

Agenda Supplement – Legislation, Justice and Constitution Committee

Meeting Venue: For further information contact:
Video Conference via Zoom P Gareth Williams
Meeting date: 11 October 2021 Committee Clerk
Meeting time: 13.30 0300 200 6565
SeneddLJC@senedd.wales

Remote – Supplementary pack

Please note the documents below are in addition to those published in the main Agenda and Reports pack for this Meeting

3.2 SL(6)056 – The Listed Buildings (Heritage Partnership Agreements) (Wales) Regulations 2021

(Page 1)

LJC(6)–09–21 – Paper 4 – Draft report

LJC(6)–09–21 – Paper 4a – Welsh Government response

[Regulations](#)

[Explanatory Memorandum](#)

Attached Documents:

LJC(6)–09–21 – Paper 4a – Welsh Government response

6.5 Correspondence from the Chair of the Economy, Trade and Rural Affairs

Committee to the Minister for Economy: International agreement – Free Trade
Agreement between the UK, Iceland, Liechtenstein and Norway

(Pages 2 – 3)

LJC(6)–09–21 – Paper 32 – Letter from the Chair of the Economy, Trade and
Rural Affairs Committee to the Minister for Economy, 8 October 2021

Attached Documents:

LJC(6)–09–21 – Paper 32 – Letter from the Chair of the Economy, Trade and
Rural Affairs Committee to the Minister for Economy, 8 October 2021



**6.6 Correspondence from the Minister for Education and Welsh Language:
Response to the Committee's report on the Legislative Consent Memorandum
on the Professional Qualifications Bill**

(Pages 4 – 7)

**LJC(6)–09–21 – Paper 33 – Letter from the Minister for Education and the
Welsh Language, 6 October 2021**

Attached Documents:

**LJC(6)–09–21 – Paper 33 – Letter from the Minister for Education and the
Welsh Language, 6 October 2021**

Agenda Item 3.2

Government Response: *The Listed Buildings (Heritage Partnership Agreements) (Wales) Regulations 2021*

Technical Scrutiny point: *The Government accepts the technical scrutiny point and will change the cross-reference and re-lay the Regulations.*

Agenda Item 6.5

**Pwyllgor yr Economi,
Masnach a Materion Gwledig**

—

**Economy, Trade and
Rural Affairs Committee**

Senedd Cymru

Bae Caerdydd, Caerdydd, CF99 1SN
SeneddEconomi@senedd.cymru
senedd.cymru/SeneddEconomi
0300 200 6565

—
Welsh Parliament

Cardiff Bay, Cardiff, CF99 1SN
SeneddEconomy@senedd.wales
senedd.wales/SeneddEconomy
0300 200 6565

Vaughan Gething MS
Minister for Economy

08 October 2021

Dear Minister,

International agreement: Free Trade Agreement between the UK, Iceland, Liechtenstein and Norway

As part of our work on the scrutiny of international trade agreements, the Economy, Trade and Rural Affairs Committee considered the Free Trade Agreement between the UK, Iceland, Liechtenstein, and Norway on 30th September. Members would like some more information on the Agreement. Specifically would you be able to provide details of:

- Any Welsh Government assessment – including any macroeconomic assessment – of the Agreement and its potential impact on Wales both relative to the Agreement on Trade in Goods between the UK, Iceland and Norway and to the UK's trading relationship with Norway, Iceland and Liechtenstein before the end of the transition period;
- Any specific representations made by Welsh Government to the UK Government during the negotiations including, if applicable, whether or not these representations were addressed in the final Agreement; and
- Any legislation that may be required to implement the Agreement, including legislation which relate to matters within the Senedd's competence?

Chapter 12 of the Agreement makes provisions in relation to the recognition of professional qualifications and the UK Government's Explanatory Memorandum specifically cites the Professional Qualifications Bill as a possible vehicle for this. As you will be aware the Committee recently scrutinised the Professional Qualifications Bill LCM and



laid its **report** on 28th September and will be keen to follow the interplay between this Agreement and that Bill if passed.

As the Legislation, Justice and Constitution Committee also reported on the LCM I have copied this letter to Huw Irranca-Davies MS in his capacity as Chair.

Best regards,

A handwritten signature in black ink that reads "Paul Davies". The signature is written in a cursive style with a large initial 'P' and 'D'.

Paul Davies MS

Chair: Economy, Trade and Rural Affairs Committee

Croesewir gohebiaeth yn Gymraeg neu Saesneg | We welcome correspondence in Welsh or English.



Agenda Item 6.6

Jeremy Miles AS/MS
Gweinidog y Gymraeg ac Addysg
Minister for Education and Welsh Language



Llywodraeth Cymru
Welsh Government

Huw Irranca Davies MS
Chair
Legislation, Justice and Constitution Committee
SeneddLJC@senedd.wales

6 October 2021

Dear Huw,

Thank you for the Committee report on Legislative Consent Memorandum on the Professional Qualifications Bill, laid on 30 September.

I thank the Committee for their detailed observations and note the conclusions are supportive of my concerns on the Bill.

I am pleased to provide additional information as requested below.

Yours sincerely,

Jeremy Miles AS/MS

Gweinidog y Gymraeg ac Addysg
Minister for Education and Welsh Language

Bae Caerdydd • Cardiff Bay
Caerdydd • Cardiff
CF99 1SN

Canolfan Cyswllt Cyntaf / First Point of Contact Centre:
0300 0604400

Gohebiaeth.Jeremy.Miles@llyw.cymru
Correspondence.Jeremy.Miles@gov.wales

Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

Recommendations

Recommendation 1. In the interests of transparency, the Welsh Government should inform the Senedd's Business Committee of its reasoned position on how and when it considers it would be able to lay a Memorandum within two weeks of a Bill's introduction to the UK Parliament and the circumstances in which it would not be able to meet this timeframe.

Response - Accept. The Business Committee is reviewing the process for Legislative Consent Memorandums and we will make our position on the two-week deadline clear as part of this review.

Recommendation 2. The Minister should, in advance of the Senedd's debate on the relevant consent motion, confirm which provisions in the Bill the Welsh Government considers are necessary.

Response - Accept

In addition to the response given to the Chair of the Committee in your letter of 10 September, the following clauses may be considered necessary.

Clause 4(1) confers powers on the appropriate national authority to make provision by regulations, as the authority considers appropriate, for the purpose of, or in connection with, authorising a regulator of a regulated profession to enter into regulator recognition agreements. Such powers may be useful to the Welsh Ministers. However, our concern remains that the decision as to whether any regulator of a profession devolved to Wales should be given an authorisation to enter into recognition agreements should be a matter for the Senedd, and not the Secretary of State or Lord Chancellor.

Clause 6(1) gives the appropriate national authority the power to make regulations modifying retained EU recognition law so that it ceases to have effect. This power will enable the Welsh Ministers to revoke legislation which deals with professions outside the scope of the 2015 Regulations, but which are still part of the broader EU-derived qualification recognition framework, and which may include qualification recognition measures which offer preferential treatment to EEA and Swiss qualifications as compared to qualifications from the rest of the world.

Recommendation 3. The Minister should, in advance of the Senedd's debate on the relevant consent motion, further explain why he is seeking an amendment to the Bill to add a consent provision to the concurrent powers, when Welsh Government guidance says that new concurrent functions should only be created in very exceptional circumstances.

Response - Accept. Our starting point is that concurrent functions should not be created. However, if the UK Government is determined, as it appears to be in this case, to create them, then at the very least we would expect a consent provision. We are also seeking a carve out from the requirements in Schedule 7B of the Government of Wales Act 2006, as it

is not considered appropriate for the Welsh Government to have to seek Minister of the Crown consent if a future Senedd Bill sought to remove or modify the powers of the Welsh Ministers in the Professional Qualifications Act, where those powers are exercised concurrently with the Secretary of State or Lord Chancellor.

Recommendation 4. The Minister should, in advance of the Senedd's debate on the relevant consent motion, justify why concurrent powers are appropriate for this Bill, when, if exercised by UK Ministers with the consent of the Welsh Ministers, it would not give the Senedd the opportunity to scrutinise the regulation of professional qualifications which are devolved, such as those relating to higher education policy in Wales.

Response - Accept. Our starting point is that concurrent functions are not appropriate for this Bill.

Recommendation 5. The Minister should, in advance of the Senedd's debate on the relevant consent motion, update the Committee and the Senedd on the latest position regarding the amendments to the Bill that have been sought, and the consequential effect on the Minister's recommendation as to whether consent should be given by the Senedd to the relevant provisions in the Bill.

Response – Accept.

Officials continue to explore whether the current drafting of the Bill, including the concurrent powers, can be amended to ensure that only the Welsh Ministers have the power to legislate in areas of devolved competency, and respect the devolution settlement.

It continues to be made clear to the UK Government that anything less than a requirement to obtain the consent of the Welsh Ministers before making regulations in devolved areas is unacceptable.

As currently drafted, the Bill gives the present and any future UK Government the power to legislate in areas which are devolved to Wales without obtaining the consent of the Welsh Ministers. The LCM states that the Welsh Government cannot recommend to the Senedd that consent is given to the Bill due to our ongoing concerns regarding these concurrent powers. The LCM indicates that if satisfactory amendments are made to the Bill, the Welsh Government may be able to recommend that the Senedd consents to the Bill.

Recommendation 6. The Minister should seek an amendment to the Bill to the effect that the powers in the Bill cannot be used by UK Ministers to make regulations that amend the Government of Wales Act 2006.

Response – Accept. We will seek such an amendment.

Recommendation 7. The Minister should seek an amendment to the effect that clause 14(5) is removed from the Bill.

Response - Accept. The Counsel General and Minister for the Constitution has exchanged correspondence with Baroness Bloomfield on this issue, and continues to outline his concerns with the approach taken in respect of this specific clause.

Recommendation 8. The Minister should, in advance of the Senedd's debate on the relevant consent motion, confirm whether the guidance on the interpretation of the definitions in clause 16 of the Bill has been issued by the UK Government and confirm whether he has any continuing concerns with the scope of the Bill or concerns with the guidance.

Response - Accept. Further guidance on the interpretation of the definitions in clause 16 has been sent to my officials by the UK Government, and whilst this has been helpful, it has not provided the clarity we seek on whether certain professions, for example Further Education teachers, are within scope of the Bill.

Recommendation 9. Where UK Bills that are the subject of Welsh Government legislative consent memoranda interconnect with domestic and/or international arrangements, the Welsh Government should make this clear and provide details in the relevant memorandum

Accept. We will make this clear in future memorandums.