

SL(6)627 – The Environmental Protection (Single-use Vapes) (Wales) (Amendment) (Wales) Regulations 2025

Background and Purpose

The Environmental Protection (Single-use Vapes) (Wales) Regulations 2024 came into force on 1st June 2025 and prohibit the supply of single-use vapes in Wales. They aim to address the environmental damage caused by inappropriate disposal of single-use vapes (“the 2024 Regulations”).

Regulation 10 of the 2024 Regulations includes a power for enforcement officers, who are appointed by a local authority, to seize single-use vapes that contravene the regulations and then retain them for listed specific purposes, such as to test the vape or to make it available as evidence. Regulation 12 of the 2024 Regulations gives the Welsh Ministers a power to direct that any single-use vapes seized by enforcement enforcers are disposed of as waste.

In error, the enforcement officers power to retain seized single-use vapes set out in regulation 10 does not extend to retention of them in order that they can be disposed of as waste, pursuant to a direction from the Welsh Ministers. These Regulations amend regulation 10 of the 2024 Regulations to extend the reach of the power to permit retention for that purpose.

Procedure

Negative.

The Regulations were made by the Welsh Ministers before they were laid before the Senedd. The Senedd can annul the Regulations within 40 days (excluding any days when the Senedd is: (i) dissolved, or (ii) in recess for more than four days) of the date they were laid before the Senedd

Technical Scrutiny

The following point is 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.

These Regulations are made under powers in section 140(1) of the Environmental Protection Act 1990. The power enables the Welsh Ministers to specify and then regulate the possession, use or storage of a substance or article *if* the Welsh Ministers consider it is



appropriate in order to prevent that substance or article from causing either environmental pollution or harm to human, animal or plant health.

The exercise of the section 140(1) power is therefore conditional upon the Welsh Ministers reaching that view. The introductory words of the Regulations set out below refer to this condition:

"The Welsh Ministers-

(a) consider it appropriate to make these Regulations for the purpose of preventing the articles specified in them from causing pollution of the environment and harm to the health of animals;"

These words are intended to confirm the Welsh Ministers are satisfied in relation to the condition in section 140(1). The wording refers to "*articles specified*" in these Regulations. However no articles are specified in these Regulations, the regulated articles, single-use vapes, are specified in the 2024 Regulations.

In our view, in order to satisfy section 140(1) of the Environmental Protection Act 1990 the introductory words of these Regulations should refer to "*articles specified in regulation 3 & 4 of the the Environmental Protection (Single-use Vapes)(Wales) Regulations 2024*".

Merits Scrutiny

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

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.

These Regulations were made on 17 June 2025, laid on 18 June 2025 and come into force on 19 June 2025. Section 11A(4) of the Statutory Instruments Act 1946 applies in the event a negative resolution SI is not laid at least 21 calendar days before it comes into force. It provides that the Welsh Government must notify the Llywydd and explain the 21 day requirement has not been observed.

The Deputy First Minister and Cabinet Secretary for Climate Change and Rural Affairs Huw Irranca-Davies MS wrote to the Llywydd on 18 June 2025 and stated the following:

"The 2024 Regulations came into force on 1 June 2025. Therefore, not adhering to the 21- day convention will ensure the 2024 Regulations are corrected as soon as is practicably possible, ensuring that the ban created by the 2024 Regulations is given its full effect in the soonest possible time."

Welsh Government response

A Welsh Government response is required.



Senedd Cymru
Pwyllgor Deddfwriaeth, Cyfiawnder a'r Cyfansoddiad
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Welsh Parliament
Legislation, Justice and Constitution Committee

Committee Consideration

The Committee considered the instrument at its meeting on 7 July 2025 and reports to the Senedd in line with the reporting points above.



Senedd Cymru

Pwyllgor Deddfwriaeth, Cyfiawnder a'r Cyfansoddiad

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Welsh Parliament

Legislation, Justice and Constitution Committee