

SL(6)634 – The Amendments to Subordinate Legislation (Minimum Landing Size and Miscellaneous Corrections) (Wales) Order 2025

Background and Purpose

This Order, alongside the Amendments to Subordinate Legislation (Miscellaneous Corrections) (Wales) Regulations 2025, amend existing subordinate legislation to correct errors identified by the Committee.

This Order makes corrections to four existing orders which relate to different areas of law:

- Part 2 makes an amendment to the Animal Gatherings (Fees) (Wales) Order 2018 (S.I. 2018/645 (W.119));
- Part 3 makes amendments to the Cockle Fishing Management and Permitting (Specified Area) (Wales) Order 2024 (S.I. 2024/767 (W. 112));
- Part 4 makes amendments to the Town and Country Planning (Development Management Procedure) (Wales) Order 2012 (S.I. 2012/801 (W.110)); and
- Part 5 makes amendments to the Developments of National Significance (Procedure) (Wales) Order 2016 (S.I. 2016/55 (W.25)).

Additionally, the Order also makes two amendments: firstly, to the definition of “minimum landing size” within article 9(7)(b) of The Cockle Fishing Management and Permitting (Specified Area) (Wales) Order 2024, following representation from Natural Resources Wales. Secondly, the Order makes changes to both the Town and Country Planning (Development Management Procedure) (Wales) Order 2012 and to the Developments of National Significance (Procedure) (Wales) Order 2016 to ensure consistency in references in the 2012 and 2016 Orders to the body known as the “Natural Resources Body for Wales” (see paragraph 4.2.2 of the Explanatory Memorandum accompanying the Order).

Procedure

Negative.

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

Technical Scrutiny

The following six 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.

The Table of Contents appears to be incorrect. It notes that articles “1-3” relate to Part 1 (only article 1 is contained within Part 1). Article 2 is included within Part 2 of the Order. Part 3 refers to articles 4-13 but should instead refer to articles 3-13. Part 4 and Part 5 do not include reference to specific articles of the Order. We think the use of a Table of Contents is a useful addition to an instrument of this nature, which corrects errors in legislation in a range of subject areas, to increase accessibility. However, the errors in the Table of Contents make it more difficult for the reader to navigate the instrument.

2. Standing Order 21.2(vi) – that its drafting appears to be defective or it fails to fulfil statutory requirements.

In article 4, the description of the location for the insertion of the new paragraph (3) in article 1 of the Cockle Fishing Management and Permitting (Specified Areas) (Wales) Order 2024 is incorrect. It is described as “In article 1 ... after paragraph 1(2)” but should state “In article 1... after paragraph (2)” instead.

3. Standing Order 21.2(vi) – that its drafting appears to be defective or it fails to fulfil statutory requirements.

In article 5, the structure of the article is incorrect. The subdivisions following article 5(1) are numbered as (2) to (6), but should instead be numbered (a) to (e). This also occurs in articles 7, 9 and 13 of the Order.

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

Article 9 is structured differently in each language text. In the Welsh text, article 9 substitutes a new paragraph (1) in article 12 of the 2024 Order to achieve the same legal effect as the amendments made by the English text at article 9(1)-(3). Article 9(1)-(3) exists in the English text but only article 9 exists in the Welsh text. This approach has the potential to create confusion if the same articles are divided and numbered differently in both language texts of an instrument.

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

In articles 9 and 10, the Welsh text substitutes the entire paragraph to achieve the same effect of the individual amendments made by the English text of those articles. The amount of text needed to amend to achieve the same legal effect can differ in both language texts. However, if it is thought necessary to substitute a whole paragraph in one language to achieve the same effect as found in the other language text, it would be more consistent to substitute the whole paragraph in both language texts. This would also have avoided the differences in structure of both language texts of article 9 highlighted above. It is unclear whether the Welsh Government



considered substituting the entire paragraphs in both language texts to achieve the necessary legal effect of the amendments made by articles 9 and 10 of the Order.

6. Standing Order 21.2(vi) – that its drafting appears to be defective or it fails to fulfil statutory requirements.

In article 15(2), the Welsh text fails to correctly identify the text for substitution in paragraph (j), in the definition of “TAN 15 Defended Zones” under the heading “Interpretation of Table” in Schedule 5 to the Developments of National Significance (Procedure) (Wales) Order 2016. The Welsh text incorrectly identifies the text for substitution as “Gyfoeth Naturiol” but it should note “Gyfoeth Naturiol Cymru” as found in the existing text of that provision in Schedule 5 to the 2016 Order.

Merits Scrutiny

The following three points are identified for reporting under Standing Order 21.3 in respect of this instrument.

7. 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 title of the statutory instrument does not give an indication of the nature or contents of the Welsh statutory instruments that are being corrected. This could raise issues of accessibility in drawing readers’ attention to any Welsh statutory instruments which are being corrected, and that are of particular interest to them. This could be inevitable if the statutory instruments are generally all unrelated when following an omnibus approach to the correction of statutory instruments.

8. 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 Explanatory Memorandum accompanying the Order highlights a practical enforcement issue that has existed before the corrections made by this Order were made:

“In relation to the Cockle Fishing Management and Permitting (Specified Area) (Wales) Order 2024, a drafting issue had been identified in the definition of “minimum landing size” that is now addressed by article 7(3) of the Order. This has had some practical implications for enforcement activity. The current wording of the definition limits the ability to take formal enforcement action in cases where undersized cockles are gathered. As a result, enforcement officers have been focusing on providing advice and encouraging the re-distribution of undersized cockles. This approach has been effective to date, and there have been no reported challenges from gatherers. Resolving this matter via the Order is considered an appropriate, and timely, way to deal with this.”

9. 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 corrections made by the Order relate to Welsh statutory instruments that were previously reported upon by the Committee. The earliest errors corrected by this Order, in the Cackle Fishing Management and Permitting (Specified Area) (Wales) Order 2024, were reported considered by the Committee in July 2024. The errors in the The Animal Health (Miscellaneous Fees) (Amendment and Revocation) (Wales) Order 2024 were considered by the Committee in November 2024. The errors in the Development Procedure (Consultees) (Wales) (Miscellaneous Amendments) Order 2025 were considered by the Committee much more recently, in April 2025.

The Welsh Government should explain:

- Whether the Welsh Government could have made these corrections sooner;
- If the intention is to make corrections via an omnibus statutory instrument on a regular basis, how frequently will such an instrument be made, and how will the Welsh Government ensure that errors do not sit on the statute book for too long?;
- Will the Welsh Government have a mechanism for prioritising correction of those errors causing practical or otherwise more substantial impacts to the relevant legislation?

Welsh Government response

A Welsh Government response is required.

Committee Consideration

The Committee considered the instrument at its meeting on 15 September 2025 and reports to the Senedd in line with the reporting points above.

