

Explanatory Memorandum to The Agricultural Subsidies and Grants Schemes (Appeals) (Amendment) (Wales) Regulations 2025.

This Explanatory Memorandum has been prepared by Local Government, Housing, Climate Change and Rural Affairs Group and is laid before Senedd Cymru in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

Cabinet Secretary's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of The Agricultural Subsidies and Grants Schemes (Appeals) (Amendment) (Wales) Regulations. I am satisfied that the benefits justify the likely costs.

Huw Irranca-Davies MS

Deputy First Minister and Cabinet Secretary for Climate Change and Rural Affairs

4 November 2025

PART 1 – EXPLANATORY MEMORANDUM

1. Description

These Regulations amend the Agricultural Subsidies and Grants Schemes (Appeals) (Wales) Regulations 2006 to update provisions relating to appeals fees. Specifically, they enable the Welsh Ministers to determine the fee payable for appeals concerning schemes established under Assimilated Law.

2. Matters of special interest to the Legislation, Justice and Constitution Committee

None

3. Legislative background

These Regulations are made under sections 16(1), 17(1), and 19(1) of the Agriculture (Wales) Act 2023. In accordance with section 50(6) of the Act, the Regulations are subject to the draft affirmative procedure and must be approved by resolution of Senedd Cymru before coming into force.

4. Purpose and intended effect of the legislation

The purpose of these Regulations is to:

- Provide flexibility for the Welsh Ministers to set appeal fees for schemes under Assimilated Law.
- Ensure that appeals processes remain proportionate and sustainable.

This amendment supports the effective administration of agricultural support schemes and ensures consistency with the broader legislative framework introduced by the Agriculture (Wales) Act 2023.

Regulation 2 amends regulation 3(4)(b) of the 2006 Regulations to allow the Welsh Ministers to determine appeal fees for schemes operating under legislation referred to in section 16(2), 17(2) or 19(2) of the 2023 Act.

New paragraphs 3(5) and (6) are inserted to specify that the Welsh Ministers may charge such fees as they determine for appeals relating to:

- The Basic Payment Scheme
- Financing, management, and monitoring of the Common Agricultural Policy
- Support for rural development

A definition of “schemes under the 2023 Act” is added to clarify the scope of the amendment.

5. Consultation

The Welsh Government conducted a public consultation in 2023 on the future of agricultural support in Wales. The consultation position was for free appeals, but without independent scrutiny. Responses were overwhelmingly in favour of a continuation of the current process. Therefore, independent scrutiny was reintroduced, but proposed elevation of the fee to the cover the cost of the independent scrutiny (panel fees). Full cost recovery was not considered.

Feedback from the consultation informed the design of these Regulations.

6. Regulatory Impact Assessment (RIA)

Part 1 – Determining Whether an RIA Is Required

A RIA is required for this subordinate legislation in accordance with the Welsh Ministers' RIA Code under section 76 of the Government of Wales Act 2006. The proposed amendments to the Agricultural Subsidies and Grants Schemes (Appeals) (Amendment) (Wales) Regulations 2025 introduce changes to appeal fees, which have policy and financial implications. Therefore, a full RIA has been conducted.

Other Impacts

The Welsh Ministers have had due regard to their statutory duties under GOWA 2006. An Integrated Impact Assessment (IIA) has been conducted in parallel with this RIA. Sections 1 and 8 of the IIA will be published bilingually on the internet. The IIA includes consideration of children's rights, equality, and socio-economic impacts. Further details and links to the full IIA will be provided upon publication.

PART 2 – REGULATORY IMPACT ASSESSMENT

7. Purpose

This RIA provides information on the costs, benefits, and risks associated with proposed amendments to appeal fees under the Agricultural Subsidies and Grants Schemes. It supports decision-making by Ministers and enables scrutiny by the Senedd and stakeholders.

8. Options

Four options were considered:

1. Status Quo – Retain current fees (£50 written, £100 oral). Financially unsustainable.
2. Partial Increase – Raise fees to £100 (written) and £200 (oral). Reduces public subsidy but does not fully cover scrutiny costs (Independent Panel Member Fees).
3. Scrutiny-Based Fee (Preferred) – Set fees at £220 (written) and £290 (oral). Fully reflects scrutiny costs (Independent Panel Member Fees, no other costs included).
4. Full Cost Recovery – Fees of approximately £500 per appeal. Rejected due to fairness concerns.

9. Costs and Benefits

Option 1 - Status Quo – Retain current fees (£50 written, £100 oral).

Costs

- Financially unsustainable for the Welsh Government.
- Does not cover the cost of independent scrutiny (e.g., Independent Panel Member Fees).
- Continued reliance on public subsidy for appeal administration

Benefits

- Lowest cost to appellants.
- Possible appeals may be submitted regardless of their likelihood of success.
- Maintains accessibility and fairness.

Option 2 - Partial Increase – Raise fees to £100 (written) and £200 (oral).

Costs

- Reduces but does not eliminate the public subsidy burden.

- Still does not fully cover scrutiny costs.

Benefits

- Moderate increase in revenue from appeal fees.
- More sustainable than status quo.
- Still relatively affordable for appellants.

Option 3 - Scrutiny-Based Fee (Preferred) – Set fees at £220 (written) and £290 (oral).

Costs

- Higher upfront cost to appellants.
- Total projected appeal fee revenue: £21,840 (vs. £6,600 under current fees).to cover the costs of independent scrutiny (panel members fees)

Benefits

- Fully covers costs of independent scrutiny (panel member fees).
- Transparent and fair fee structure.
- Refund mechanism maintains fairness for any successful appeals
- Reduces reliance on public subsidy (administrative costs still subsidised).

Option 4 - Full Cost Recovery – Fees of approximately £500 per appeal.

Costs

- Significant financial burden on appellants.
- Risk of discouraging valid appeals due to high cost.

Benefits

- Full recovery of all appeal-related costs (scrutiny + administration).
- No public subsidy required.

The preferred option (Option 3) balances fairness and cost recovery. The Welsh Government will continue to cover the administrative costs.

Projected Effect of Appeal Fee based on a like for like assumption using the total number of appeals received for the period 2022-24:

- Written Hearings: 36 appeals → £7,920
- Oral Hearings: 48 appeals → £13,920
- Total: £21,840 (compared to current fee of £6,600) paid by appellants to the Welsh Government

Projected Effect of Appeal Fee on refunds issued by the Welsh Government to appellants during 2022–2024 for 29 successful/partially successful appeals:

- Based on current fee: £2,300
- Based on projected fee: £7,570.

10. Consultation

Feedback from a public consultation in 2023 supported independent scrutiny. Initial proposals for free appeals were revised. Existing independent appeals fees were increased to reflect the cost of independent scrutiny, but full cost recovery was rejected based on stakeholder feedback.

11. Integrated Impact Assessment (IIA)

The IIA was conducted in parallel with this RIA. Sections 1 and 8 will be published bilingually. The IIA includes assessments of equality, children's rights, and socio-economic impacts. Links to full assessments will be provided upon publication.

12. Welsh Consolidated Fund (WCF)

This legislation does not contain provisions charging expenditure on the Welsh Consolidated Fund.

13. Summary

Option 3 (Scrutiny-Based Fee) has been chosen. It reflects the cost of independent scrutiny, includes a refund mechanism, and maintains fairness and transparency.

14. Competition Assessment

The competition filter test has been completed; the proposed legislation is not expected to adversely impact competition in Wales. The appeals process applies equally to all eligible applicants.

15. Post Implementation Review

The legislation will be monitored annually for appeal volumes, outcomes, and refunds. An internal review will be conducted within three years to assess the effectiveness of the fee structure.