to provide that a standard is specifically applicable to a person by authorising the Welsh Language Commissioner (“the Commissioner”) to give a notice to that person requiring compliance with the standard (a “compliance notice”).

These Regulations specify standards in relation to the conduct of water and sewerage undertakers set out in Schedule 4 to the Regulations (which are referred to in the Regulations as “bodies”). Water and sewerage undertakers are appointed under section 6 or by a variation of an appointment under section 7 of the Water Industry Act 1991.

Because the bodies which these standards relate to are within Schedule 8 to the 2011 Measure, section 37 of the 2011 Measure provides that only service delivery standards and record keeping standards can be made specifically applicable to them. A service delivery standard only applies to the extent that it relates to the provision by the body of a service specified in column 2 of the body’s entry in Schedule 8 to the 2011 Measure. In the case of the water and sewerage undertakers falling within Schedule 4 to these Regulations, the specified services are services provided to the public in the exercise of the functions of water undertaker or sewerage undertaker (as appropriate) for the whole or any part of Wales.

These Regulations use the Welsh alphabet. This affects paragraphs 26(3), 26(4), 33 of Schedule 1. This style is different to the usual numbering style adopted in subordinate legislation made by the Welsh Ministers. The same style was adopted within The Welsh Language Standards (No. 1) Regulations 2015 and subsequent Regulations specifying Welsh language standards.

The title of these Regulations is The Welsh Language Standards (No. 9) Regulations 2023. If passed by the Senedd, these will be the eighth Welsh Language Standards Regulations to be made. Usually a number in the name of one of a series of Statutory Instruments refers to the number made in the particular year, however it is intended that all the Regulations made under section 26 of 2011 Measure will be made in a series, in the same way as commencement orders.



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

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

Merits Scrutiny

The following 2 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.

In these Regulations a “body” means a person falling within one or both of the categories of persons listed in Schedule 4. Schedule 4 lists persons who provide the public with water or sewerage services and who, by virtue of an appointment under section 6 of the Water Industry Act 1991 or by virtue of a variation of such an appointment under section 7 of that Act, are water or sewerage undertakers for the whole or any part of Wales. A member of the public reading these Regulations cannot easily identify the bodies that fall within Schedule 4. Whilst it is recognised that Schedule 4 replicates the wording in the 2011 Measure and that the bodies falling within Schedule 4 can change, it would allow for greater accessibility if the bodies currently falling within Schedule 4 were listed by name, either in the Regulations themselves or in the Explanatory Memorandum.

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.

The Welsh Ministers held a public consultation on a draft version of these Regulations between 15 February 2023 and 5 April 2023. It is noted in the ‘Consultation - summary of response’ document published in June 2023, that as this was the second consultation on draft standards for water and sewerage undertakers, the Welsh Ministers consulted for a shorter than usual period of 7 weeks.

Welsh Government response

Merit Scrutiny Point 1:

The decision not to list the current companies that fall within Schedule 4 to the Regulations by name, was made in order to ensure the longevity of the Regulations. Listing companies by name might have required amendment Regulations to be made and/or caused ambiguity if a new water and/or sewerage undertaker started providing services; a named company stopped



providing services to the public in Wales; a company adopted a new name, or if a company merged with another company.

In addition, it is only once a body has to comply with the compliance notice given by the Welsh Language Commissioner, that any duties or rights arise. At that point the public would be made aware by the Welsh Language Commissioner of which bodies have to comply with standards. Whilst the Welsh Government does not accept that the Draft Regulations present any issue in respect of accessibility of the law, the Explanatory Memorandum has been amended so as to include a list of all the bodies currently captured by the definition at Schedule 4 to the Regulations.

Committee Consideration

The Committee considered the instrument and Government response at its meeting on 11 September 2023 and reports to the Senedd in line with the reporting points above.

