

Lesley Griffiths MS

Minister for Rural Affairs and North Wales, and Trefnydd

7 July 2023

Dear Lesley

Draft Windsor Framework (Retail Movement Scheme: Public Health, Marketing and Organic Product Standards and Miscellaneous Provisions) Regulations 2023

At our meeting on 3 July 2023 we considered your letter of 30 June about your intention to consent to the UK Government making and laying the draft Windsor Framework (Retail Movement Scheme: Public Health, Marketing and Organic Product Standards and Miscellaneous Provisions) Regulations 2023.

There are some matters on which we would welcome further information and clarification.

We would be grateful to receive a response to the questions in the Annex at the earliest opportunity and no later than 31 July 2023.

I am copying this letter to Llyr Gruffydd MS, Chair of the Climate Change, Environment and Infrastructure Committee.

Yours sincerely,



Huw Irranca-Davies

Chair



## ANNEX

**Question 1:** You told us that you received a letter from the Minister of State for Environment, Food and Rural Affairs, the Rt Hon Lord Benyon, asking for the Welsh Ministers' consent to these Regulations. Can you confirm when Lord Benyon wrote to you. In your letter to us on 2 December 2022, you committed to include the date of correspondence with UK Ministers in letters to Senedd Committees.

**Question 2:** Please can you share with us the relevant correspondence with Lord Benyon. Again, in your letter to us on 2 December 2022, you said you would aim to provide copies of correspondence with the UK Government to the appropriate Senedd Committees.

**Question 3:** You told us that the Regulations intersect with devolved policy. Have you made an assessment of the devolved/reserved split? If so please can you provide details of that assessment.

**Question 4:** Did you consider bringing forward your own Regulations to deal with matters within devolved competence?

**Question 5:** Can you confirm that the development of these Regulations was taken through the relevant common framework processes.

**Question 6:** The Scottish Government wrote to the Scottish Parliament on 22 June 2023 identifying a package of five Statutory Instruments implementing parts of the Windsor Framework. The Regulations you have written to us about are referred to as NID/014 in the Scottish Government's letter. The other Regulations are: The Windsor Framework (Retail Movement Scheme) Regulations 2023 - (NID/011); The Windsor Framework (Plant Health) Regulations 2023 – (NID/012); The Windsor Framework (Enforcement etc.) Regulations 2023 – (NID/013); The Windsor Framework (Financial Assistance) (Marking of Retail Goods) Regulations 2023 - (NID/015).

The letter from the Scottish Government to the Scottish Parliament states: "*NID/011, NID/012 and NID/015 are subject to negative procedure. DEFRA plan to lay NID/011 in Westminster on 8 August 2023 and NID/012 and NID/015 on 30 August 2023. NID/014 is currently subject to draft affirmative procedure but we have been informed by DEFRA that it will likely be changed to the negative procedure, and we therefore propose to treat it as such for consent purposes. It is due to be laid on 17 July 2023 under affirmative procedure, but may be laid in August under negative procedure. NID/013 is subject to draft affirmative procedure and is due to be laid on 17 July 2023.*" Specifically on NID/014, the Scottish Government states in its letter: "*The SI is currently subject to the draft affirmative procedure and is due to be laid on 17 July 2023, to come into force on 1 October 2023. However, the instrument may become subject to the negative procedure if the Retained EU Law (Revocation and Reform) Bill gains Royal Assent before the proposed laying date.*"

The Regulations which are the subject of your letter are to be made under section 8C(1) of the *European Union (Withdrawal) Act 2018* (the 2018 Act) and are making amendments to retained direct EU law (RDEUL). Before the coming into force of the *Retained EU Law (Revocation and Reform) Act 2023* (the 2023 Act), such regulations would be subject to the affirmative procedure if amending, repealing or revoking primary legislation or retained direct principal EU legislation (paragraph 8F(2)(a) of Schedule 7 to the 2018 Act). Following the coming into force of section 9 of, and Schedule 3 to, the 2023 Act, the reference to retained direct principal EU legislation has been removed from paragraph 8F(2)(a) of Schedule 7 to the 2018 Act, meaning that the affirmative procedure is no longer required for such regulations.

- a. Has the UK Government written to you about the four other sets of Regulations referred to as NID/011, NID/012, NID/013, and NID/015 in the Scottish Government's letter?
- b. If the UK Government has not written to you about the other Regulations, what action will you now take?
- c. If the UK Government has written to you about the other Regulations, why does your letter of 30 June only refer to the Windsor Framework (Retail Movement Scheme: Public Health, Marketing and Organic Product Standards and Miscellaneous Provisions) Regulations 2023 (NID/014)?
- d. Were you aware of the timings regarding the Regulations which are the subject of your letter?
- e. Were you aware that the 2023 Act would result in the Regulations which are the subject of your letter no longer being subject to the affirmative procedure?

**Question 7:** Are you aware of further implementing legislation being prepared to implement the Windsor Framework and as described by the Framework's accompanying documents? If so, please can you provide details, including timings.