

Draft Regulations laid before Senedd Cymru under section 50(6) of the Agriculture (Wales) Act 2023, for approval by resolution of Senedd Cymru.

DRAFT WELSH STATUTORY
INSTRUMENTS

2025 No. (W.)

AGRICULTURE, WALES

**The Agriculture Support Schemes
(Eligibility, Enforcement and
Appeals) (Wales) Regulations 2025**

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made under the Agriculture (Wales) Act 2023 (asc 4) (“the 2023 Act”). Under the 2023 Act, the Welsh Ministers may provide support, financial or otherwise, for a range of purposes for or in connection with agriculture in Wales and ancillary activities that take place in Wales. This support may be provided subject to eligibility criteria being met and subject to any conditions the Welsh Ministers consider appropriate. These Regulations make provision in respect of support schemes under which the Welsh Ministers provide support, including in connection with checking eligibility for support and providing enforcement mechanisms where, for example, conditions under a scheme are being breached.

Regulation 3 places an obligation on the Welsh Ministers to check that a person applying for support under a support scheme meets the eligibility criteria for that scheme.

To allow the Welsh Ministers to determine whether an applicant meets the eligibility criteria for a particular scheme, regulations 4 and 5 enable the Welsh Ministers to request additional information from the applicant, and to notify an applicant where an application is incomplete or contains an obvious error. This provides an opportunity for an application to be corrected by the applicant.

Under regulation 6, the Welsh Ministers must refuse to award support under a support scheme in certain circumstances. If, however, exceptional circumstances exist, the Welsh Ministers may decide to provide

support, even if one or more of the circumstances in regulation 6(1) are met. If the Welsh Ministers decide not to provide support, the applicant has the right to appeal under regulation 29.

Regulation 7 describes how payments under a support scheme may be made, including details of when the Welsh Ministers should and should not make payment and what other details may be required to make those payments.

Regulation 8 requires a person receiving support under a support scheme to provide information or evidence to the Welsh Ministers that may be needed in order to, for example, check that the agreement holder continues to meet the eligibility criteria and verify compliance with the scheme's conditions.

Regulation 9 requires an agreement holder to keep records and provide the Welsh Ministers with copies of those records when requested.

Regulation 10 requires the agreement holder to notify the Welsh Ministers of any change in circumstances which might, for example, be expected to affect that person's entitlement to support or the amount of support provided. The Welsh ministers may take certain steps as a result of such a notification, including amending or removing a condition within the agreement, terminating the agreement, recovering some or all of any support provided etc. If the Welsh Ministers decide not to provide support under a scheme, the agreement holder must be notified of this, together with the reasons and the right of appeal.

Regulation 11 makes provision for the transfer of agreements provided certain conditions are met.

Regulation 12 requires the Welsh Ministers to ensure that certain information is published in relation to support which has been given under support schemes. Regulation 13 requires the publication of aggregated data in relation to support schemes.

Regulations 14 and 15 enable persons authorised by the Welsh Ministers ("authorised persons") to carry out virtual and physical inspections for certain purposes, including verifying that an agreement holder is complying with the conditions of their agreement. Regulation 16 provides an authorised person with powers of entry for the purposes of enforcing the Regulations and for any of the purposes listed in regulation 17(1)(a) to (g). Regulation 17 provides powers of inspection for authorised persons to carry out activities such as inspecting land or premises, marking any animal for identification purposes, inspecting and copying documents or records.

Regulation 18 allows authorised persons, when carrying out a virtual or physical inspection, to be

accompanied by any such person they consider necessary.

Regulation 19 identifies the circumstances which amount to a breach of these Regulations.

Regulations 20 and 21 make provision for the Welsh Ministers to investigate breaches of these Regulations, and other offences where they are relevant to the receipt of support. Any investigation must be proportionate to the type of breach suspected.

Under regulation 22, the Welsh Ministers must make a determination if satisfied that a breach of conditions has occurred or that regulation 19 applies, and may make a further determination as to the seriousness of any breach, setting out appropriate steps, if any, that may be required in respect of the breach. Regulation 23 specifies the steps that may be taken by the Welsh Ministers where there has been such a determination, including the withholding of support, which includes financial support, recovering support previously awarded and prohibiting a person from receiving support under any scheme. Under regulation 24, the Welsh Ministers may choose not to take any of the steps set out under regulation 23 if there are exceptional circumstances. Regulation 25 sets out the Welsh Ministers' duty to notify agreement holders of any determination under regulation 22 and the right to appeal under regulation 29.

Regulations 26 to 28 provide further information on some of the steps the Welsh Ministers may require to be taken under regulation 23.

Regulation 29 makes provision for appeals to the Welsh Ministers against certain decisions or determinations under these Regulations.

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, a regulatory impact assessment has been prepared as to the likely costs and benefits of complying with these Regulations. A copy can be obtained from Welsh Government, Cathays Park, Cardiff, CF10 3NQ and is published on www.gov.wales.

Draft Regulations laid before Senedd Cymru under section 50(6) of the Agriculture (Wales) Act 2023, for approval by resolution of Senedd Cymru.

DRAFT WELSH STATUTORY
INSTRUMENTS

2025 No. (W.)

AGRICULTURE, WALES

**The Agriculture Support Schemes
(Eligibility, Enforcement and
Appeals) (Wales) Regulations 2025**

Made

Coming into force

31 December 2025

The Welsh Ministers make these Regulations in exercise of the powers conferred by sections 10(1) and 12(1) of the Agriculture (Wales) Act 2023⁽¹⁾.

In accordance with section 50(6) of that Act, a draft of these Regulations has been laid before, and approved by a resolution of, Senedd Cymru.

PART 1

Introduction

Title, coming into force and application

1.—(1) The title of these Regulations is the Agriculture Support Schemes (Eligibility, Enforcement and Appeals) (Wales) Regulations 2025.

(2) These Regulations come into force on 31 December 2025.

(3) These Regulations apply in relation to Wales.

Interpretation

2. In these Regulations—

(1) 2023 asc 4.

“the 2023 Act” (“*Deddf 2023*”) means the Agriculture (Wales) Act 2023;

“agreement” (“*cytundeb*”) means an agreement between the Welsh Ministers and an agreement holder under which the Welsh Ministers agree to provide support to the agreement holder under a support scheme in accordance with scheme guidance;

“agreement holder” (“*deiliad cytundeb*”) means a person who has entered into an agreement or—

(a) a personal representative of that person in the event of that person’s incapacity or death, or

(b) where applicable for the purposes of complying with or enforcing any obligation under these Regulations, an employee or agent of that person in so far as that employee or agent is acting, or has acted, for or on behalf of that person in connection with that agreement;

“applicant” (“*ceisydd*”) means a person who has applied to the Welsh Ministers for support under a support scheme;

“authorised person” (“*person awdurdodedig*”) means a person authorised by the Welsh Ministers to carry out inspections and exercise powers of entry for enforcement purposes under these Regulations;

“eligibility criteria” (“*meini prawf cymhwysedd*”) means the criteria specified in the scheme guidance to determine entitlement to the receipt of support, including any criteria allowing for the selection of applicants, if applicable, on a competitive basis;

“scheme guidance” (“*canllawiau cynllun*”) means the forms, guidance, conditions of eligibility, manuals and handbooks issued by the Welsh Ministers in relation to a support scheme;

“support” (“*cymorth*”) means financial support or otherwise, which may be provided by the Welsh Ministers subject to eligibility criteria or any conditions the Welsh Ministers consider appropriate;

“support scheme” (“*cynllun cymorth*”) means a scheme made by the Welsh Ministers to provide support for or in connection with agriculture in Wales and ancillary activities that take place in Wales under section 8 of the 2023 Act.

PART 2

Assessing applications for support under a support scheme

Checking eligibility for a support scheme

3. Where an applicant applies to the Welsh Ministers for support under a support scheme, the Welsh Ministers must check the information provided to ensure the applicant meets the eligibility criteria for the support scheme to which the applicant is applying.

Additional information to determine eligibility for a support scheme

4.—(1) The Welsh Ministers may require an applicant to provide additional information, including evidence, to enable the Welsh Ministers to determine if the applicant meets the eligibility criteria.

(2) Where the Welsh Ministers request additional information or evidence under paragraph (1), the applicant must provide it within any deadline specified by the Welsh Ministers.

Defects in an application for a support scheme

5. Where an applicant submits an incomplete application for support or the application for support contains an obvious error, the Welsh Ministers may notify the applicant of the defect and if they do so, must give the applicant an opportunity to correct the defect within any deadline specified by the Welsh Ministers.

Consequences of incomplete or erroneous applications

6.—(1) Subject to paragraph (2), the Welsh Ministers must not provide support under a support scheme if, having considered an application, together with any additional information or evidence required under regulation 4, the Welsh Ministers are satisfied that—

- (a) the applicant has not met the eligibility criteria for receipt of support,
- (b) the applicant has failed to provide additional information or evidence requested under regulation 4,
- (c) the applicant has failed to correct a defect in accordance with regulation 5, or
- (d) there are reasonable grounds to suspect that the applicant has provided false or misleading information.

(2) The Welsh Ministers may provide support under a support scheme, even where they are not satisfied that the requirements of paragraph (1)(a) to (d) have been met, if the Welsh Ministers are satisfied there are exceptional circumstances.

(3) Where the Welsh Ministers decide not to provide support under a support scheme, the Welsh Ministers must, within a reasonable period, notify the applicant of—

- (a) the decision,
- (b) the reasons for it, and
- (c) the right of appeal under regulation 29.

PART 3

Payments under a support scheme, monitoring and record keeping

Payments under a support scheme

7.—(1) Where an agreement holder submits a request for payment under an agreement, the Welsh Ministers may require the agreement holder to provide additional information or evidence in support of that payment request.

(2) Where the Welsh Ministers request additional information or evidence under paragraph (1), the agreement holder must provide that information or evidence within any deadlines specified by the Welsh Ministers.

(3) Where the agreement holder does not provide the information or evidence requested under paragraph (1), the Welsh Ministers may withhold support until that information or evidence is provided.

(4) Any payments made by the Welsh Ministers must be to a verified bank or building society account of the agreement holder.

(5) The agreement holder must notify the Welsh Ministers, without delay, of any anticipated or actual changes to that person's bank or building society account.

(6) Where the Welsh Ministers receive a notification under paragraph (5), the Welsh Ministers may withhold payments until the Welsh Ministers are satisfied that the changes have been checked and verified.

(7) Where an agreement holder is provided with support under an agreement that does not require them to submit a request for payment, that person must submit an annual declaration to the Welsh Ministers confirming compliance with the conditions subject to which that support is provided.

Checking and monitoring

8. An agreement holder must provide, in such manner and at such times as the Welsh Ministers specify, such information or evidence as the Welsh Ministers may require to—

- (a) check whether the agreement holder continues to meet the eligibility criteria for receipt of support,
- (b) verify compliance with the conditions subject to which support is provided,
- (c) monitor the extent to which the purpose of the support scheme has been, or will be, achieved, and
- (d) review or evaluate—
 - (i) any of the activities carried out by the agreement holder under the support scheme, and
 - (ii) the success of the support scheme as a whole.

Record keeping

9. Where an agreement holder is required to keep records under their agreement, that person must provide copies to the Welsh Ministers in such manner and at such times as the Welsh Ministers may specify.

PART 4

Change of circumstances and the transfer of agreements

Change of circumstances

10.—(1) An applicant or agreement holder must notify the Welsh Ministers, as soon as reasonably practicable, of any change in circumstances which might reasonably be expected to affect—

- (a) their entitlement to support,
- (b) compliance with the conditions subject to which support is or may be provided,
- (c) their ability to achieve the purpose for which the support is provided in accordance with any scheme guidance or timescales, or
- (d) the amount of support provided or due to be provided.

(2) Where the Welsh Ministers receive a notification under paragraph (1), the Welsh Ministers may—

- (a) amend, remove or replace a condition subject to which support is provided, either temporarily or permanently,

- (b) amend, remove or replace any timescales, either temporarily or permanently,
- (c) reduce the amount of support provided, either temporarily or permanently,
- (d) recover on demand all or any part of support which has already been paid to the agreement holder,
- (e) terminate the agreement, or
- (f) accept an undertaking for the transfer of all or part of the agreement in accordance with regulation 11 to release the agreement holder from their obligations under all or part of that agreement.

(3) Where the Welsh Ministers decide to take one or more of the actions referred to in paragraph (2), the Welsh Ministers must notify the applicant or agreement holder of—

- (a) the decision,
- (b) the reasons for it, and
- (c) the right of appeal under regulation 29.

Transfer of agreements

11.—(1) Where the Welsh Ministers are satisfied a change in circumstances will affect one or more of the matters specified in regulation 10(1), the Welsh Ministers may consent to the transfer of all or part of an agreement to another person (“the transferee”), provided that—

- (a) the transferee meets the eligibility criteria for receipt of support under that agreement,
- (b) the transferee notifies the Welsh Ministers of the completed transfer within any deadline specified by the Welsh Ministers,
- (c) the transferee gives an undertaking to the Welsh Ministers to assume the obligations under that agreement in place of the agreement holder, and
- (d) the Welsh Ministers have accepted that undertaking.

(2) Paragraph (1) does not release the agreement holder in respect of any breach or other matter occurring before the acceptance by the Welsh Ministers of the transferee’s undertaking.

PART 5

Publication of support scheme data

Publication of data in relation to agreement holders

12.—(1) For each financial year, the Welsh Ministers must publish the specified information in

relation to agreement holders who have received relevant support.

(2) Paragraph (1) does not apply in relation to an agreement holder where the total of the relevant support provided to that agreement holder in that financial year is less than £1,250.

(3) The information published under paragraph (1) must—

- (a) be published on a searchable database on www.gov.wales, and
- (b) remain on that searchable database for 3 years from initial publication.

(4) For the purposes of paragraph (1), “the specified information” means—

- (a) the full name of the agreement holder,
- (b) the post town, and post code area and district where—
 - (i) the agreement holder is resident, if the agreement holder is a natural person,
 - (ii) the agreement holder’s registered office is located, if the agreement holder is incorporated, or
 - (iii) the agreement holder’s primary base of business is located, if the agreement holder is a body of persons unincorporated,
- (c) for each support scheme, the total relevant payments received by the agreement holder in the financial year, and
- (d) a description of the activities financed by the relevant payments.

(5) The Welsh Ministers may specify a support scheme (or part of a support scheme) as an exempt scheme where—

- (a) it is established for or in connection with a purpose in section 8(2)(g) or (m) of the 2023 Act, and
- (b) the Welsh Ministers are satisfied that publication of the specified information under paragraph (1) is likely to hinder the extent to which that purpose is achieved.

(6) In this regulation—

“exempt scheme” (“*cynllun esempt*”) means a support scheme (or part of a support scheme) specified by the Welsh Ministers under paragraph (5);

“relevant payment” (“*taliad perthnasol*”) means a payment made to an agreement holder in a financial year under a support scheme (or part of a support scheme) other than an exempt scheme.

Publication of aggregated data

13.—(1) For each financial year the Welsh Ministers must publish the following information—

- (a) for each support scheme (or part of a support scheme), other than an exempt scheme—
 - (i) the number of agreement holders to whom paragraph (2) applies, and
 - (ii) the aggregate of the support paid to those agreement holders;
- (b) for each exempt scheme—
 - (i) the number of agreement holders who received financial support, and
 - (ii) the aggregate of the financial support paid to those agreement holders.

(2) Paragraph (1) applies in relation to an agreement holder where the total of the relevant payments made to that agreement holder in that financial year is less than £1,250.

(3) The information published under paragraph (1) must—

- (a) be published on www.gov.wales, and
- (b) remain there for 3 years from initial publication.

(4) In this regulation, “exempt scheme” and “relevant payment” have the meaning given by regulation 12(6).

PART 6

Inspections by, and powers of entry of, authorised persons

Virtual inspections

14.—(1) An authorised person may, at any reasonable hour, carry out a virtual inspection of any land or premises owned or occupied by an agreement holder, or over which the agreement holder has control, other than a private dwelling, if it is for the purposes of—

- (a) checking whether the agreement holder continues to meet the eligibility criteria for receipt of support;
- (b) verifying compliance with conditions subject to which support is provided;
- (c) monitoring the extent to which the purpose of support is achieved;
- (d) reviewing or evaluating—
 - (i) any of the activities carried out by the agreement holder under a support scheme;

- (ii) the success of a support scheme as a whole;
 - (e) verifying whether there has been a breach of these Regulations under regulation 19;
 - (f) verifying whether an offence has been committed under any other legislation, in so far as it is relevant to the application for, or receipt of, support;
 - (g) offering guidance and assistance, where appropriate.
- (2) Before an authorised person is permitted to carry out a virtual inspection by live video link, the following conditions must be satisfied—
- (a) the agreement holder must have access to, and agree to the use of, a live video link,
 - (b) the virtual inspection must be capable of being held fairly and transparently,
 - (c) the authorised person must inform the agreement holder of the purpose of the proposed virtual inspection and, where possible, agree a suitable date and time for that inspection, and
 - (d) where it is not possible to agree a suitable date and time for an inspection, the authorised person must notify the agreement holder in writing of the purpose of the virtual inspection and the date and time of the inspection, at least 48 hours in advance of the inspection.
- (3) In this regulation—
- “remote sensing” (*“synhwyro o bell”*) includes aerial photography, satellite imagery, images or data captured remotely from an airborne vehicle including an aeroplane, helicopter or remotely piloted aircraft system;
- “virtual inspection” (*“arolygiad rhithwir”*) means an inspection carried out by—
- (i) remote sensing, or
 - (ii) a live video link that enables the agreement holder and the authorised person, who are not in the same location, to see and hear each other.

Physical inspections

15.—(1) An authorised person, on producing, if so required, a duly authenticated document showing that person’s authorisation, may at any reasonable hour, enter any land or premises owned or occupied by an agreement holder, or over which the agreement holder has control, other than a private dwelling, if it is for any of the purposes listed in regulation 14(1)(a) to (g) and in accordance with paragraph (2) or (3) of this regulation.

(2) The authorised person must inform the agreement holder of the purpose of the proposed inspection and, where possible, agree a suitable date and time for that inspection.

(3) Where it is not possible to agree a suitable date and time, the authorised person must notify the agreement holder in writing of the inspection and the date and time, at least 48 hours in advance of that inspection.

Powers of entry

16.—(1) An authorised person may, at any reasonable hour, enter any land or premises owned or occupied by an agreement holder, or over which the agreement holder has control, other than a private dwelling, without notice if—

- (a) there is a reasonable suspicion of—
 - (i) a breach of any condition subject to which support is given;
 - (ii) a breach of these Regulations under regulation 19;
 - (iii) an offence having been committed under any other legislation, in so far as it is relevant to the application for, or receipt of, support,
- (b) the authorised person produces, if so required, a duly authenticated document confirming authorisation, and
- (c) one or more of the conditions in paragraph (3) is met.

(2) A justice of the peace may, by signed warrant, permit an authorised person to enter any relevant land or premises, including a private dwelling, if necessary by reasonable force, if the justice, on sworn information in writing, is satisfied that—

- (a) there are reasonable grounds for an authorised person to enter the land or premises for any purpose mentioned in regulation 17(1),
- (b) one or more of the conditions in paragraph (3) is met, and
- (c) if only the condition in paragraph (3)(a) is met—
 - (i) notice of the intention to apply for a warrant has been served on the occupier, or
 - (ii) no such notice has been served on the occupier because serving such a notice would interfere with the purpose or effectiveness of the entry.

(3) The conditions are that—

- (a) entry to the land or premises has been refused, or the Welsh Ministers have reasonable grounds to suspect entry is likely to be refused,
- (b) entry is required urgently, or
- (c) the land or premises are unoccupied or the occupier is temporarily absent.

(4) A warrant signed in accordance with paragraph (2) is valid for one month from the date of signature.

(5) An authorised person who enters any unoccupied premises must leave them as effectively secured as they were before entry.

Powers of inspection

17.—(1) An authorised person who carries out a virtual or physical inspection under regulation 14, 15 or 16 may—

- (a) carry out any inquiries, checks, examinations, measurements or tests;
- (b) inspect the land or premises;
- (c) inspect any livestock, trees, crops, plants, machinery or equipment specified in the agreement;
- (d) mark any animal or other thing, or require any animal or other thing to be marked, for identification purposes;
- (e) access, inspect, copy and print any documents or records (in whatever form they are held) or remove any such documents to enable them to be copied or retained as evidence;
- (f) access, inspect and check the operation of any computer and any associated apparatus or material which is or has been used in connection with the documents or records;
- (g) photograph, or record in digital form, anything on or associated with the land or premises.

(2) An authorised person who enters land or premises under regulation 15, 16 or 17 may also—

- (a) take samples;
- (b) remove a carcass for the purpose of carrying out a post-mortem examination;
- (c) remove anything reasonably believed to be evidence of a breach under regulation 19.

Assisting an authorised person

18.—(1) An authorised person who carries out a virtual or physical inspection under regulation 14, 15 or 16 may be accompanied by such other persons as the authorised person considers necessary.

(2) An agreement holder must give the authorised person such assistance as the authorised person may

reasonably request to enable the authorised person to exercise any power conferred on them by regulation 17, and must arrange for the collection, penning and securing of any animal if requested.

PART 7

Investigating breaches of regulations and support scheme conditions and other suspected offences

Breach of regulations

19. This regulation applies where an agreement holder has—

- (a) at any time, given false or misleading information to the Welsh Ministers,
- (b) failed to provide information or evidence under regulation 8,
- (c) failed to provide copies of records under regulation 9,
- (d) prevented an authorised person from carrying out a virtual or physical inspection under regulation 14, 15 or 16,
- (e) prevented an authorised person from exercising any powers of inspection under regulation 17,
- (f) refused to provide assistance requested under regulation 18(2),
- (g) otherwise obstructed an inspection under regulations 14 to 18,
- (h) failed to notify the Welsh Ministers of a change of circumstances under regulation 10, or
- (i) failed to comply with the conditions of an agreement or scheme guidance.

Investigating breaches and suspected offences

20.—(1) Where the Welsh Ministers reasonably suspect that regulation 19 applies, the Welsh Ministers may carry out an investigation and where they do so, the investigation must be proportionate to the type of breach suspected.

(2) Where the Welsh Ministers reasonably suspect that the agreement holder or applicant (where relevant) has committed an offence under any other legislation, in so far as it is relevant to an application for, or receipt of, support under a support scheme, the Welsh Ministers may—

- (a) carry out an investigation,
- (b) obtain relevant information from any third parties, or

- (c) provide information to any person responsible for examining, investigating or prosecuting such an offence.

(3) When carrying out an investigation, the Welsh Ministers may—

- (a) request information or evidence from the agreement holder, or the applicant (where relevant),
- (b) carry out an inspection under regulation 14, 15 or 16, and
- (c) contact relevant third parties to verify information.

(4) The agreement holder, or the applicant (where relevant), must provide such assistance as may be requested during any investigation carried out by the Welsh Ministers under paragraph (1) or (2).

(5) Where an investigation is carried out under paragraph (1) or (2), the Welsh Ministers may withhold support until the investigation is concluded and, where applicable, determinations are made under regulation 22(1) and (2).

Investigations

21.—(1) Where an investigation under regulation 20(1) has been undertaken, the Welsh Ministers must inform the agreement holder of the outcome of that investigation and allow that person to make written representations in such manner and at such times as the Welsh Ministers may specify.

(2) Where an investigation under regulation 20(2) has been undertaken, the Welsh Ministers may—

- (a) inform the agreement holder, or the applicant (where relevant), of the outcome of that investigation and allow that person to make written representations in such manner and at such times as the Welsh Ministers may specify, or
- (b) provide information to any person responsible for examining, investigating or prosecuting an offence to which the investigation related.

(3) The Welsh Ministers must consider any written representations received from the agreement holder under paragraph (1) or (2) before making a determination under regulation 22.

(4) Paragraphs (1) and (2) do not apply where—

- (a) an investigation under regulation 20(1) or (2) has been carried out,
- (b) the Welsh Ministers have concluded that no further action is required, and
- (c) the agreement holder, or applicant (where relevant), has not been notified of the investigation.

PART 8

Determination on breach

Determination on breach

22.—(1) Where the Welsh Ministers have completed an investigation under regulation 20 and are satisfied that a breach of conditions has occurred or that regulation 19 applies, the Welsh Ministers must make a determination to that effect.

(2) Where the Welsh Ministers make a determination under paragraph (1), the Welsh Ministers must make a further determination as to the seriousness of any breach and the appropriate steps, if any, required to be taken in respect of the breach and in doing so must have due regard to—

- (a) the circumstances that led to the breach and whether it was caused by the intentional actions of the agreement holder or due to that person's recklessness or negligence,
- (b) any steps taken by the agreement holder to report a change of circumstance under regulation 10 or to notify the Welsh Ministers of the breach within a reasonable period,
- (c) any failure on the part of the agreement holder to co-operate with an inspection which was proposed to take place under regulation 14, 15 or 16 or an investigation under regulation 19,
- (d) any past conduct of the agreement holder during the period of the agreement and whether a similar breach has previously occurred,
- (e) the nature of the breach and whether it constituted an offence or has caused widespread or irreparable damage,
- (f) the extent to which it is desirable, practicable or economic to permit the agreement holder to rectify the breach, and
- (g) the consequences of the breach and whether it renders the purpose of the support unachievable within the timescales, finances or to the requirements of the support scheme.

Action available to the Welsh Ministers following determination of a breach

23. Following a determination under regulation 22(2), the Welsh Ministers may take one or more of the following steps as they consider appropriate—

- (a) issue an advisory letter to the agreement holder;
- (b) amend, remove or replace a condition in the agreement either temporarily or permanently;

- (c) amend, remove or replace any scheme guidance or timescales in respect of an individual holder only either temporarily or permanently;
- (d) allow the agreement holder to rectify any breach in accordance with any appropriate steps;
- (e) reduce the amount of support awarded in whole or in part;
- (f) withhold the whole or any part of support awarded under the support scheme to which any breach relates;
- (g) withhold the whole or any part of support awarded under any support scheme;
- (h) recover on demand all or any part of support which has already been provided to the agreement holder;
- (i) terminate the agreement;
- (j) prohibit the agreement holder from receiving support under any support scheme for such period as the Welsh Ministers consider appropriate.

Exceptional circumstances for a breach

24. For the purposes of regulation 22(2), where the agreement holder informs the Welsh Ministers of exceptional circumstances for any breach, and submitted evidence in support of those reasons, the Welsh Ministers may determine that no steps or alternative steps under regulation 23 are required.

Notification of the determination on the breach

25. Where the Welsh Ministers make determinations under regulation 22, the Welsh Ministers must, within a reasonable period, notify the agreement holder of—

- (a) the determinations,
- (b) the reasons for them, and
- (c) the right of appeal under regulation 29.

Further information on rectifying a breach

26.—(1) Where the Welsh Ministers allow the agreement holder to rectify a breach under regulation 23(d), the Welsh Ministers—

- (a) must specify a period within which the breach must be rectified, and
- (b) may withhold support until the Welsh Ministers are satisfied that the breach has been rectified.

(2) Where the Welsh Ministers are not satisfied that the agreement holder has rectified the breach, the Welsh Ministers must make a new determination under regulation 22(2).

Further information on recovering support

27.—(1) The Welsh Ministers must notify the agreement holder of the amount to be recovered and the period by which the repayment must be made before the Welsh Ministers take steps to recover on demand in accordance with regulation 10(2)(d) or 23(h) all or any part of support already provided to the agreement holder under a support scheme.

(2) Where the agreement holder fails to repay the full amount in accordance with paragraph (1) and the agreement holder is entitled to further support under that support scheme or any other support scheme, the Welsh Ministers may withhold support under those support schemes to the value of the net amount to be repaid.

(3) Where the agreement holder fails to repay the full amount in accordance with paragraph (1) and the agreement holder is not entitled to further support under that scheme or any other support scheme, or the amount withheld under paragraph (2) taken with any repayment made by the agreement holder is lower than the full amount to be repaid, the Welsh Ministers may recover, as a debt, the net amount to be repaid, together with interest on that amount calculated in accordance with paragraph (4).

(4) Where the Welsh Ministers exercise the power conferred by paragraph (3), interest may be charged on the net amount to be repaid, for each day from the end of the period referred to in paragraph (1) to the date on which repayment of the amount to be recovered and any associated interest is made in full.

(5) The rate of interest applicable on any day is one percentage point above the Bank of England base rate.

(6) In this regulation, “the Bank of England base rate” means—

- (a) except where sub-paragraph (b) applies, the rate announced from time to time by the Monetary Policy Committee of the Bank of England as the official dealing rate, being the rate at which the Bank is willing to enter into transactions for providing short-term liquidity in the money markets, or
- (b) if an order under section 19 of the Bank of England Act 1998⁽¹⁾ is in force, any equivalent rate determined by the Treasury under that section.

Further information on prohibiting support

28. Where the Welsh Ministers make a determination under regulation 22(2) that prohibits an

(1) 1998 c. 11.

agreement holder from receiving support under any support scheme in accordance with regulation 23(j), the prohibition must—

- (a) not exceed a period of two years, beginning with the day after the day on which the Welsh Ministers notify the agreement holder of that determination under regulation 25, and
- (b) take into account the seriousness of the breach and the factors specified in regulation 22(2).

PART 9

Appeals

Appeals

29.—(1) A person (“the appellant”) may submit a stage one appeal to the Welsh Ministers against a decision or determination made under regulation 6(2), 10(3) or 25 on any of the following grounds—

- (a) the decision was based on an error of fact;
- (b) the decision was wrong in law;
- (c) there has been a material procedural error.

(2) A stage one appeal under this regulation will be reviewed by officials and must—

- (a) be received by the Welsh Ministers within 60 days of the decision or determination being notified to the appellant,
- (b) be in writing, and
- (c) set out the reasons for the appeal together with any supporting documentation or evidence.

(3) The Welsh Ministers must notify the appellant of the outcome of the stage one appeal.

(4) Within 60 days of notification of the stage one appeal outcome, the appellant may submit a stage two appeal against that outcome.

(5) A stage two appeal under this regulation will be reviewed by officials who may—

- (a) uphold the outcome of the stage one appeal, or
- (b) make a new determination.

(6) A stage two appeal under this regulation must—

- (a) be received by the Welsh Ministers in accordance with paragraph (4),
- (b) be in writing,
- (c) set out the reasons for the appeal together with any supporting documentation or evidence,
- (d) indicate whether the appellant wants an independent appeals panel hearing, where applicable, to be in writing or by oral hearing, and

- (e) be accompanied by the appropriate fee (if any) as specified by the Welsh Ministers.

(7) Where the Welsh Ministers uphold the outcome of a stage one appeal, the stage two appeal will proceed to an independent appeals panel.

(8) Where the Welsh Ministers make a new determination in accordance with paragraph (5)(b), the Welsh Ministers must—

- (a) notify the appellant of that determination in writing,
- (b) set out the reasons for that determination, and
- (c) allow the appellant to elect for the appeal to be reviewed by an independent appeals panel.

(9) Where paragraph (7) applies or the appellant elects to appeal pursuant to paragraph (8)(c), an independent appeals panel must consider the appeal, make a recommendation and notify the Welsh Ministers of their recommendation in writing.

(10) Following receipt of an independent appeals panel recommendation the Welsh Ministers must make a final determination in respect of that stage two appeal.

(11) A final determination under paragraph (10)—

- (a) may uphold the outcome in paragraph (5) or make a new decision or determination,
- (b) must be notified in writing to the appellant, and
- (c) must set out the reasons for the final determination.

(12) The Welsh Ministers may pay members of independent appeals panels such remuneration as the Welsh Ministers consider appropriate in respect of their functions under these Regulations.

(13) The Welsh Ministers may publish guidance in relation to any aspect of the appeals process.

Name

Deputy First Minister and Cabinet Secretary for
Climate Change and Rural Affairs, one of the Welsh
Ministers

Date