

Government Response: The Water Resources (Control of Agricultural Pollution) (Wales) Regulations 2021

Merits Scrutiny point:

1. Standing Order 21.3(ii)

a. Welsh Ministers power to determine appeals under regulation 31

Under regulation 31(5)(c) the Welsh Ministers, on determining an appeal under that regulation, have the power to direct Natural Resources Wales (“NRW”) to extend the period for compliance with any requirement under the notice issued by NRW. Under regulation 30(6) NRW are under a duty to follow such a direction. When deciding whether or not to exercise their direction making power under regulation 31(5)(c), the Welsh Ministers will be subject to their public law duty to act reasonably. This mechanism therefore provides appellants with a sufficient safeguard from having to undertake works/take action within an inadequate timeframe once the result of their appeal is known. While there may also be circumstances, in which immediate action is both feasible and appropriate, such as to prevent catastrophic storage failure presenting a risk to life.