

# Agenda – Legislation, Justice and Constitution Committee

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Meeting Venue:	For further information contact:
Video Conference via Zoom	P Gareth Williams
Meeting date: 29 November 2021	Committee Clerk
Meeting time: 13.30	0300 200 6565
	<a href="mailto:SeneddLJC@senedd.wales">SeneddLJC@senedd.wales</a>

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Informal pre-meeting (13.00–13.30)

## 1 Introductions, apologies and substitutions

13.30

## 2 Codes of Welsh law programme and proposals for the accessibility of Welsh law: Evidence session with the Counsel General and Minister for the Constitution

(13.30 – 14.30)

(Pages 1 – 47)

Mick Antoniw MS, Counsel General and Minister for the Constitution

Claire Fife, Policy Advisor to the Counsel General

Dylan Hughes, First Legislative Counsel

Attached Documents:

LJC(6)-15-21 – Briefing

LJC(6)-15-21 – Paper 1 – The future of Welsh law: A programme for 2021 to 2026

LJC(6)-15-21 – Paper 2 – Letter from the Llywydd, 22 September 2021

## 3 Instruments that raise issues to be reported to the Senedd under Standing Order 21.2 or 21.3

14.30 – 14.35

Made Negative Resolution Instruments



**3.1 SL(6)086 – The Health Protection (Coronavirus, International Travel and Restrictions) (Wales) (Miscellaneous Amendments) Regulations 2021**

(Pages 48 – 50)

[Regulations](#)

[Explanatory Memorandum](#)

Attached Documents:

LJC(6)-15-21 – Paper 3 – Draft report

**4 Standing Order 30B Report: The European Union (Withdrawal) Act and Common Frameworks and Frameworks Analysis 2021**

14.35 – 14.40

(Pages 51 – 138)

Attached Documents:

LJC(6)-15-21 – Paper 4 – Written statement: The European Union (Withdrawal) Act and Common Frameworks and Frameworks Analysis 2021

LJC(6)-15-21 – Paper 5 – Report: The European Union (Withdrawal) Act and Common Frameworks

LJC(6)-15-21 – Paper 6 – Frameworks Analysis 2021

**5 Papers to note**

14.40 – 14.45

**5.1 Correspondence from the Counsel General and Minister for the Constitution: Quadrilateral Ministerial meeting on Common Frameworks**

(Pages 139 – 142)

Attached Documents:

LJC(6)-15-21 – Paper 7 – Letter from the Counsel General and Minister for the Constitution, 25 November 2021

LJC(6)-15-21 – Paper 8 – Letter from the Counsel General and Minister for the Constitution, 19 November 2021

**5.2 Correspondence from the Minister for Finance and Local Government:**

**SL(6)072 – The Valuation for Rating (Wales) (Coronavirus) Regulations 2021**

(Pages 143 – 147)

Attached Documents:

LJC(6)-15-21 – Paper 9 – Letter from the Minister for Finance and Local Government, 20 November 2021

LJC(6)-15-21 – Paper 10 – Letter to the Minister for Finance and Local Government, 16 November 2021

**5.3 Correspondence from the Minister for Finance and Local Government: The Rating (Coronavirus) and Directors Disqualification (Dissolved Companies) Bill 2021**

(Pages 148 – 150)

Attached Documents:

LJC(6)-15-21 Paper 11 – Letter from the Minister for Finance and Local Government to Members of the Senedd, 22 November 2021

**5.4 Correspondence from the Minister for Rural Affairs and North Wales, and Trefnydd: Welsh Government response to the Committee's report on the Legislative Consent Memoranda on the Animal Welfare (Kept Animals) Bill**

(Pages 151 – 152)

Attached Documents:

LJC(6)-15-21 – Paper 12 – Letter from the Minister for Rural Affairs and North Wales, and Trefnydd, 24 November 2021

**6 Motion under Standing Order 17.42 to resolve to exclude the public from the remainder of the meeting**

14.45

**7 Codes of Welsh law programme and proposals for the accessibility of Welsh law: Consideration of evidence**

14.45 – 14.55

**8 Legislative Consent Memorandum on the Leasehold Reform (Ground Rent) Bill – consideration of draft report**

14.55 – 15.05

(Pages 153 – 174)

Attached Documents:

LJC(6)-15-21 – Paper 13 – Draft report

LJC(6)-15-21 – Paper 14 – Letter from the Minister for Climate Change to the Local Government and Housing Committee, 22 November 2021

LJC(6)-15-21 – Paper 15 – Letter from the Local Government and Housing Committee to the Minister for Climate Change, 18 November 2021

**9 Legislative Consent Memorandum on the Building Safety Bill – Consideration of draft report**

15.05 – 15.15

(Pages 175 – 188)

Attached Documents:

LJC(6)-15-21 – Paper 16 – Draft report

**10 Supplementary Legislative Consent Memorandum: Advanced Research and Invention Agency Bill**

15.15 – 15.25

(To Follow)

[Supplementary Legislative Consent Memorandum – Advanced Research and Invention Agency Bill](#)

[Report on the Welsh Government’s Legislative Consent Memorandum on the Advanced Research and Invention Agency Bill](#)

Attached Documents:

LJC(6)-15-21 – Paper 17 – Legal advice note

**11 Briefing note on international agreements**

15.25 – 15.35

(Pages 189 – 199)

Attached Documents:

LJC(6)-15-21 – Paper 18 – Briefing note

LJC(6)-15-21 – Paper 19 – Letter from the First Minister, 23 November 2021

LJC(6)-15-21 – Paper 20 – Letter to the First Minister, 9 November 2021

Document is Restricted



Llywodraeth Cymru  
Welsh Government

# The future of Welsh law

## A PROGRAMME FOR 2021-2026



“And by the common counsel and agreement ... they examined the old laws, and some of them they allowed to continue, others they amended, others they wholly deleted, and others they laid down anew.”

*Book of Iorwerth 1240*

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## **MICK ANTONIW MS**

COUNSEL GENERAL  
AND MINISTER FOR THE  
CONSTITUTION

# Foreword

In 2019 the Welsh Government and the Senedd took an important step in our journey to develop a modern, accessible and bilingual body of law for Wales with the enactment of the Legislation (Wales) Act 2019. This Act requires the Government to prepare a programme setting out the steps it will take over a five year period towards the goal of making the law more accessible, in particular through consolidating and codifying existing law.

I am delighted to set out the programme for 2021 to 2026.

We know that the task ahead is not easy, nor will it happen quickly, but we must make a start and start as we mean to go on. This programme includes three Bills to consolidate – bring together – the law, and later in this Senedd term I intend to update the programme to include further consolidation Bills. Consolidating the law, for example in relation to planning (as is underway), is not merely a legal tidying up exercise. This will bring real life practical benefits by making the application of the law, for example administrative procedures, more efficient and transparent. And most fundamentally it helps the citizens of Wales understand both their legal rights and their legal obligations.

Equally important are the non-legislative projects to improve access to, and understanding of, the law in Wales by better publication and the provision of more explanatory material. Projects such as the Cyfraith Cymru/Law Wales website are designed to help people find the law which applies to them and help them understand it.

I am also very pleased that this work will increase the amount of law that is available bilingually. Producing more law in Welsh, accompanied by a range of explanatory and supporting material, makes it easier for the Welsh language to be used in the law and in our public administration in Wales.

## Summary

The first programme to improve the accessibility of Welsh law will contain projects to:

- a. Prepare a taxonomy of subjects of Welsh law.
- b. Expand functionality on the legislation.gov.uk site so users may access Welsh law by subject.
- c. Draft consolidation Bills to bring the law on the following subjects into single statutes:
  - i. Historic Environment;
  - ii. Planning.
- d. Implement the subordinate legislation necessary to support the consolidation of historic environment and planning law.
- e. Prepare a consolidation Bill to remove provisions that are obsolete, spent, or are no longer of practical utility in Wales.
- f. Scope additional subject areas with a view to identifying at least a further two consolidation projects to be drafted during this Senedd term.
- g. Ensure Welsh law is available in an up-to-date form on legislation.gov.uk, and enable the Welsh and English language texts of Welsh legislation to be viewed side by side.
- h. Expand and improve the Cyfraith Cymru/Law Wales website.
  - i. Identify opportunities to improve digital accessibility of legislation.
  - j. Review the Government's approach to developing bilingual legislation.
- k. Explore the potential for using machine learning and artificial intelligence to make Welsh law more accessible.
- l. Update, as necessary, guidance on drafting legislation as well as preparing and publishing additional guidance on the processes and procedures involved in preparing consolidation Bills.

## Developing the programme

In late 2019 the Government published a consultation, *The Future of Welsh Law*, which set out the approach we intend to take to improving accessibility of the law. This explained that the following steps need to be taken concurrently for progress to be made –

- a. **classification** of legislation by subject matter so that we have a structure for future work and a method by which users can locate and use legislation;
- b. **consolidation** of existing law: this is time consuming and complex, but will make the most significant contribution to making the law accessible;
- c. **codification** of the law will maintain the order we achieve through classification and consolidation;
- d. **clarification** and **communication** of the law will see effective publication, up-to-date texts, explanation, guidance and illustrative materials.

The Senedd has endorsed the Government’s ambitions by enacting the Legislation (Wales) Act 2019. Under the Act, the Welsh Ministers and the Counsel General must prepare and lay a programme to improve the accessibility of Welsh law.

Each programme must make provision to consolidate and codify Welsh law, maintain codified law, promote awareness and understanding of Welsh law, and facilitate use of the Welsh language.

## Programme

In preparing the programme we have taken account of existing commitments – for example to consolidate the law on the historic environment, and to simplify and modernise planning law – and sought to identify further projects which meet one or more of the following criteria:

- a. the project concerns one of the areas of the law most in need of consolidation due to the complexity of the existing law;
- b. the project would have a significant impact on the citizen due to the nature of the law concerned;
- c. the project is feasible taking account of what can be achieved within the context of competing legislative priorities, the availability of resource and the current devolution settlement;
- d. the project is topical or otherwise connected to the expected work of the Government over the coming Senedd term.

Details of each project in the programme is set out below.

## Classification of Welsh law

In the *Future of Welsh Law* (2019) the Government set out its intentions to organise the legislation applicable to Wales according to its subject matter, and to establish a method whereby users can employ technological solutions to locate Welsh legislation. This form of classification of the law is important firstly to help users find legislation more easily, and secondly to provide an organisational structure for future consolidation and codification work.

During this Senedd term we will:

- a. review and revise the existing draft taxonomy of subjects (originally prepared and consulted upon in 2019) so as to establish which enactments in devolved areas of law should belong to each tier of the taxonomy.
- b. work with The National Archives team responsible for legislation.gov.uk to provide additional functionality on that site so that users may access Welsh law by subject.

## Consolidation of Welsh law

The purpose of consolidating legislation is to revise legislation that has become out-dated, heavily amended and disorganised. Legislation on most subjects has proliferated over time and the sheer number of Acts and Instruments on the subject often makes it hard to find, let alone understand. Consolidation involves bringing together all or most of the (generally primary) legislation on a specific subject so that it can be easily found, and by modernising the form and drafting of the law to make it easier to understand and apply. Consolidation will often bring together a number of existing Acts on a subject, updating and harmonising the provisions, to create a new, single, Act at the end.

The Government intends to prepare a number of consolidation Bills during this Senedd term for scrutiny by Senedd Cymru; if approved they will become Acts of Senedd Cymru. We will develop:

- a. a consolidation Bill which brings together the law on the **historic environment**.

It is expected that this will consolidate relevant provisions from the Historic Buildings and Ancient Monuments Act 1953; Ancient Monuments and Archaeological Areas Act 1979; Planning (Listed Buildings and Conservation Areas) Act 1990; and the Historic Environment (Wales) Act 2016.

The existing legislation has become increasingly convoluted in recent years due to repeated amendments (often done differently for Wales, England and Scotland), and now presents the owner of a scheduled monument or a listed building with a bewildering challenge that can sometimes even confound a legal professional. However, the statutes are not just difficult to navigate; their language is sometimes outdated, provisions are occasionally obsolete, and they are, for the most part, only available in English.

Consolidation of the existing law will form a coherent body of historic environment law for Wales. The aim will be to make its provisions as accessible and intelligible as possible, and the new legislation will be fully bilingual. This approach will result in distinct legislation for Wales, without provision incorporating references to England and Scotland.

b. a consolidation Bill which simplifies and modernises the law on **planning**.

This Bill forms an important part of wider, longer term improvements needed to the planning system. The need for the Bill is long standing and was clearly demonstrated when the Law Commission’s report on Planning Law in Wales concluded that it is an area of law needing urgent attention. Their report highlighted the detrimental impacts and inefficiencies the inaccessibility, quality and complexity of the law is having on the operation of the planning system. The need to consolidate this area of law and the recommended scope of the Bill were accepted by the previous Welsh Government in their interim response to the Report published in May 2019<sup>1</sup>, with a detailed response published in November 2020 setting out the Government’s position on each of the 192 recommendations in the Report<sup>2</sup>.

The consolidation will bring together provisions relating to planning from numerous Acts, including the Town and Country Planning Act 1990; the Planning and Compensation Act 1991; the Local Government (Wales) Act 1994; the Environment Act 1995; the Planning and Compulsory Purchase Act 2004; the Planning Act 2008; the Localism Act 2011; and the Planning (Wales) Act 2015.

Simplifying and consolidating planning law through this Bill will create a more efficient and effective planning system designed for the specific needs of Wales. This will be done by creating a planning framework which enables all stakeholders operating, using or engaging in the system to clearly access and understand the law directly affecting them. Importantly, it will facilitate use (by public bodies and the private sector) of the variety of powers and tools available to them through land use planning legislation to drive forward a values-based economic recovery from the pandemic.

c. a consolidation Bill which **repeals or disapplies** legislative provisions from across the statute book that are **obsolete, spent, or are no longer of practical utility in relation to Wales**.

Sometimes such Bills are known as ‘statute law repeal’ Bills and have typically been a periodic feature in UK Parliament legislation; it is anticipated a Bill such as this will feature in most programmes to improve the accessibility of Welsh law. This Bill will help to modernise and simplify the law. Removing unnecessary provisions helps to “declutter” the statute book, and amending these provisions so that they no longer apply in relation to Wales helps to bring clarity about which parts of the Statute apply (and do not apply) to Wales.

The Government will review the existing legislation in a number of areas with a view to identifying a further two consolidation projects to be prepared during this Senedd term. Potential areas for consolidation under active consideration include:

- a. Allotments;
- b. Building Regulations;
- c. Hazardous substances planning;
- d. Housing;
- e. Public health.

1 Interim response to the Law Commission report on planning law in Wales  
[gov.wales/interim-response-law-commission-report-planning-law-wales](https://gov.wales/interim-response-law-commission-report-planning-law-wales)

2 Detailed response to the Law Commission report on planning law in Wales  
[gov.wales/detailed-response-law-commission-report-planning-law-wales](https://gov.wales/detailed-response-law-commission-report-planning-law-wales)

We will also consider those areas of law that have been most affected by the United Kingdom's withdrawal from the European Union, with a view to identifying subjects in which the need to reconcile domestic law and retained EU law is most acute.

There will also be two projects to supplement the consolidation Bills on historic environment and planning law:

- a. a package of subordinate legislation is expected to be required to implement the historic environment Bill.

This is intended to be done after any Bill is passed by the Senedd.

- b. a phased project of consolidating key town and country planning subordinate legislation.

Some of this legislation needs to be consolidated due to its age (so the language and format needs to be modernised), but also because of the number of amendments made to them over the years which impacts on their accessibility. A fuller analysis will be undertaken once drafting of the consolidation Bill has concluded, but current priorities include:

- i. The Town and Country Planning (Use Classes) Order 1987;
- ii. The Town and Country Planning General Regulations 1992;
- iii. The Town and Country Planning (Control of Advertisements) Regulations 1992;
- iv. The Town and Country Planning (General Permitted Development) Order 1995;
- v. The Town and Country Planning (Trees) Regulations 1999; and
- vi. The Town and Country Planning (Development Management Procedure) (Wales) Order 2012.

Additionally, during this Senedd term work we will also seek to identify other opportunities to consolidate and update subordinate legislation. For example:

- a. remaking and updating the rules for the conduct of local government elections in Wales.

This project will include taking the provisions for Wales out of the existing Local Elections (Principal Areas) (England and Wales) Rules 2006 and the Local Elections (Parishes and Communities) (England and Wales) Rules 2006, and updating the provisions to reflect changes made through the Local Government and Elections (Wales) Act 2021. This will result in two items of Wales specific, bilingual legislation governing the conduct of local elections in Wales.

- b. preparing the 'Representation of the People Order' bilingually ahead of the general election to the Senedd in 2026.

The existing National Assembly for Wales (Representation of the People) Order 2007, an English-only text instrument, sets out the manner in which the election and election campaign is conducted and includes provision for legal challenge. It has been amended a number of times and there is no updated version freely available to the public. This legislation will be consolidated and remade bilingually in advance of the Senedd election.

## Codification

When we have categorised Welsh law through the classification process, and made progress in consolidating some areas of law, it is important to preserve the order that will have been achieved. To do this we intend to codify the law. The Legislation (Wales) Act 2019 explains that ‘codifying Welsh law’ includes –

- a. adopting a structure for Welsh law that improves its accessibility;
- b. organising and publishing consolidated Welsh law according to that structure.

In practice, codification means publishing the law on particular subjects together in one place and taking steps to preserve the structure of legislation on a particular subject once it has been brought to order. So where we have one Act on a particular subject, either because it has been consolidated or there has been wholesale reform of the law in the area, we should continue to have one Act. When a proposal is made to change the law in relation to the subject that change should be made by amending that Act, not making a new one that sits alongside it, unless there is a very good reason not to.

As this is the first programme to improve the accessibility of Welsh law, there are no immediate proposals to codify Welsh law. As the projects to classify and consolidate the law are achieved, it will be possible to begin codifying the law. We will, however, review existing areas of legislation where we have already made significant inroads into setting out the law on a subject (such as social care) to determine what additional work may be required to codify the law. The programme will be updated as necessary over the Senedd term.

## Communication and clarification

The projects set out above involve remaking the law, but modern communication techniques coupled with the expectations of users of legislation, mean that the law itself is routinely supplemented by additional information which helps to clarify the impact and meaning of the law.

During this Senedd term we will seek to improve free-to-access publication of the law and information about the law. We will:

- a. Work with the team behind the [legislation.gov.uk](http://legislation.gov.uk) site to ensure that bilingual Acts and Statutory Instruments are available in an up-to-date form in both languages.

Currently the site is able to update English language texts only, but we will work with them to ensure that both language texts of Welsh law include any amendments made to the legislation after it has originally been made.

- b. Significantly expand and improve the content of the Cyfraith Cymru/Law Wales website to achieve a 'one stop shop' for accessing and understanding Welsh law.

As part of this work we will also explore the lessons gained from legislating during the coronavirus pandemic to improve the way the law is explained, for example by working alongside communications experts to produce focussed guidance and ensuring it is updated as legislation changes; by ensuring updated versions of key legislation (including explanatory notes) are published bilingually on-line; by publishing "question and answer" documents, some aimed at specific stakeholder groups, thereby ensuring that simple, consistent and legally accurate messages are conveyed.

- c. Explore ways to move from a model of promulgating legislation based on 20th century printed versions to a modern, digital-based system. This will include considering technological solutions for viewing and interpreting bilingual legislation and moving away from the dual column printed format of Statutory Instruments. We are keen to emphasise the point that in Wales, legislation is made bilingually and both language texts are of equal standing.
- d. Develop the Government's approach to preparing bilingual legislation, using linguistic technology to its full potential as we seek to improve efficiency, continue to ensure accuracy and use natural syntax and 'plain language'. We will:
  - i. accelerate the publication of additional standardised Welsh language legislative terminology on TermCymru;
  - ii. identify how the Government's proposed new translation memory and machine translation system can enable us to work more efficiently, highlight improvements that can be made to the original text, and facilitate improved consultation on technical terms;
  - iii. review internal guidance on style to identify opportunities to make the text clearer and more natural in both languages;
  - iv. agree processes for legislative translators and legislative counsel to collaborate to improve the original drafting as well as ensure that the translation is correct; and
  - v. hone editorial skills by sharing expertise between legislative translators and legislative counsel.
- e. Explore the potential for using machine learning and artificial intelligence to make Welsh law more accessible. This will involve collaboration with Swansea University and others to explore the opportunities to use technology to improve and accelerate the process of making the law more accessible.



The Government has previously prepared guidance on developing primary legislation. Although it is internal guidance for the Welsh Government Civil Service, it has been published to aid understanding of the law-making process and the development and drafting of legislation. During this Senedd term the Government intends to review and update, as necessary:

- a. The Legislation Handbook on Senedd Bills;
- b. Common Legislative Solutions (guidance that helps public officials understand commonly recurring issues and learn from what has been done in the past to resolve them);
- c. Writing Laws for Wales (the legislative drafting guidance of the Office of the Legislative Counsel).

We will also prepare and publish additional guidance on the processes and procedures involved in preparing consolidation Bills.

## Other projects

We will continue to work with the Law Commission of England and Wales to identify one or more projects relating to Welsh law for inclusion in its Fourteenth Programme of Law Reform which will begin in 2022. This could include law reform projects or reviews of technical areas of the law, such as the electoral law underpinning local and Senedd elections, or the law governing online publication of statutes and statutory instruments. These are illustrative examples of areas of the law where the Law Commission could support the Government's ambitions to simplify and modernise the law. This programme will be updated to include relevant Law Commission projects within it, if needed.

## Reporting on the programme

Under the Legislation (Wales) Act 2019, the Counsel General is required to report annually to the Senedd on the progress of the programme. The first report will be due in 2022.

Huw Irranca-Davies MS

Chair of the Legislation, Justice and Constitution Committee

22 September 2021

## **The Accessibility of Welsh Law**

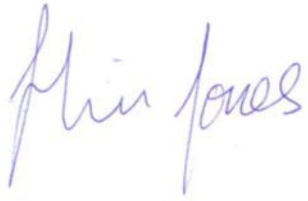
Dear Huw

The Counsel General wrote to me during the summer to set out his intention to take steps during this Senedd term to improve the accessibility of Welsh law. He included a paper which had been prepared by the Office of the Legislative Counsel entitled 'Proposal to modernise the structure and presentation of Welsh law'. The Counsel General's letter of 24 June 2021 and the accompanying paper are attached.

As Llywydd, Standing Order 26.3 makes provision for me to determine the proper form of Senedd Bills. To help inform my consideration of the next determination, I would like to seek views on the question of how best to improve the accessibility of Welsh Law, including the ideas set out in the OLC paper, from those who engage in the legislative scrutiny process and those who will use the final legislation. At its meeting last week the Business Committee agreed that the Legislation, Justice and Constitution Committee should be invited to take forward this task.

I would be grateful if your Committee could undertake a short inquiry into this issue, and to report on your conclusions. The Business Committee has not set a deadline for this work, but it would be helpful for the report to be available as early in this term as possible to inform my determination and future drafting of the legislative programme. An early indication of the timetable for the Committee's inquiry would be welcome.

Yours sincerely

A handwritten signature in blue ink that reads "Elin Jones". The signature is written in a cursive style.

**Elin Jones MS**

Y Llywydd and Chair of the Business Committee

Croesewir gohebiaeth yn Gymraeg neu Saesneg.

We welcome correspondence in Welsh or English.



Elin Jones AS/MS  
Llywydd Senedd Cymru  
Comisiwn y Senedd  
Bae Caerdydd

24 June 2021

### Hygyrchedd Cyfraith Cymru – Accessibility of Welsh law

As we start a new Senedd term and prepare to adopt a new legislation drafting and management system, I would like to suggest some improvements to the way Welsh legislation is presented. I understand that a number of innovations have been discussed on occasions over the years, but despite nobody raising any significant objections to them, they have not as yet been implemented.

However, the passing by the Senedd of the Legislation (Wales) Act 2019, and the obligation on the Government under Part 1 to promote a programme of activities to make Welsh law more accessible, has inspired me to give these issues more thought. The Act will also, I hope, provide some more impetus to actually effect change on this occasion.

As the attached paper prepared by the Office of the Legislative Counsel explains, the form and structure of Acts of the Senedd is based largely on the form and structure of Acts of the UK Parliament, which in turn is the product of hundreds of years of history. I believe we should think again about how Welsh legislation is presented, basing this not on parliamentary procedure, but on the needs of the users of legislation. Our focus, first and foremost, should be on making legislation easier to read and understand.

So I would be grateful if you could consider the attached proposal, which I would of course be very happy to discuss.

**Mick Antoniw AS/MS**  
Y Cwnsler Cyffredinol a Gweinidog y Cyfansoddiad  
Counsel General and Minister for the Constitution

*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.*





## Proposal to modernise the structure and presentation of Welsh law

### *Context*

The way in which Welsh legislation is presented is based in large part on the way UK legislation is presented. And, in turn, the way UK legislation is presented is the product of hundreds of years of history. The form, structure and language of legislation has developed incrementally over many years, derived mainly from Parliamentary procedure rather than consideration of how it could be made easier to read and understand. Little thought has been given to the best and most accessible way to present and publish legislation.

### *“Short” titles and “long” titles*

Perhaps the most obvious manifestation of the impact of history is the peculiar notion of having two titles to an Act. Historically there was no real title to an Act, rather legislation was organised by reference to its series number and date. Eventually a title of sorts emerged, but this was an often lengthy description of the content of the Act in question – what we now refer to as the “long” title. The “short” title to an Act is a relatively modern innovation, a shorthand used to refer to legislation more easily, in particular in court (hence saying that an Act “may be cited as [whatever the short title is]”).

We believe this distinction between the short and long title is an unnecessary complication that should not continue. Rather each Act should simply have one title (that which most people, no doubt, actually think the title is – the short title to the Act).

### *“Overview” provisions*

There is merit in having more descriptive text at the beginning of an Act so that the reader can quickly understand what it contains, but having a long title is not the best way of doing this. The long title is flawed both because of it being another “title” and because of the way it is set out as one long sentence. A short overview to an Act – drafted and structured in accordance with modern practice – would be a much more effective way of helping the reader understand what follows.

We have regularly incorporated overview provisions in Welsh Acts for this reason. These have generally been well received and in the main they have served their purpose. It is vital, however, that they are kept short, which means that in the case of long Acts, we consider adopting an overview for each Part of an Act – something that enables the main overview to be kept very succinct. Also essential is that the overview is just that, and does not contain substantive legal provisions.

Recently we have used overviews considerably less. The main reason for this is that the existence of the long title, in particular in a short Act, makes the overview appear like unnecessary repetition. We are conscious also that more traditional parliamentary counsel oppose all extraneous material in legislation for two reasons – first, because adding an overview as a section to an Act will generally

mean that users of legislation (including, importantly, the courts) may assume that it has substantive effect as law (in other words that it is doing something), and second because of the risk of the provision “going toxic” if it fails to be amended for consistency as other amendments are made to a Bill.

For these reasons we propose that overviews should have a status similar to headings. They would be part of a Bill but as their purpose is merely to help people use the document rather than to effect a change in the law, they would not be amendable during the passage of a Bill (other than, where necessary, as printing changes between Stages of scrutiny. Also like headings they could, however, be amended later by subsequent legislation (once the Act in question is passed).

Long titles have developed a specific function in the Westminster Parliament because their content is the most important provision for determining the scope of a Bill. Removing long titles would not, however, lead to a problem in this respect in the Senedd. This is partly because (sensibly) the test used in the Senedd is a broader one based on whether an amendment is “relevant”, taking into account the content of the Bill, and partly because the long title would in any event be replaced by a more modern and easier to understand overview (which would help determine relevance).

### *Words of enactment*

Another product of history is the specific words of enactment used at the beginning of a Welsh Bill. This mimics the “enacting formula” adopted in Westminster from the 15<sup>th</sup> century onwards. UK Bills have 5 different enacting formulas depending on their content and the process adopted for passing the Bill, but in the words of Halsbury’s Laws: “The enacting formula is now purely formal”. In Wales, there is only one formulation and those words are also purely formal as they aren’t necessary from a legal perspective. The wording used seeks to convey the fact that in order to become law, an Act must both be passed by the Senedd and receive the assent of Her Majesty:

Having been passed by Senedd Cymru and having received the assent of Her Majesty, it is enacted as follows:

This wording isn’t straightforward and could be drafted in simpler terms (and avoiding the passive voice), for example:

Senedd Cymru, with the assent of Her Majesty, enacts as follows:

Our preference, however, would be to omit these words entirely.

Scottish Bills do not contain words of enactment, rather they begin by providing more important information set out clearly (dates of passing and Royal Assent) as follows:

The Bill for this Act of the Scottish Parliament was passed by the Parliament on 23rd March 2021 and received Royal Assent on 5th May 2021

### *Dates*

Senedd Acts add the date of Royal Assent in square brackets (as is required by law) but they do not provide any further explanation. It is notable also that no reference is made in either case to the most important date, which is the date on which the Act takes effect. For the ultimate user of legislation, referring to the date in which an Act is passed and the date of Royal Assent, but not the date in which it takes legal effect, is likely to be confusing. So we suggest that something like this would be preferable:

Passed by Senedd Cymru: 23 March 2021  
Coming into force: 6 May 2021

Royal Assent: 5 May 2021

Where the Act comes into force in stages or by Order reference could be made to the section which sets this out, as is done already in the case of Statutory Instruments.

### *Fonts*

Although a decision was made in 2007 to adopt a different font in Welsh Bills to that used in the Westminster Parliament, the font chosen was a similar, traditional looking, “serif” font. Some people find it difficult to read serif fonts, because they distract the eyes and the brain from the overall shape of the letter – see link below:

[https://reciteme.com/uploads/articles/accessible\\_fonts\\_guide.pdf](https://reciteme.com/uploads/articles/accessible_fonts_guide.pdf)

“Sans serif” means “without the decorative line” and we believe consideration should be given to adopting a “sans serif” font as it is more accessible and (as a secondary issue) looks more modern. It is now normal practice to use “sans serif” fonts, in particular on any material read on screen, which is important bearing in mind that in practice people no longer purchase paper copies of legislation and the vast majority of people read legislation online.

### *Navigation aids*

We would also like to adopt the practice used in Scottish Acts (and partially in UK Acts) of including a header on the document that informs you which Part or Schedule you are in. This is a small and easy tool that helps people navigate legislation, which is helpful in particular where it is very long. Please see the example:

[https://www.legislation.gov.uk/asp/2021/8/pdfs/asp\\_20210008\\_en.pdf](https://www.legislation.gov.uk/asp/2021/8/pdfs/asp_20210008_en.pdf)

### *Example*

An example of the existing layout for Senedd Bills is set out in Annex 1 and a possible alternative in Annex 2.

### *Statutory Instruments*

Finally, thought is also being given to the way Statutory Instruments made by the Welsh Ministers are set out, in particular use of the dual column format which divides the page vertically. In our view this was the right approach 20 or years ago when we first began making Welsh subordinate legislation but in an age where nearly everyone reads legislation online, it is now an unnecessary and expensive complication in the publication process. Our intention is that it be replaced by a technological solution which enables the reader to easily consider both languages side by side on screen.

### **Swyddfa'r Cwnsleriaid Deddfwriaethol**

## ANNEX 1

### Example of existing layout

# Control of Horses (Wales) Act 2014

An Act of the National Assembly for Wales to make provision for and in connection with the taking of action in relation to horses which are in public places without lawful authority or which are on other land without consent. [27 January 2014]

**Having been passed by the National Assembly for Wales and having received the assent of Her Majesty, it is enacted as follows:**

## 1 Overview

This Act makes provision for local authorities to seize, impound and dispose of horses which—

- (a) are in public places without lawful authority, or
- (b) are on other land without the consent of the occupier of the land.

## 2 Power of local authority to seize horses

- (1) A local authority may seize and impound a horse which is on any highway, or in any other public place, in the local authority's area if the local authority has reasonable grounds for believing that the horse is there without lawful authority.
- (2) A local authority may seize and impound a horse which is on any other land in the local authority's area if the local authority has reasonable grounds for believing—
  - (a) in the case of land of which the local authority is the occupier, that the horse is there without the local authority's consent, or
  - (b) in the case of other land in the local authority's area, that the horse is there without the consent of the occupier of the land and that the occupier consents to the local authority seizing and impounding it.

...

## 10 Commencement and short title

- (1) This Act comes into force on the day after the day on which it receives Royal Assent.
- (2) The short title of this Act is the Control of Horses (Wales) Act 2014.



## ANNEX 2

### Possible alternative layout

# Control of Horses (Wales) Act 2014

Passed by Senedd Cymru: 10 December 2013

Royal Assent: 27 January 2014

Comes into force: 28 January 2014

**Overview** This Act makes provision for local authorities to seize, impound and dispose of horses which—

- (a) are in public places without lawful authority, or
- (b) are on other land without the consent of the occupier of the land.

## 1 Power of local authority to seize horses

- (1) A local authority may seize and impound a horse which is on any highway, or in any other public place, in the local authority's area if the local authority has reasonable grounds for believing that the horse is there without lawful authority.
- (2) A local authority may seize and impound a horse which is on any other land in the local authority's area if the local authority has reasonable grounds for believing—
  - (a) in the case of land of which the local authority is the occupier, that the horse is there without the local authority's consent, or
  - (b) in the case of other land in the local authority's area, that the horse is there without the consent of the occupier of the land and that the occupier consents to the local authority seizing and impounding it.

...

## 9 Coming into force

This Act comes into force on the day after the day on which it receives Royal Assent.

# Agenda Item 3.1

## **SL(6)086 - The Health Protection (Coronavirus, International Travel and Restrictions) (Wales) (Miscellaneous Amendments) Regulations 2021**

### **Background and Purpose**

These [Regulations](#) amend the Health Protection (Coronavirus, International Travel) (Wales) Regulations 2020 (S.I. 2020/574 (W. 132)) (“the International Travel Regulations”) and the Health Protection (Coronavirus Restrictions) (No. 5) (Wales) Regulations 2020 (S.I. 2020/1609 (W. 335)) (“the Restrictions Regulations”).

These Regulations make the following changes to the International Travel Regulations by:

- Extending the recognition of certain vaccine certificates issued by additional European countries and territories, for the purposes of pre-departure testing and vaccine travel exemptions;
- Extending the recognition of vaccinations to further countries and territories:  
Belarus, Bolivia, The Dominican Republic, Democratic Republic of Congo, Ecuador, Laos, Libya, Malawi, Mozambique, Samoa, Senegal, Vanuatu, Zambia and Zimbabwe;
- Broadening the definition of “authorised vaccine” by removing the requirement that it is to be administered in a relevant country and through recognising certain WHO recognised vaccines;
- Removing the residency requirements for travellers vaccinated in the United States of America, participants in clinical trials, and those under 18;
- Exempting all under 18s from the requirement to isolate;
- Introducing further means of proof of vaccination, including approved third countries and territories certificates and certain US State vaccination certificates;
- Making further technical amendments including around vaccinations as part of the UK vaccine roll-out overseas;
- Exempting specified persons from the requirement to provide passenger information when they have travelled to Wales in the course of their work (whether or not they have travelled in a passenger carrying conveyance): road haulage workers; road passenger transport workers; masters and seamen; pilots involved in merchant shipping; inspectors and surveyors of ships; and crew on aircraft;
- Removing the isolation requirement for non-UK resident hauliers when they are not at work;
- Removing the requirement for certain diplomats to receive written authorisation from the Foreign, Commonwealth & Development Office ahead of reliance on isolation exemption



provisions. Regulation 9 is also amended so as to align isolation exemptions for road haulage workers regardless of residency status;

- Making further technical and consequential amendments.

These Regulations also amend the Restrictions Regulations, including further extending the list of countries and territories, so that evidence of vaccination in those countries with vaccines authorised in the United Kingdom is also acceptable for the purposes of what is commonly known as the COVID-pass. The amendments maintain consistency with the vaccine recognition amendments to the International Travel Regulations.

## 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

No points are identified for reporting under Standing Order 21.2 in respect of this instrument.

## Merits Scrutiny

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

### **1. 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**

We note the breach of the 21-day rule (i.e. the rule that 21 days should pass between the date a “made negative” instrument is laid before the Senedd and the date the instrument comes into force), and the explanation for the breach provided by Eluned Morgan MS, Minister for Health and Social Services, in a letter to the Llywydd dated 19 November 2021.

In particular, we note what the letter says regarding the four nation approach to international travel:

*“Not adhering to the 21 day convention allows these Regulations to come into force at the earliest opportunity and continue the four nation approach to international travel; in view of the changing evidence on risk in relation to this disease this is considered necessary and justifiable in this case.”*

### **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**

We note the Welsh Government’s justification for any potential interference with human rights. In particular, we note the following paragraph in the Explanatory Memorandum:



*“The amendments contained in these Regulations do not change the engagement under the International Travel Regulations of individual rights under the Human Rights Act 1998 and the European Convention on Human Rights; the Government considers that they are justified for the purpose of preventing the spreading of infectious diseases and/or the interference is permitted on the basis that it is in pursuit of a legitimate aim, namely of protecting public health, and are proportionate.”*

### **3. 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**

We note there has been no formal consultation on these Regulations. In particular, we note the following paragraph in the Explanatory Memorandum:

*“Given the serious and imminent threat arising from coronavirus and the need for an urgent public health response, there has been no public consultation in relation to these Regulations.”*

### **Welsh Government response**

A Welsh Government response is not required.

#### **Legal Advisers**

**Legislation, Justice and Constitution Committee**

**25 November 2021**



Senedd Cymru

**Pwyllgor Deddfwriaeth, Cyfiawnder a'r Cyfansoddiad**

—

Welsh Parliament **Pack Page 50**

**Legislation, Justice and Constitution Committee**

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**WRITTEN STATEMENT  
BY  
THE WELSH GOVERNMENT**

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<b>TITLE</b>	<b>The European Union (Withdrawal) Act and Common Frameworks and Frameworks Analysis 2021</b>
<b>DATE</b>	<b>19 November 2021</b>
<b>BY</b>	<b>Mick Antoniw MS, Counsel General and Minister for the Constitution</b>

The European Union (Withdrawal) Act 2018 requires the UK Government to report to Parliament periodically on matters relating to Common Frameworks and the UK Government's use, if any, of powers under section 12 of the Act (the so-called 'freezing powers') temporarily to maintain existing EU law limits on devolved competence. I am notifying Members that the twelfth such report was laid in Parliament on 9 November 2021, covering the period 26 March to 25 June 2021.

The report outlines continued positive work on Common Frameworks, and confirms that the UK Government has not used the 'freezing powers'. During this reporting period, Hazardous Substances (Planning) became the first Common Framework in the programme to receive final confirmation and be fully implemented following completed scrutiny by all four legislatures. The finally agreed framework was subsequently published on 31 August.

[Policy paper overview: The European Union \(Withdrawal\) Act and Common Frameworks: 26 March to 25 June 2021 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/policy-papers/policy-paper-overview-the-european-union-withdrawal-act-and-common-frameworks-26-march-to-25-june-2021)

On 9 November the 2021 Frameworks Analysis Report was also published which sets out each of the 152 areas of EU law that intersect with devolved competence in one or more devolved administrations and developments in the Frameworks programme over the last twelve months.

[Frameworks Analysis 2021 \(publishing.service.gov.uk\)](https://publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1014442/frameworks-analysis-2021.pdf)

# The European Union (Withdrawal) Act and Common Frameworks

26 March to 25 June 2021

November 2021



# The European Union (Withdrawal) Act and Common Frameworks

26 March to 25 June 2021

**Presented to Parliament pursuant to paragraph 4 of Schedule 3 to the European Union  
(Withdrawal) Act 2018**



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**The Rt Hon Michael Gove MP,  
Secretary of State for Housing,  
Communities and Local  
Government, and Minister for  
Intergovernmental Relations**



**Neil O'Brien MP,  
Parliamentary Under Secretary of  
State for Levelling Up, The Union  
and Constitution**



**The Rt Hon Brandon Lewis CBE MP,  
Secretary of State for Northern  
Ireland**



**The Rt Hon Alister Jack MP,  
Secretary of State for Scotland**



**The Rt Hon Simon Hart MP,  
Secretary of State for Wales**

## Foreword

Since 2017, the Government and devolved administrations have been working together to develop agreements covering a range of policy areas where powers which have returned from the European Union and which intersect with devolved competence. This has a direct bearing on the lives of citizens across the United Kingdom. The development of UK Common Frameworks is guided by principles agreed at the Joint Ministerial Committee (EU Negotiations) (JMC(EN)) in October 2017 between the Government and Scottish and Welsh Governments, and later on 15 June 2020, endorsed by the Executive Committee of the Northern Ireland Executive.

Under Schedule 3 of the European Union (Withdrawal) Act 2018, the Government has a statutory requirement to report to the UK Parliament every three months on the progress made on the development of UK Common Frameworks. This twelfth European Union Withdrawal and Common Frameworks report details progress from 26 March to 25 June 2021. In addition to progress made, the report details that the Government did not make use of powers under section 12 of the European Union (Withdrawal) Act 2018 to temporarily limit devolved competence in any policy areas.

The Government is committed to working collaboratively and constructively with the devolved administrations of Scotland, Wales and Northern Ireland to progress Common Frameworks. During this time, there were elections for the Senedd and Scottish Parliament and accompanying pre-election periods for the Welsh Government and Scottish Government. However, the Government and devolved administrations were still able to make progress on Common Frameworks during this time.

Within the reporting period, Hazardous Substances (Planning) became the first Common Framework in the programme to receive final confirmation and be fully implemented following completed scrutiny by all four legislatures. The finally agreed framework was subsequently published on 31 August.

Shortly after the end of this reporting period, on 8 July, provisional confirmation was secured for a further 21 Frameworks. An additional Framework was provisionally confirmed on 14 October. This takes the total number of provisionally confirmed Frameworks to 29. Work is continuing to further develop these Frameworks. The UK Government will shortly publish a fourth Frameworks Analysis update setting out a comprehensive breakdown of areas previously governed by EU law that intersect with devolved competence, including for the first time, rationales for policy areas where no Frameworks are required.

During this reporting period there was a focus on addressing cross-cutting issues that are affecting multiple Frameworks instead of working on individual Frameworks. As such officials from the Government and devolved administrations have set up a regular cross-cutting issues subgroup to focus intently on taking these forward. Since then, good progress has been achieved in developing the joint processes and ways of working necessary to address these issues, which will be reflected in the relevant Common Frameworks documents.

## Implementation of Common Frameworks

- 1.1. Part 2 of Schedule 3 to the European Union (Withdrawal) Act 2018 requires that a Minister of the Crown report to Parliament at three month intervals on various matters pertaining to Common Framework including use of powers in Section 12 of, and Schedule 3 to, the 2018 Act to temporarily maintain EU law limits on devolved competence. Reports are shared with the devolved administrations to enable them to maintain a concurrent level of scrutiny. The last report was published on 20 May 2021 and covered the reporting period 26 December to 25 March 2021.<sup>1</sup>
- 1.2. The purpose of these reports is to ensure that the process of developing Common Frameworks, in collaboration with the devolved administrations, is transparent and subject to robust parliamentary scrutiny.

## Principles for Common Frameworks

- 1.3. EU laws created common UK-wide approaches even where those policy areas were otherwise within devolved competence. All four administrations across the UK have agreed that common approaches will continue to be required in some areas now the UK has left the EU and exited the Transition Period.
- 1.4. In October 2017, the Joint Ministerial Committee (EU Negotiations) agreed upon principles to guide the work to create Common Frameworks.<sup>2</sup> These principles are set out below:
  1. *Common Frameworks will be established where they are necessary in order to:*
    - *enable the functioning of the UK internal market, while acknowledging policy divergence;*
    - *ensure compliance with international obligations;*
    - *ensure the UK can negotiate, enter into and implement new trade agreements and international treaties;*
    - *enable the management of common resources;*
    - *administer and provide access to justice in cases with a cross-border element;*
    - *safeguard the security of the UK.*
  2. *Frameworks will respect the devolution settlements and the democratic accountability of the devolved legislatures, and will therefore:*
    - *be based on established conventions and practices, including that the competence of the devolved institutions will not normally be adjusted without their consent;*
    - *maintain, as a minimum, equivalent flexibility for tailoring policies to the specific needs of each territory, as is afforded by current EU rules;*

---

<sup>1</sup>[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/986797/The\\_European\\_Union\\_Withdrawal\\_Act\\_and\\_Common\\_Frameworks\\_report-26\\_December\\_2020\\_to\\_25\\_March\\_2021.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/986797/The_European_Union_Withdrawal_Act_and_Common_Frameworks_report-26_December_2020_to_25_March_2021.pdf)

<sup>2</sup>[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/652285/Joint\\_Ministerial\\_Committee\\_communique.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/652285/Joint_Ministerial_Committee_communique.pdf)

- *lead to a significant increase in decision-making powers for the devolved administrations.*
3. *Frameworks will ensure recognition of the economic and social linkages between Northern Ireland and Ireland and that Northern Ireland will be the only part of the UK which shares a land frontier with the EU. They will also adhere to the Belfast Agreement.*
- 1.5. The Northern Ireland Executive endorsed the JMC(EN) principles in June 2020. These principles continue to guide all discussions between the Government and the devolved administrations on Common Frameworks. Details of how these principles have been taken into account are included in this report, and will continue to be included in future iterations of this publication.

## Progress Towards Establishing Common Frameworks

- 1.6. The following section sets out the steps taken during this reporting period by the Government, in collaboration with the devolved administrations, towards implementing long-term Common Frameworks. It also outlines how the Frameworks Principles have been taken into account.

## Frameworks Delivery

- 1.7. The work to establish Common Frameworks has five phases. The delivery plan below illustrates how a framework moves through these five phases of development. Each framework moves through this process at a different pace.
- **Phase 1: Principles and proof of concept:** consists of engagement between the Government and devolved administration officials (also referred to as multilateral deep dives) to focus on Frameworks, as well as to establish some of the key interdependencies that affect multiple Frameworks.
  - **Phase 2: Policy development:** Detailed policy development takes place, including joint work between the Government and devolved administration officials to agree policy approaches and operational and governance arrangements for each policy area. Initial stakeholder engagement also takes place where appropriate. This results in jointly drafted and agreed outline Frameworks.
  - **Phase 3: Review and consultation:** The Government and devolved administrations collaborate to further develop and finalise policy approaches, explore interactions with cross-cutting workstreams, and agree operational and governance arrangements. Technical engagement takes place with sector-specific stakeholders. Towards the end of Phase 3, in-depth review and assessment takes place, conducted jointly at official level. This phase results in cross-departmental collective agreement on the policy approach within the Government, and provisional confirmation of Frameworks by each administration. This in-depth review and joint confirmation ensures that a minimally operable framework, recognised as a 'provisional framework', is developed.

- **Phase 4: Preparation and implementation:** The Government and devolved administration officials work jointly on any ongoing reappraisals of cross-cutting issues, present the Frameworks for parliamentary scrutiny and review parliamentary recommendations in order to finalise individual Frameworks. At the end of this phase, the provisional framework receives ministerial approval from the intergovernmental forum responsible for the common Frameworks programme and the successor to JMC(EN) (agreed through the review of intergovernmental relations).
  - **Phase 5: Post-implementation:** Post-implementation arrangements take place, including regular cycles of review and, if appropriate, amendment. These vary between Frameworks and details continue to be developed as the Common Frameworks programme progresses.
- 1.8. Frameworks are undergoing continued development during 2021 according to the requirements of their particular policy areas. The delivery process detailed above takes into account the need for Frameworks to be implemented in different ways, with some activities undertaken concurrently, to ensure that all of the necessary steps have been completed. Accordingly, Frameworks will progress and be finalised at different points in time, depending on their individual requirements.

## Delivery Plan

- 1.9. Work on individual Frameworks has been ongoing during this reporting period, with a specific focus on taking into account the cross-cutting issues that apply to those Frameworks. Delivery timelines for each framework will vary according to the cross-cutting issues that apply and their level of intersect along with any need for further stakeholder engagement.
- 1.10. The pre-election period for the elections to the Senedd and Scottish Parliament applied to the first six weeks of this reporting period. The Cabinet Office continued to liaise with the devolved administrations to coordinate the progress of the programme during the pre-election period while respecting the guidance issued to civil servants of all administrations to maintain impartiality. Officials from both the Welsh Government and Scottish Government were able to continue to participate in the Frameworks Project Team and Project Board meetings during this time.

## Framework Coordination

- 1.11. Frameworks are being developed through constructive discussions between the Government and the devolved administrations. These discussions have continued during the latest reporting period (26 March to 25 June 2021).
- 1.12. During this reporting period there were four meetings of the UK Government-devolved administrations Frameworks Project Board, involving Cabinet Office senior officials and their counterparts in the devolved administrations. The Project Board monitors progress and facilitates agreement on the direction of the UK Common Frameworks programme.

- 1.13. At an operational level, there have been weekly Frameworks Project Team meetings between officials in the Government and the devolved administrations to support the detailed development of Frameworks by policy officials.
- 1.14. During this reporting period, a working-level UK Government-devolved administration sub-group was formed to focus on the resolution of cross-cutting issues that impact Frameworks. This sub-group has met on a fortnightly basis, reporting into the Frameworks Project Team and Project Board.
- 1.15. The Cabinet Office, as programme coordinator, has also engaged with UK Government departments through a fortnightly Deputy Director-level Frameworks group on strategic policy development and planning, alongside a monthly Frameworks Working Group to provide policy leads with updates and to discuss barriers and drive progress. Working group meetings have also taken place between Cabinet Office officials and officials from framework-owning departments on individual Frameworks.

## Programme Development

### Framework Agreement

- 1.16. The Hazardous Substances (Planning) framework was finalised and fully implemented during this period, having completed scrutiny by all four legislatures. This is the first framework in the programme to have reached this point. The finalised framework was subsequently published on 31 August 2021.
- 1.17. On 8 July, after the end of this reporting period, a further 21 Frameworks were provisionally confirmed by all administrations. An additional Framework was provisionally confirmed on 14 October. The Government and the devolved administrations agreed that portfolio minister clearance would represent provisional confirmation of Frameworks. This takes the total number of finalised Frameworks to one and provisionally confirmed Frameworks to 29. The provisionally confirmed Frameworks are:
  1. Emissions Trading System;
  2. Radioactive Substances;
  3. Late Payment;
  4. Specified Quantities and Packaged Goods;
  5. Company Law;
  6. Agricultural Support;
  7. Agriculture - Fertiliser Regulations;
  8. Agriculture - Organic Farming;
  9. Agriculture - Zootech;
  10. Animal Health and Welfare;
  11. Fisheries Management and Support;
  12. Plant Health;
  13. Plant Varieties and Seeds;
  14. Air Quality;
  15. Best Available Techniques;



16. Ozone Depleting Substances and F-gases;
17. Chemicals and Pesticides;
18. Resources and Waste;
19. Operator Licensing and Commercial Transport;
20. Driver Licensing;
21. Rail Technical Standards;
22. Roads - Motor Insurance;
23. Nutrition Labelling, Composition and Standards;
24. Blood Safety and Quality;
25. Organs, Tissues and Cells (apart from embryos and gametes);
26. Public Health Protection and Health Security;
27. Food Compositional Standards and Labelling;
28. Public Procurement; and
29. Food and Feed Safety and Hygiene Law.

#### Phase 4 Development

- 1.18. All provisional Frameworks continued to undergo development towards their finalisation, which requires conclusion of:
  - a) Any remaining framework-specific policy development, including the resolution of cross-cutting issues;
  - b) Any further technical stakeholder engagement required; and
  - c) Parliamentary scrutiny by the legislatures of each administration with an interest in the framework.

#### Operational Monitoring

- 1.19. A specific exercise was conducted for the Nutrition Labelling, Composition and Standards (NLCS) Framework during which the NLCS policy group and the UK Government and devolved administration Frameworks teams ran two hypothetical scenarios through the NLCS decision making and dispute resolution processes to test its ability to manage policy changes which could potentially cause intra-UK divergence. The implications of the Northern Ireland Protocol were considered in the context of the two scenarios.
- 1.20. Overall, the exercise indicated that the NLCS Framework was working well on an interim basis at official level. The conclusions from this exercise were that the Framework includes the right set of discussion fora at various levels, and that it made particularly good use of the opportunity to link framework decision making structures with relevant experts and risk analysis. This enabled the group to consider the various trade-offs in the option that would be recommended to ministers, which in practical terms was likely to minimise the need to initiate the dispute resolution mechanism within the Framework. Following this successful exercise the Project Team is undertaking a series of further monitoring sessions involving other Frameworks.

#### Transparency

- 1.21. The Government is committed to transparency in the UK Common Frameworks programme. The European Union (Withdrawal) Act and Common Frameworks report, detailing programme delivery and individual framework development, will continue to be laid quarterly, as per statutory requirements. These reports, alongside a number of provisional Frameworks and associated publications can be accessed on the Government's UK Common Frameworks webpage on gov.uk.<sup>3</sup>

## Parliamentary Engagement

- 1.22. The Government has continued to engage constructively with the UK Parliament, most regularly with the House of Lords Common Frameworks Scrutiny Committee (CFSC) chaired by Baroness Andrews. The CFSC in particular has continued to take a close interest in the programme and wrote to UK Government Ministers regularly during this reporting period. Most notably the CFSC published a report, '*Common Frameworks: building a cooperative Union*', and submitted recommendations on the Public Procurement Provisional Framework. The Government welcomed the Committee's report and in response shared additional updates on cross-cutting issues and set out the Government's aim to ensure maximum consistency and to develop commonly agreed approaches to dealing with these cross-cutting issues. Ministers from the Office of the Secretary of State for Scotland, Office of the Secretary of State for Wales and the Northern Ireland Office appeared before the Committee on 15 June 2021.
- 1.23. At official level, the Government and UK Parliament have worked closely to prepare for formal scrutiny of all UK Common Frameworks. As a result, the UK Parliament has now received Framework Summaries or early Provisional Frameworks for the majority of UK Common Frameworks. During this reporting period UK Parliament received Framework Summaries for: Fertiliser Regulations; Ozone Depleting Substances and F-gases; Resources and Waste; Air Quality; Best Available Techniques; Chemicals and Pesticides; Agricultural Support; Animal Health and Welfare; Zootechnics; Plant Varieties and Seeds; and Plant Health.

## Stakeholder Engagement

- 1.24. The Government and devolved administrations work collaboratively to conduct a programme of engagement with sector-specific experts at various points in the development of each framework. This engagement is conducted jointly across all administrations where possible. The process updates stakeholders on the development of specific Frameworks and affords stakeholders an opportunity to input their views and expertise. In this reporting period, the Food Compositional Standards and Labelling Framework policy team conducted a video conference engagement session with stakeholders.

## Cross-Cutting Issues

- 1.25. Work has continued between Government departments and the devolved administrations to make progress on the resolution of the various cross-cutting issues which impact on individual Frameworks. The Common Frameworks Project Board

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<sup>3</sup> <https://www.gov.uk/government/collections/uk-common-frameworks>

established a joint UK Government-devolved administrations cross-cutting issues sub-group in March to determine the exact intersect between the range of cross-cutting issues and Common Frameworks and to seek ways of addressing these issues. The group met six times within the reporting period.

- 1.26. Recognising that not every Common Framework intersects with every cross cutting issue, or to the same extent, the joint UK Government-devolved administrations cross-cutting issues sub-group has engaged with the Frameworks policy teams to ascertain the precise degree to which Common Frameworks intersect with the cross-cutting issues of international relations/trade and the Trade and Cooperation Agreement. The result of this exercise will help to determine which Common Frameworks are able to progress to the next phase of development more quickly.
- 1.27. Work on the Intergovernmental Relations Review has continued throughout the reporting period. The completion of the review will necessitate some small amendments to the Common Frameworks to reflect the role of new structures in the mechanisms of the Common Frameworks. The work on the Intergovernmental Relations Review has not presented a barrier to progressing Frameworks to full implementation, since Review and Amendment mechanisms allow for post full-implementation amendments to be made.
- 1.28. The principles for Common Frameworks agreed at JMC(EN) on 16 October 2017 state that “frameworks will ensure recognition of the economic and social linkages between Northern Ireland and Ireland and that Northern Ireland will be the only part of the UK that shares a land border with the EU. They will also adhere to the Belfast Agreement”.
- 1.29. The Protocol on Ireland/Northern Ireland to the Withdrawal Agreement, including the Unilateral Declaration on Consent made by the UK Government, avoids a hard border on the island of Ireland, whilst ensuring that the UK, including Northern Ireland, could leave the EU as a whole. As long as the Protocol is in force, special provisions apply in Northern Ireland. These include (but are not exhausted by) Northern Ireland remaining within the UK’s customs territory but aligning with the EU on goods (including certain laws for VAT on goods), and EU tariffs applying in Northern Ireland except for movements within the single customs territory of the UK. A number of pieces of EU legislation will continue to apply directly in Northern Ireland by virtue of the Protocol, in certain policy areas. These are set out in the Annexes to the Protocol.
- 1.30. Common Frameworks policy teams have continued to work with the teams responsible for the Common Frameworks programme to ensure that Common Frameworks satisfactorily take account of the operation of the Protocol where it is relevant to specific Frameworks. Common Frameworks are one of several mechanisms which will enable divergence arising from the implementation of the Protocol to be managed appropriately. The Government considers that Frameworks contain the governance structures needed to contribute to managing divergence arising from the Protocol in relevant areas.
- 1.31. In this reporting period the Government continued work on implementing the provisions within the UK Internal Market Act, including those which relate to Common Frameworks. The UK Government has been working with the devolved administrations

to determine a mechanism for agreeing exclusions from the market access principles in the UK Internal Market Act.

## Legislation Relating to Retained EU Law Restrictions

- 1.32. Section 12 of the European Union (Withdrawal) Act 2018 removed the requirements in each of the devolution statutes that the devolved legislatures could only legislate in ways that were compatible with EU law. The Act then replaced those requirements with powers for the Government to apply, by regulations, a temporary ‘freeze’ on devolved competence in specified areas, subject to the approval of the UK Parliament, via the draft affirmative scrutiny procedure. These provisions came fully into force at the end of the Transition Period.
- 1.33. The process for making, agreeing and revoking these regulations can be found in the first European Union (Withdrawal) Act and Common Frameworks report.

### Regulations to ‘Freeze’ Devolved Competence

#### Retained EU law restrictions applied during reporting period

- 1.34. No regulations have been made to apply retained EU law restrictions under these powers during the reporting period.

#### Progress towards removal of retained EU law restrictions

- 1.35. No retained EU law restrictions made under the powers in sections 30A and 57(4) of the Scotland Act 1998, sections 80(8) and 109A of the Government of Wales Act 2006, or sections 6A and 24(3) of the Northern Ireland Act 1998 had effect at the end the reporting period.

### Regulations to Repeal the ‘Freezing’ Powers

- 1.36. In addition to the ‘freezing’ powers inserted into the devolution statutes by the European Union (Withdrawal) Act, section 12(9) confers a power on UK Ministers to repeal, by regulations, the new provisions containing those powers.

#### Powers to apply retained EU law restrictions repealed during reporting period

- 1.37. No regulations have been made under section 12(9) of the European Union (Withdrawal) Act to repeal the powers to apply retained EU law restrictions during the reporting period.

#### Progress required in order to repeal the powers to apply retained EU law restrictions

- 1.38. The Government has not sought to make use of the powers to apply retained EU law restrictions at this juncture. As outlined earlier in this report, significant progress is

being made across policy areas to establish Common Frameworks in collaboration with the devolved administrations.

- 1.39. The 'freezing' powers provide a mechanism to give certainty across those areas where common rules do need to be maintained, by ensuring that there will not be substantive policy change in different parts of the UK until those arrangements are in place. In order to remove those powers from the statute book, further progress towards the implementation of Common Frameworks would be needed. The UK Government will keep this position under review, in line with the statutory duty in section 12(10) of the European Union (Withdrawal) Act.

# Frameworks Analysis 2021

Breakdown of areas previously governed by EU law that intersect with devolved competence in Scotland, Wales and Northern Ireland



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## A Collaborative Approach to Common Frameworks

Following the end of the EU exit transition period on 31 December 2020, powers previously exercised at EU level that intersect with devolved competence flowed directly to Edinburgh, Cardiff and Belfast. In some areas, outlined in this document, the UK Government and the devolved administrations have agreed it is necessary to maintain UK-wide approaches, or Common Frameworks, now the UK is no longer a member state of the EU.

A UK Common Framework is an agreed common approach to policy areas that were previously governed by EU law, and intersect with areas of devolved competence. Common Frameworks will ensure that coherent approaches to regulation are maintained across the UK. They will also enable the UK Government and the devolved administrations of Scotland, Wales and Northern Ireland to make different choices on how to implement the rules in some of these policy areas.

A Framework may allow for intra-UK policy divergence so that each administration can make decisions on the appropriate approach for its jurisdiction, but may also facilitate consistent approaches between administrations, where administrations have determined that such consistency will be of benefit to citizens and/or businesses.

### Principles for Common Frameworks

In October 2017, the Joint Ministerial Committee (European Negotiations) (JMC(EN)) agreed upon principles to guide the work to create Common Frameworks<sup>1</sup>. These principles are set out below:

1. *Common Frameworks will be established where they are necessary in order to:*
  - *enable the functioning of the UK internal market, while acknowledging policy divergence;*
  - *ensure compliance with international obligations;*
  - *ensure the UK can negotiate, enter into and implement new trade agreements and international treaties;*
  - *enable the management of common resources;*

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<sup>1</sup>[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/652285/Joint\\_Ministerial\\_Committee\\_communique.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/652285/Joint_Ministerial_Committee_communique.pdf)

- *administer and provide access to justice in cases with a cross-border element;*
  - *safeguard the security of the UK.*
2. *Common Frameworks will respect the devolution settlements and the democratic accountability of the devolved legislatures, and will therefore:*
- *be based on established conventions and practices, including that the competence of the devolved institutions will not normally be adjusted without their consent;*
  - *maintain, as a minimum, equivalent flexibility for tailoring policies to the specific needs of each territory, as is afforded by current EU rules;*
  - *lead to a significant increase in decision-making powers for the devolved administrations.*
3. *Common Frameworks will ensure recognition of the economic and social linkages between Northern Ireland and Ireland and that Northern Ireland will be the only part of the UK which shares a land frontier with the EU. They will also adhere to the Belfast Agreement.*

These principles continue to guide all discussions between the UK Government and the devolved administrations on Common Frameworks. The Northern Ireland Executive signed up to the Common Frameworks programme and its principles in June 2020.

# Breakdown of areas previously governed by EU law that intersect with devolved competence in Scotland, Wales and Northern Ireland

This analysis sets out each of the 152 areas of EU law that intersect with devolved competence in one or more devolved administrations. As the devolution settlements are asymmetrical, a different range of powers is relevant to Scotland, Wales and Northern Ireland.

This analysis is the fourth iteration of the working documents that were published on 9 March 2018<sup>2</sup>, 4 April 2019<sup>3</sup> and 24 September 2020<sup>4</sup> and sets out the latest policy positions on whether a policy area requires a Framework or not, including whether a Framework has any associated primary legislation. The analysis sets out:

- 120 policy areas where no Framework is required, and the UK Government and devolved administrations will continue to cooperate. Policy areas in this category remain monitored by departments and if a requirement for new implementing arrangements is identified, policy areas in the 'no Framework required' category could become a Framework and move category. As such, the numbers set out in this document are subject to change over time. This category was previously termed 'no further action' but has been renamed 'no Frameworks required' for greater accuracy.
- 29 policy areas where common rules and ways of working are or will be implemented through a non-legislative Common Framework agreement. In some of these areas, consistent fixes to retained EU law (made using secondary legislation) create a unified body of law alongside the non-legislative Framework agreement.
- 3 policy areas where, at the time of publication, new primary legislation had been introduced to reflect the fact that the UK is no longer an EU member state. This legislation implements common rules and ways of working, alongside a non-legislative Framework agreement.

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<sup>2</sup>[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/686991/20180307\\_FINAL\\_Frameworks\\_analysis\\_for\\_publication\\_on\\_9\\_March\\_2018.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/686991/20180307_FINAL_Frameworks_analysis_for_publication_on_9_March_2018.pdf)

<sup>3</sup>[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/792738/20190404-FrameworksAnalysis.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/792738/20190404-FrameworksAnalysis.pdf)

<sup>4</sup>[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/919729/Frameworks-Analysis-2020.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/919729/Frameworks-Analysis-2020.pdf)

In total there are 32 policy areas where Frameworks are required.

In some instances, policy areas include a mixture of reserved and devolved competence, including where technical standards that derive from EU law are relevant. These policy areas are marked with an asterisk. The analysis also includes 2 policy areas that the UK Government assesses are reserved and which are subject to ongoing discussion with the devolved administrations.

## Changes since September 2020

Progress since the publication of the Frameworks Analysis 2020 has been set out publicly in five statutory reports to Parliament on the EU (Withdrawal) Act and Common Frameworks.

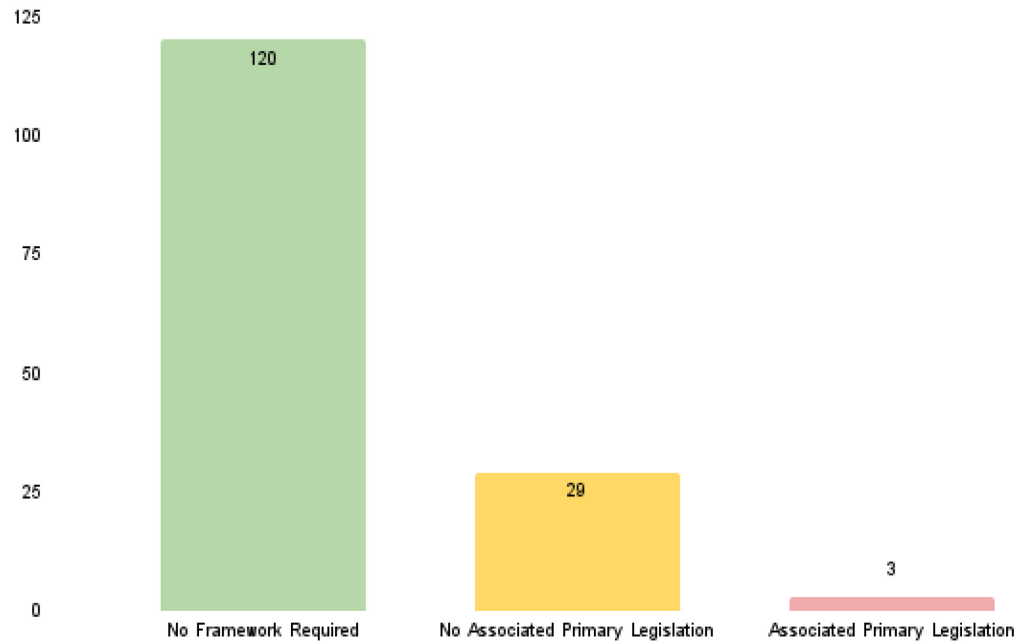
Ongoing constructive, collaborative work between the UK Government and the devolved administrations has progressed our understanding of where Common Frameworks are required and how they are implemented. Accordingly, this fourth iteration of the Common Frameworks Analysis provides a snapshot of how the categorisation of policy areas has evolved in light of this programme of work. It remains part of an ongoing dialogue that will continue to develop as work continues.

This analysis sets out a number of changes compared to the September 2020 edition:

- The overall number of policy areas has decreased from 154 to 152. This is not due to Frameworks being removed from the programme, but is instead due to mergers of policy areas. These changes are set out in the table under the section '*Combining policy areas and name changes*' below. These mergers allow the Frameworks programme to better reflect the reality of how those policy areas will operate.
- The number of policy areas in category 1 has increased from 115 to 120. These are the policy areas where no Framework is required and where parties will continue to cooperate.
- The number of policy areas in category 2 (Frameworks with no associated primary legislation) has increased from 22 to 29. This is due to collaborative work between the UK Government and devolved administrations leading to a shared understanding that several areas do not require a Framework, and greater clarity on the implementing arrangements for a number of policy areas that do require a Framework.
- The number of policy areas in category 3 (Frameworks with associated primary legislation) has decreased from 18 to 3. This is as a result of clarity on the implementing arrangements for several Frameworks that were originally identified as possibly requiring a legislative approach through primary legislation.

- The number of policy areas that the UK Government assesses are reserved, but are subject to ongoing discussions with the devolved administrations has decreased from 4 to 2.

The tables below set out the current position of policy areas within the Frameworks programme. Table 1 sets out a breakdown of policy areas by category. Table 2 sets out the total number of policy areas by UK Government department, including a further breakdown by category. Table 3 sets out the total number of policy areas by devolved administrations, including a further breakdown by category.



**Table 1: Total Number of Policy Areas by Category**

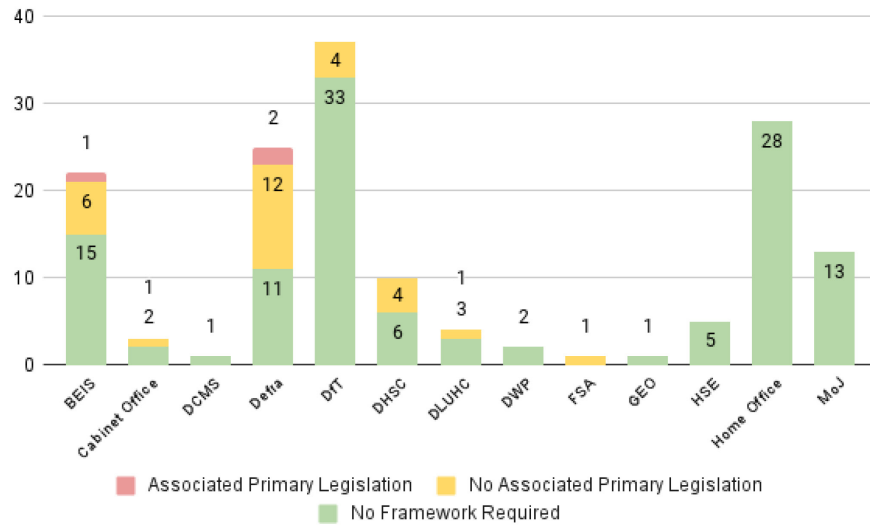


Table 2: Number of Policy Areas by UK Government Department

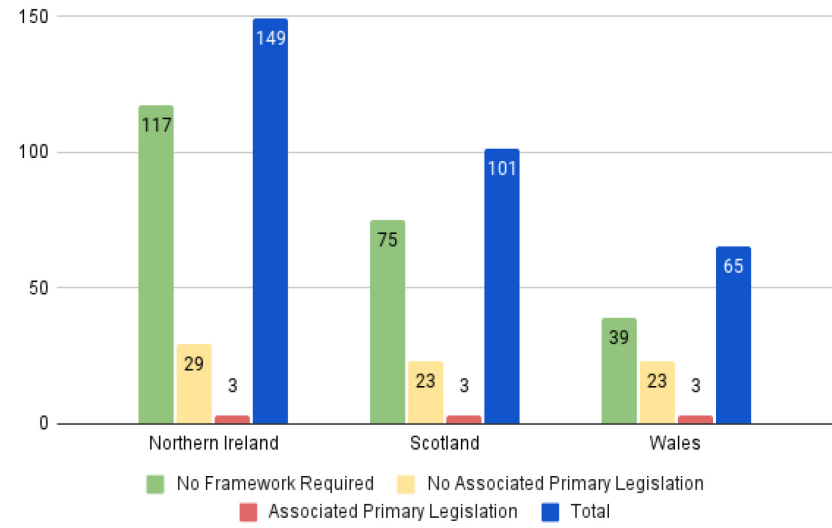


Table 3: Devolution Intersects with Scotland, Northern Ireland and Wales



# Reclassification process and background

## Reclassification of policy areas to category 1 (no Framework required)

Since the Frameworks Analysis 2020, a total of 6 policy areas have moved into the no Framework required category (category 1) of which 2 have moved from category 3 (Frameworks with associated primary legislation) and 4 have moved from category 2 (Frameworks with no associated primary legislation). *Equal Treatment Legislation* was previously listed as category 1 for Wales and Scotland and category 2 for Northern Ireland. It is now listed in category 1 for all devolved administrations. In each of these cases, policy officials from the UK Government and the devolved administrations jointly identified that there was no need to develop a Framework (no Framework required). Additionally, 1 policy area (*Management of Waste From Extractive Industries*) has been merged with a policy area in category 2 (*Resources and Waste*).

Once UK Government and devolved administration policy teams identified that a Framework was no longer required in their area, a set of 'reclassification review' questions was commissioned in order to test this assumption against the principles for Common Frameworks agreed at JMC(EN), and against any previous statements or communications made by policy teams. Policy teams' responses to these questions were reviewed and agreed by the joint UK Government-devolved administration Common Frameworks Project Board.

The reclassification rationales returned by policy teams included:

- A brief outline on whether there are any new intergovernmental arrangements required to manage the risks posed by divergence in this policy area.
- A confirmation that the decision not to proceed with a Framework has been discussed and jointly agreed by Frameworks policy teams in all four administrations.
- An assessment of whether the absence of a Framework would pose any risk to any of the JMC(EN) Common Frameworks Principles.
- An explanation of how continued cooperation in the policy area will be monitored and maintained post EU-Exit.

All policy areas in the no Framework required category remain open for review. If a requirement for new implementing arrangements is identified, policy areas in the no Framework required category could be moved to categories 2 or 3 and become a Framework.

For the first time, this document sets out a brief rationale as to why each of these policy areas does not require a Common Framework. Of these, 59 (49%) have been assessed as having minimal risk of divergence and thus no policy-specific intergovernmental arrangements are required. Of the remainder, 50 (41.5%) have been assessed as having sufficient existing intergovernmental arrangements in place that a Framework is not required and 11 (9.5%) were assessed as areas where divergence would have minimal impact, and no policy-specific intergovernmental arrangements are required. Policy teams continue to monitor these policy areas and if any assessment changes the option remains to develop a Common Framework.

## Reclassification of policy areas to category 2 (Frameworks with no associated primary legislation)

Since the Frameworks Analysis 2020, a total of 13 policy areas have moved from category 3 to category 2. Two policy areas have also been merged into one Framework (*Commercial Transport and Operator Licensing*).

The individual implementation methods of each Framework were decided by policy teams, with involvement from the relevant portfolio ministers as required. Agreement has also been sought by all four administrations' central Frameworks teams.

## Categories of Frameworks

All UK Common Frameworks are non-statutory intergovernmental arrangements. Some Frameworks will have associated primary or secondary legislation as a result of EU Exit. The previously used categories of 'legislative' and 'non-legislative' Frameworks have been renamed to better account for the differences between Frameworks.

### Frameworks with associated primary legislation (category 3)

Policy areas where, at the time of publication, new primary legislation had been introduced to reflect the fact that the UK is no longer an EU member state. This legislation implements common rules and ways of working, alongside a non-legislative Framework agreement.

### Frameworks with no associated primary legislation (category 2)

Policy areas where, at time of publication, common rules and ways of working had been or were due to be implemented through a non-legislative Common Framework agreement. In some of these areas, consistent fixes to retained EU law (made using secondary legislation) create a unified body of law alongside the non-legislative Framework agreement.

## Combining policy areas and name changes

Since the last publication of the revised Frameworks Analysis 2020 the following policy areas have been combined and re-named:

Department	Previous policy areas	New policy area
Defra	Management of Waste From Extractive Industries	Resources and Waste
	Resources and Waste	
DfT	Commercial Transport	Commercial Transport and Operator Licensing
	Operator Licensing	

This change was decided by the relevant policy teams to ensure that the Framework correctly reflects the reality of the policy area. The policy areas were intertwined and hence managed as a single policy area in practice, and there was no clear benefit in having separate Frameworks.

Once policy teams identified that these two areas should be merged, they were commissioned to provide a short rationale for these changes in order to test this assumption against the principles for Common Frameworks agreed at JMC(EN), and against any previous statements or communications made by policy teams. Policy teams' returns were reviewed and agreed by the Common Frameworks Project Board.

Since the last publication the following Frameworks areas have had their names changed to better reflect the underlying policy areas.

<b>Department</b>	<b>Previous Name</b>	<b>New Name</b>
DHSC	Public Health (serious cross-border threats to health) (notification system for pandemic flu, Zika etc)	Public Health Protection and Health Security
Defra	Agriculture - Organic farming	Agriculture - Organic production

# Frameworks areas overview

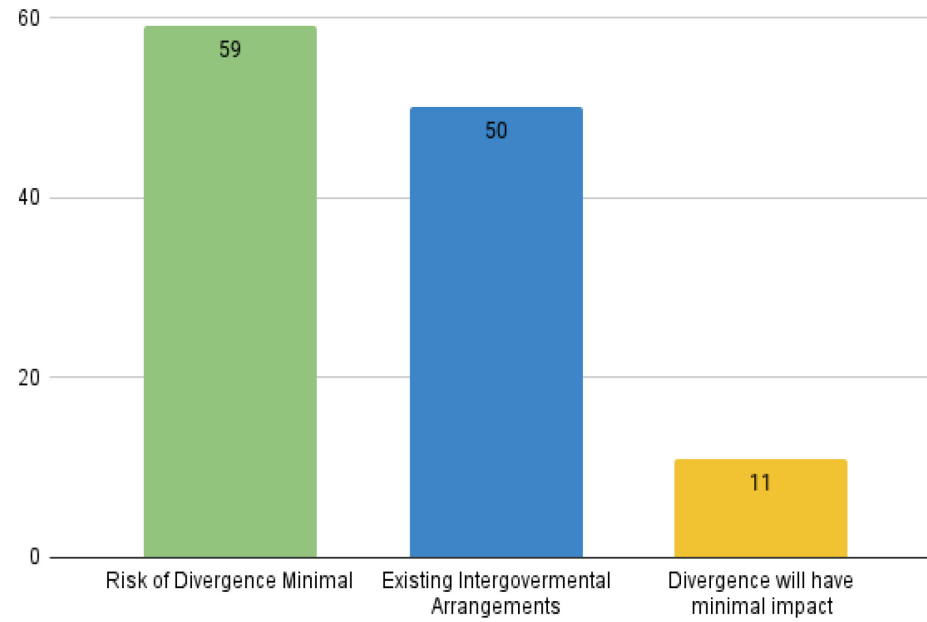
## Category 1: No Framework required areas

**120 Policy areas where no Common Framework is required, and where the UK Government and devolved administrations will continue to cooperate.**

In this fourth iteration of the Frameworks Analysis, rationales have been included for each policy area for the first time in order to explain why a Framework is not required.

Rationales have been colour-coded to indicate the primary reason why a Framework is not required. Table 4 below sets out the total number of policy areas by rationale.

Rationale	Colour Code
Risk of divergence is minimal and no specific intergovernmental arrangements are needed	Green
Existing intergovernmental arrangements in place to ensure coherence and manage risk of divergence	Blue
Divergence has, or is expected to have, minimal impact and no specific intergovernmental arrangements are needed	Yellow



**Table 4: No Framework Required Areas by Rationale**

Responsible UK Government Department	Area of EU Law (Policy Area)	Devolution Intersect <sup>5</sup>			Additional Information - previous EU law	Rationale for No Framework Required
		NI	S	W		
BEIS	Carbon Capture and Storage	x*	x*	x*	Directive 2009/31/EC on the geological storage of CO2 establishes a legal framework for the environmentally safe geological storage of CO2 to contribute to combating climate change.	This Directive is implemented into UK law by 2 pieces of legislation concerning standards: The Storage of Carbon Dioxide (Licensing etc) Regulations 2010 and The Storage of Carbon Dioxide (Termination of Licenses) Regulation 2011 which will ensure a common approach where needed.
BEIS	Consumer Law including Protection and Enforcement	x			A body of law providing rights and protections for consumers consisting of principles-based, enforcement and sector-specific legislation, including Unfair Contract Terms (93/13/EC), Consumer Rights (2011/83/EC), Unfair Commercial Practices (2005/29/EC) and a cross-border Consumer Protection Cooperation Regulation (EC 2006/2004).	There is an existing Memorandum of Understanding between GB and NI which will help to ensure consistency post-EU Exit. Consumer protection policy, including enforcement, is reserved for Scotland and Wales. No risk of divergence is foreseen.
BEIS	Elements of Employment Law	x			Employment law is not an exclusive EU competence but there are a number of directives concerning individual and collective rights implemented in UK law, including the Working Time Directive 2003/88/EC and Pregnant Workers Directive 1992/85/EEC. EU law sets the minimum standards and Member States (and DAs, where competence is devolved) may legislate freely above this level.	Some (but not all) UK employment law derives from EU law. There is currently consistent shared practice across GB and largely shared rules with NI. It is unlikely that NI or GB would seek to diverge significantly from current practices, nor would there be significant impact were this to occur.

<sup>5</sup> Policy areas marked with an asterisk (\*) include a mixture of reserved and devolved competence including where technical standards that derive from EU law are relevant.

Responsible UK Government Department	Area of EU Law (Policy Area)	Devolution Intersect <sup>5</sup>			Additional Information - previous EU law	Rationale for No Framework Required
		NI	S	W		
BEIS	Energy Efficiency Directive and High Efficiency Cogeneration / Combined Heat and Power (EED/CHP)	x*	x*	x*	<p>The Energy Efficiency Directive (2012/27/EU) sets energy efficiency targets and other requirements to encourage and improve energy efficiency.</p> <p>Measures that promote the use of high-efficiency cogeneration (Combined Heat and Power) in order to increase the energy efficiency and improve the security of energy supply (Energy Efficiency Directive 2012/27/EU).</p>	The Climate Change Act will maintain a UK-wide approach to decarbonisation. Energy efficiency policies already diverge between the different jurisdictions in the UK, without harm to the internal market, international obligations or trade agreements.
BEIS	Environmental Law Concerning Energy Industries	x*	x*	x*	EU legislation contains rules and environmental standards relevant to offshore oil and gas exploration and production, offshore gas unloading and storage, and offshore carbon dioxide storage activities	Divergence already exists, as each devolved administration has its own regulatory regime (with onshore oil and gas ("hydrocarbon") licensing and associated environmental regulatory functions devolved - and with certain environmental regulatory functions for offshore hydrocarbon operations also devolved. The baseline that is required is already secured in UK wide legislation that reflects the UK's international obligations in this field.
BEIS	Environmental Law Concerning Energy Planning Consents	x*	x*	x*	Directives set out provisions for Environmental Impact Assessments for generating stations and overhead lines (85/337/EEC, 97/11/EC, 2003/35/EC, 2009/31/EC, 2011/92/EU and 2014/52/EU).	Divergence is unlikely and impact would be minor as a joint approach can be maintained through informal intergovernmental agreements.



Responsible UK Government Department	Area of EU Law (Policy Area)	Devolution Intersect <sup>5</sup>			Additional Information - previous EU law	Rationale for No Framework Required
		NI	S	W		
BEIS	Geo-Blocking	x*	x*	x*	Regulation prohibits blocking or redirecting users away from versions of websites available to other EU nationals. It therefore prohibits discriminatory terms of access on the basis of location in EU when purchasing distance goods, wholly online services, and services tied to a specific location (some exceptions apply), as well as discrimination based on place of issue of the payment method.	Geo-Blocking regulation applies only between states so currently there is no impact on intra-UK sales.
BEIS	Heat Metering and Billing Information	x	x		Energy Efficiency Directive 2012/27/EU sets duties for heat suppliers in respect of installing and maintaining heat metering devices and billing, minimum requirements for billing information, and determination of cost effectiveness and technical feasibility.	Divergence exists already, with minimal impact. Further divergence would not be problematic.
BEIS	Internal Energy Market / Third Energy Package	x			Package of legislation on the development of the internal energy market, particularly cross-border trading.	NI and Ireland (IE) are part of a single electricity market that operates differently to the GB market. Further differentiation (e.g. for NI to remain aligned with IE) would be acceptable and would not cause detriment to the GB market.
BEIS	Onshore Hydrocarbons Licensing	x	x	x	Directive 94/22/EEC sets the conditions for tendering and determining applications for hydrocarbon licences and imposes restrictions on the terms which may be included in licences and their extension.	Responsibility for the policy area is devolved and within this structure divergence will not present any significant risks. No intergovernmental arrangements are required.

Responsible UK Government Department	Area of EU Law (Policy Area)	Devolution Intersect <sup>5</sup>			Additional Information - previous EU law	Rationale for No Framework Required
		NI	S	W		
BEIS	Recognition of Insolvency Proceedings in EU Member States	x	x*		Regulation 2015/848 on Insolvency Proceedings focusses on resolving conflicts of jurisdiction and cross border insolvencies, providing rules to determine which EU states' courts have jurisdiction to open insolvency proceedings, ensuring that those proceedings and their effects are recognised throughout the EU, and coordinating between proceedings in different member states. This Regulation recasts and supersedes an earlier instrument, Regulation 1346/2000.	There are existing intergovernmental structures in place to mitigate against divergence, supported by domestic law which reflect international best practice. No further intergovernmental arrangements are needed.
BEIS	Renewable Energy Directive	x*	x*	x*	The Renewable Energy Directive (2009/28/EC) places a 15% renewable energy target, and a 10% renewable energy sub target for the transport sector on the UK. The Directive sets out a number of other measures and frameworks to support the production and promotion of energy from renewable sources.	Divergence is already built into this area at a domestic level and further divergence would not be problematic or require intergovernmental management.
BEIS	Security of Supply (emergency stocks of oil)	x*			Directive 2009/119/EC obligates Member States to maintain emergency stocks of crude oil and petroleum products.	The Energy Act 1976 retains executive powers for UKG to manage the system (even though legislative powers are transferred to NI). For this reason, BEIS does not anticipate that stocks would be depleted if NI chose to adopt a different approach.
BEIS	Security of Supply (gas)	x			Regulations concerning the security of gas supply, preventing potential supply disruptions and supporting a response to them should they occur. The regulations also create common standards to measure serious threats and define how much gas is needed to be able to supply households and vulnerable consumers.	NI, GB and Ireland operate their gas networks and markets independently, but they are closely aligned in regulatory terms, with NI (and IE) relying on gas imports from GB. GB gas security of supply is robust and would not suffer as a result of NI regulatory divergence.

Responsible UK Government Department	Area of EU Law (Policy Area)	Devolution Intersect <sup>5</sup>			Additional Information - previous EU law	Rationale for No Framework Required
		NI	S	W		
BEIS	Transport of Dangerous Goods and Transportable Pressure Equipment - Class 7 only	x			Regulation establishes a common regime for all aspects of the transport of radiological (Class 7) dangerous goods, by road, rail, and inland waterway subject to some national derogations. It links to the Euratom legislation Directive 2008/68/EC on the inland transport of dangerous goods.	NI and IE are part of a single energy market that operates differently to the GB market. Further differentiation in the regulations for transport of these materials (e.g. for NI to remain aligned with IE) would be acceptable and would not cause detriment to the GB market.
Cabinet Office	Statistics	x*	x*	x*	Provision of prescribed datasets to the EU on a wide variety of topics (statistics is cross-cutting).	There are existing intergovernmental arrangements in place to ensure coherence and manage risks of divergence. Engagement on statistics between the UKG and the DAs is underpinned by the existing Concordat on Statistics
Cabinet Office	Voting Rights and Candidacy Rules for EU Citizens in Local Government Elections		x	x	Article 20(2)(b) TFEU, Article 22 TFEU sets out that all parts of the UK must allow EU citizens the right to vote and stand in local government elections. In England and Wales local elections also include Police and Crime Commissioner elections, mayoral elections and combined authority mayoral elections. This is set out in detail in UK legislation, specifically in Section 4 of the Representation of the People Act 1983.	The risks of divergence leading to international obligations not being met can be managed through discussions and agreement with the devolved administrations.
DCMS	The Rental and Lending Directive (concerning library lending)	x			The lending articles of this Directive give right holders the right to allow or to prohibit the lending of their work. The Directive also allows Member States to derogate from the lending right in respect of public lending, provided that the author receives remuneration.	The impact associated with divergence is minimal, but there are strong incentives to converge for efficiency reasons and NI currently allows the UK to act on its behalf (and has done so for over 30 years).

Responsible UK Government Department	Area of EU Law (Policy Area)	Devolution Intersect <sup>5</sup>			Additional Information - previous EU law	Rationale for No Framework Required
		NI	S	W		
Defra	Agriculture - GMO marketing and cultivation	x	x	x	<p>Directive 2001/18 – decisions on authorising GMO trials (delegated to Member States) and on marketing GMOs (decisions taken at EU level).</p> <p>Regulation 1830/2003 – requires the traceability and labelling of GMOs approved for marketing.</p> <p>Regulation 1946/2003 – requires notification to third countries of proposed GMO exports.</p> <p>Enforcement powers for these directly applicable Regulations are set out in parallel SIs in all four nations.</p>	The administration and coordination of this policy area is provided for through existing intergovernmental arrangements, including a GMO Concordat.
Defra	Biodiversity - Access and benefit sharing of genetic resources	x	x	x	<p>Rules set up under the Nagoya Protocol to help preserve biodiversity regulate access to the genetic resources of other countries and how the benefits from research and development using these resources are shared with the provider country. Implemented into EU Law under Regulation (EU) No 511/2014 with Regulation (EU) 2015/1866 providing implementation for register of collections, monitoring user compliance and best practices.</p>	The obligations that the UK has signed up to in current international agreements provide benchmark standards to counter divergence. This, and the planned renewal of the UK Biodiversity Frameworks means no new arrangements are required.
Defra	Flood Risk Management	x	x	x	<p>These policies and regulations (primarily the EU Floods Directive) aim to reduce the risks to people, properties and infrastructure from flooding and coastal erosion.</p>	Recent legislation in all four administrations has ensured a high degree of harmonisation in flood management policy.

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Defra	Forestry (Domestic)	x*	x*	x*	These policies and regulations cover timber production and woodland management, including EU Environmental Impact Assessment.	Divergence already exists, with existing intergovernmental arrangements achieving baseline standards for the management of forests.
Defra	Land Use	x*	x*	x*	Elements of Environmental Impact Assessment Directive and Strategic Environmental Assessment Directive cover rural land use.	Existing intergovernmental arrangements work to share information. There are minimal risks from divergence.
Defra	Marine Environment	x	x	x	Rules relating to management and protection of, but not limited to, marine pollution, litter, biodiversity, food webs and seafloor integrity. Implemented under Directives 2008/56/EC, 2017/845/EU with reference to the OSPAR Convention between the governments of North-East Atlantic.	No new arrangements are required to manage this policy area. The Marine Strategy Regulations 2010 enable the achievement of good environmental status and continue to operate post EU Exit. The Marine Policy Statement guides the implementation of marine planning in the UK. UKG and the DAs have collaborative governance arrangements in place to work together to meet obligations and shared ambitions. Defra and NIE also have a Marine Management Concordat.
Defra	Natural Environment and Biodiversity	x*	x*	x*	Policies and common standards covering the conservation of the UK's terrestrial, freshwater and marine species and habitats in compliance with international obligations such as the Convention on Biological Diversity. This is joined by EU Regulations (EU) No 1143/2014, (EU) No 1143/2014, and (EEC) No 3254/91 and Directives 2009/147/EC, 92/43/EEC, 1999/22/EC, and 83/129/EEC. This particularly concerns the network of sites which currently form part of the EU's Natura 2000 (N2K) network.	No new arrangements are required over and above the existing arrangements and the existing legal duties and the planned renewal of the existing UK Biodiversity Frameworks. The UK remains subject to an extensive range of obligations under international law, including the Bern Convention on the Conservation of European Wildlife and Natural Habitats. All UK administrations will be bound by these obligations.

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Defra	Noise Directives	x	x	x	The Directive is concerned with noise mapping and action planning and does not address trade or cross-border issues.	There is already some divergence within the UK and future divergence is not considered a significant risk; DAs already have responsibility for regulations. Liaison arrangements between UKG and DAs are already in place.
Defra	Spatial Data Infrastructure Standards	x	x	x	EU INSPIRE system under Directive 2007/2/EC that ensures a harmonised approach to spatial data publishing to improve environmental reporting.	No new arrangements are required. The 2009 UK INSPIRE legislation covers England, Wales and NI; Scotland has its own, mirror, INSPIRE legislation. A UK INSPIRE and Spatial Data Infrastructure Compliance Board oversees the implementation of INSPIRE legislation and meets throughout the year. The forthcoming National Data Strategy will include INSPIRE.
Defra	Water Quality	x	x	x	These policies and regulations (primarily the EU Water Frameworks Directive and the EU Drinking Water Directive) aim to improve the ecological and chemical status of the UK's rivers, lakes, estuaries, coastal waters and groundwater, and provide safe, quality drinking water.	There are liaison arrangements between UKG and the DAs and environmental agencies to exchange information and ensure joint working to maintain high water quality standards.
Defra	Water Resources	x	x	x	These policies and regulations cover the provision of sustainable, safe and affordable water supplies for households, businesses, energy production and agriculture.	There are liaison arrangements between UKG and the DAs to exchange information and ensure joint working to manage water resources.

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DfT	Airport Charges	x			Relating to Directive 2009/12/EC on airport charges.	Aerodromes are transferred to NI. However, under The Airports (Northern Ireland) Order 1994 NI is not able to diverge from the EU directive and the implementing SI applies to the whole of the UK. No drivers for divergence are foreseen.
DfT	Air Passenger Rights	x*			Regulation 1107/2006 imposes certain obligations on airports in respect of passengers with disabilities and reduced mobility (specifically Articles 5-9)	The risk of divergence is minimal and no intergovernmental arrangements are needed for this policy area. Aerodromes are transferred, but the legislation is reserved. The Civil Aviation Authority (CAA) is the only regulator that enforces the law and monitors the airport's compliance to the obligations.
DfT	Aviation - Compensating PSO air routes		x*	x*	Relating to regulation (EC) 1008/2008 on the Operation of Air Services (Articles 16-18).	Powers for arranging Public Service Obligation (PSO) routes are informally devolved so DAs arrange PSOs on routes wholly within their territory, applying the criteria in Regulation 1008/2008 (as amended and retained in UK law) and additional UK specific guidance published by DfT in 2013. The policy is only informally devolved and therefore still governed by the same legislation. Only the administration and funding of specific PSOs are devolved, not the parameters of the policy itself. The risk of divergence is minimal and no intergovernmental arrangements are needed for this policy area.

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DfT	Aviation – Ground handling at airports	x			Relating to Directive 96/67/EC on access to the ground handling market at certain airports.	Aerodromes are transferred to NI. NI is not able to diverge from the EU directive and the implementing SI applies to the whole of the UK. The risk of divergence is minimal and no intergovernmental arrangements are needed for this policy area.
DfT	Aviation Noise Management at Airports	x*			Regulation 598/2014, establishing rules and procedures with regard to the introduction of noise-related operating restrictions at airports within a balanced approach.	Aviation noise policy officials from the devolved administrations work together via the DfT-led Airspace and Noise Engagement Group where information is shared and any change to approach will be discussed.
DfT	Aviation Slots	x			Regulation 95/93 on common rules for the allocation of slots at airports.	The risk of divergence is minimal - airport slot coordination is transferred for Northern Ireland, but as no NI airports are currently slot coordinated, this is not an issue in practice.
DfT	Bus Franchising Rules	x	x	x	Regulation (EC) 1370/2007 as amended by 2016/2338 relating to the way in which competent authorities are able to award public passenger services contracts.	Any divergence is expected to have minimal impact and no intergovernmental arrangements are needed for this policy area; while responsibility is devolved the policy overall is regulated by the Transport Act 1985.



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DfT	Cableways	x			EU Regulation 2016/424 on cableway installations and repealing Directive 2000/9/EC relating to cableway installations designed to carry persons.	This is a niche transport mode so the risk of divergence is minimal and no intergovernmental arrangements are needed for this policy area. Relevant officials keep in contact on an informal basis.
DfT	Charging of HGVs	x*	x*	x*	Directive 1999/62/EC on the charging of heavy goods vehicles for the use of certain infrastructures.	The risk of divergence is minimal and no specific intergovernmental arrangements are needed for this policy area.
DfT	Coach and Bus Services	x			Regulation 181/2011 sets out the rights of passengers on bus and coach transport. (Art.4) non-discrimination between passengers with regard to transport conditions offered by carriers (Art.7-8) rights of passengers in the event of accidents arising out of the use of the bus or coach resulting in death or personal injury or loss of or damage to luggage; (Art.9-18) non-discrimination and mandatory assistance for disabled persons and persons with reduced mobility; (Art.19-23) rights of passengers in cases of cancellation or delay; (Art.24-25) minimum information to be provided to passengers; (Art.26-27) handling of complaints; (Art.28-31) general rules on enforcement.	National Enforcement Bodies (NEBs) are in place for GB and NI. NEBs liaise, co-operate and meet on a regular basis on matters of passenger rights helping to mitigate the impact and likelihood of divergence. No new intergovernmental arrangements are required.

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DfT	Driver CPC (certificates of professional competence)	x			Directive 2003/56/EC - transposed by SI 2007/605 - CPC is a condition of access to EU27 under ECMT permit system and likely to be a condition of negotiated agreements with EEA states.	The risk of divergence is minimal and no specific intergovernmental arrangements are needed for this policy area.
DfT	Driver Hours and Tachographs	x			Regulations around working hours and break requirements for commercial vehicle drivers and requirements for the installation and use of tachograph devices to record driver activities (EU regulations 561/2006 and 165/2014). Also mobile road transport working time rules (Directive 2002/15/EC).	Responsibility is transferred to NI but both UK and NI are still bound by international obligations. No drivers for divergence are foreseen in this area. Divergence could have an impact on cross-border access although the likelihood of divergence is low.
DfT	Electronic Road Toll Systems	x	x	x	Directive 2004/52/EC on interoperability of electronic road toll systems and EU Regulation 219/2009.	The Directive was transposed into UK law by SI 2007/58. This requires that any new or substantially modified tolling system, if it requires equipment to be installed in vehicles, must use particular, specified technologies. However, no new intergovernmental arrangements are required because in practice there have been no new or substantially modified electronic tolling systems, as defined by the SI (as automatic number plate recognition (ANPR) schemes are outside of the scope).
DfT	Elements of Harbours (marine environment issues)	x*	x*	x*	Directive 2011/92 amended by Directive 2014/52/EU on the assessment of the effects of certain public and private projects on the environment.	Divergence is unlikely and would be restricted to the power to legislate on port waste facilities, so would not be problematic.

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DfT	Intelligent Transport Systems	x*	x*	x*	Policies and common standards relating to national electronic registers and data for intelligent transport systems. This includes Regulations made under Directive 2010/40.	Both UKG and the devolved administrations are committed to a consistent and coherent strategy to ensure cross-border interoperability of vehicle data systems and services, and will continue to meet regularly through the well-established forum of the STREETWISE Intelligent Transport System Working Group. The group's terms of reference also includes provision for dispute resolution and escalation within the national and devolved governments, and this process is based on the common model developed by the Cabinet Office for Common Frameworks.
DfT	Maritime Employment and Social Rights	x			Directives and Regulations relating to employment, social rights and health and safety for seafarers on ships.	Likelihood of divergence was assessed as minor. Informal intergovernmental arrangements monitoring wider employment legislation are already in place.
DfT	Maritime – Ports services and port reception facilities, including for ship-generated waste	x*	x*	x*	Regulation 2017/352 that establishes a framework for the provision of port services and common rules on the financial transparency of ports.  Directive 2000/59 contains a mix of competence and is relevant here insofar as it relates to harbours only.	The risk of divergence is minimal and no specific new intergovernmental arrangements are needed.

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DfT	Maritime - Public Service Contracts/Obligations, and financial assistance for shipping services which both start and finish within Scotland/to, from and within Wales		x	x	Regulation 3577/92 that applies the principle of freedom to services to provide cabotage maritime transport.	Likelihood of divergence was assessed as moderate as the Scottish Government may seek to reduce/remove competition for Public Service Obligation contracts, as it has done for the replacement of ferries. There is little direct impact on English or Welsh businesses, as there are no PSO ferry services elsewhere in the UK under normal circumstances. Any issues could be adequately addressed through the CMA, which acts on a UK-wide basis
DfT	Mutual Recognition of Qualifications (but not CPC) (relates specifically to recognition of drivers' qualifications)	x			Directive 2005/36/EC on the recognition of professional qualifications.	The risk of divergence is minimal as GB and NI need to remain aligned. No formal intergovernmental arrangements are envisaged as being needed for this policy area. The UK government already works with the NI Executive to monitor these arrangements.
DfT	Passenger Rights (rail)	x			Regulation (1071/2009) establishing common rules for the licensing of commercial goods and passenger transport operators.	Authority has been transferred to NI and the risk of divergence can be managed through current informal working groups. Currently, NI has no plans to change their existing EU derived legislation.

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DfT	Rail Franchising Rules - Insofar as they do not relate to state aid rules	x			Regulation (EC) 1370/2007 as amended by 2016/2338 relating to the way in which competent authorities are able to award public passenger services contracts.	Rail is fully transferred in NI. SG and WG have executive competence only. Existing legislation would provide a looser framework than the EU previously provided but if GB decided to diverge from EU practice, it would be acceptable for NI to align with Ireland.  Any divergence is expected to have minimal impact and no intergovernmental arrangements are needed for this policy area.
DfT	Rail Markets and Operator Licensing (governance, structure, track access and charging)	x*			Directive 2012/34/EU, to be amended by Directive 2016/2370/EU (both part of the market pillar of the 4th railway package) which recasts a number of EU Directives and establishes a single European railway area with common rules on: the governance of railway undertakings and infrastructure managers, on infrastructure financing and charging, on conditions of access to railway infrastructure and services and on regulatory oversight of the rail market.	The risks posed by divergence are considered to be low as rail operator licensing has been transferred to Northern Ireland for a considerable period and there is already some divergence between GB and NI without any significant impacts. Frequent meetings between DfT and NICS officials are in place.
DfT	Rail Markets - Train driving licenses and other certificates	x			Directives 2007/59/EC and 2014/82/EU on train driving licensing rules, setting out the conditions and procedures for the licensing and certification of train drivers operating in the EU.	The risks posed by divergence are considered to be low as responsibility has been transferred to Northern Ireland for a considerable period and there is already some divergence between GB and NI without any significant impacts.

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DfT	Rail Safety	x			Directive 2004/49/EC on safety on the Community's railways and amending Council Directive 95/18/EC (which will be replaced by Directive 2016/798 in June 2019 or 2020 - technical pillar of 4th railway package) along with relevant Regulations and Decisions.	The risks posed by divergence are considered to be low as responsibility has been transferred to Northern Ireland for a considerable period and there is already some divergence between GB and NI without any significant impacts.
DfT	Rail Workers Rights	x			Directive 2005/47/EC on the agreement between the social partners on working conditions of mobile workers engaged in cross-border rail services, supplementing the Working Time Directive (Directive 1993/104/EC).	The risks posed by divergence are considered to be low as responsibility has been transferred to Northern Ireland for a considerable period and there is already some divergence between GB and NI without any significant impacts.
DfT	Retrofitting of HGV Mirrors	x			Directive 2007/38/EC on the retrofitting of mirrors to registered heavy goods vehicles.	The risk of divergence is minimal and no specific intergovernmental arrangements are needed for this policy area. While this measure was implemented separately in GB and NI in 2009 under Directive 2007/38/EC it is as a result of an international obligation.
DfT	Road Infrastructure Safety Management	x	x	x	Directive 2008/96/EC that supports road infrastructure safety management.	The risk of divergence in this area is assessed to be low and no new intergovernmental arrangements are necessary.
DfT	Roadworthiness Directive	x			Rules (directives 2014/45/EC and 2014/47/EC) relating to roadworthiness tests for motor vehicles and their trailers, plus associated inspections.	The risk of divergence is minimal and no intergovernmental arrangements are needed for this policy area.

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DfT	Safety specifications	x			Directive 91/671/EEC on the compulsory use of safety belts in vehicles of less than 3.5 tonnes (amended by 2003/20/EC).	The risk of divergence is minimal. Compulsory use of safety belts is long established in law and any lessening of requirements would represent an unacceptable reduction in road safety. No intergovernmental arrangements are needed for this policy area.
DfT	Speed Limitation Devices	x			Directive 1992/6/EEC on the installation and use of speed limitation devices for certain categories of motor vehicles (amended by Directive 2002/85/EEC).	No drivers for divergence in this policy area are foreseen as the Directive has been transposed into domestic legislation. Vehicles would need these speed limiting devices to operate in the EU. Divergence is unlikely.
DfT	Trans European Transport Network	x*	x*	x*	The EU Regulation establishes the trans European transport network, it includes maps of the core and comprehensive networks and sets specific standards to be implemented by 2030 and 2050 respectively. It is the geographic focus for EU transport regulation referencing individual pieces of legislation in different transport modes.	The risk of divergence is minimal as GB and NI need to remain aligned. No formal intergovernmental arrangements are envisaged as being needed for this policy area.
DfT	Transporting Dangerous Goods by Rail, Road and Inland Waterway Directive	x			Directive covering the carriage of dangerous goods and use of transportable pressure equipment by road, rail and inland waterway.	<p>The UK is party to international agreements in this area. The only area for divergence would be in relation to Transportable Pressure Equipment if the EU Directive diverges from internationally agreed requirements. This is highly unlikely.</p> <p>For this policy area DfT has an MoU with the Health and Safety Executive in Northern Ireland which states that DfT take the lead on policy development for the whole of the UK.</p>

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DfT	Use of Goods Vehicles Hired Without Drivers	x			Directive 2006/1/EC on the use of vehicles hired without drivers for the carriage of goods by road.	The risk of divergence is minimal and no intergovernmental arrangements are needed for this policy area.
DHSC	Clinical Trials of Medicinal Products for Human Use	x			Regulations and Directives on clinical trials on medicinal products for human use.	There are existing intergovernmental arrangements in place to ensure coherence and manage risks of divergence. MoUs are in place and DHSC have regular meetings with the devolved administrations. DHSC hold combined quarterly meetings with all the devolved administrations and ad hoc meetings with each administration as and when needed.
DHSC	Elements of the Regulation of Tobacco and Related Products	x*	x*	x*	Provision made for print and press advertising and promotion of electronic cigarettes in Directive 2014/40/EU on the approximation of the laws, regulations and administrative provisions of the Member States concerning the manufacture, presentation and sale of tobacco and related products. Provision made for print and press advertising, display and promotions in Directive 2003/33/EC on the approximation of the laws, regulations and administrative provisions of the Member States relating to the advertising and sponsorship of tobacco products.	Any divergence is expected to have minimal impact and there are informal intergovernmental arrangements on tobacco control including commitments to information sharing, regular meetings and collaboration where appropriate.



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DHSC	Good Laboratory Practice	x*	x*	x*	Directives relating to the inspection and verification of good laboratory practice (GLP) and harmonising laws, regulations and administrative provisions on good laboratory practice (Directives 2004/9/EC and 2004/10/EC).	As the UK Good Laboratory Practice Monitoring Agency (UK GLPMA) remains the monitoring authority within the UK, any GLP work conducted in the UK must adhere to the UK GLP monitoring programme and comply with OECD principles of GLP. This regulation controls any divergence of standards.
DHSC	Medicinal Products for Human Use	x			EU Directives and Regulations that relate to medicinal products for human use and, inter alia, lay down procedures for the marketing authorisation, supervision and pharmacovigilance of these products.	There are existing intergovernmental arrangements in place to ensure coherence and manage risks of divergence. MoUs are in place and DHSC have regular meetings with the devolved administrations. DHSC hold a combined quarterly meeting with all the devolved administrations and ad hoc meetings with each administration as and when needed.
DHSC	Medicine Prices	x			Directive 89/105/EEC relating to the transparency of measures regulating the pricing of medicinal products for human use and their inclusion in national health insurance systems	The risk of divergence is minimal and no intergovernmental arrangements are needed for this policy area. To mitigate risk, DHSC has in place the 2019 Voluntary Scheme for Branded Medicines Pricing and Access agreed in December 2018 and started on 1 January 2019. DHSC acted on behalf of all four administrations to agree the deal with the branded pharmaceutical industry represented by the Association of the British Pharmaceutical Industry (ABPI). This agreed scheme lasts for five years and will not be affected by EU Exit. Cooperation in this area continues with quarterly governance, and bi-annual formal meetings with ABPI where the devolved administrations are all involved and contribute. Leaving the EU has no impact on that cooperation.

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DHSC	Reciprocal and Cross-Border Healthcare	x*	x*	x*	Directive 2011/24/EU codified a series of case law. It sets out the conditions under which a patient may travel to another EU country to receive medical care and reimbursement. The requirements under the Directive have been transposed by England, Wales, Scotland, Northern Ireland and Gibraltar.	The risk of divergence is minimal and no intergovernmental arrangements are needed for this policy area. The implementation of reciprocal healthcare is mostly centralised and delivered by the NHS Business Services Authority on behalf of the UK. For the areas of reciprocal healthcare implementation that fall within devolved competence, the devolved administrations are bound by the rules agreed in the Withdrawal Agreement and Protocol on Social Security Coordination of the EU – UK TCA, and therefore the scope for divergence is very limited. There is ongoing, frequent engagement with the devolved administrations on a fortnightly basis in the area of reciprocal healthcare which is about sharing best practices, updates on TCA implementation and collaboration in terms of communications to citizens.
DLUHC	Energy Performance of Buildings Directive	x	x	x	The Energy Performance of Buildings Directive (2010/31/EU) aims to improve and make transparent the energy performance of buildings.	Divergence already exists, with the DAs setting their own energy standards in relation to buildings - this has no adverse impact.
DLUHC	Environmental Impact Assessment (EIA) Directive	x	x	x	The Environmental Impact Assessment Directive (85/337/EEC) integrates environmental considerations into the preparation of proposals for development to reduce their impact on the environment.	The risk of harmful divergence is minimal and no intergovernmental arrangements are needed for this policy area. Officials in all four administrations work closely together to maintain joint ways of working, and both UKG and the DAs continue to be party to various international obligations that further reduce any potential for harmful divergence.

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DLUHC	Strategic Environmental Assessment	x	x	x	The Strategic Environmental Assessment (SEA) Directive on the assessment of the effects of certain plans and programmes on the environment.	The risk of harmful divergence is minimal and no intergovernmental arrangements are needed for this policy area. Officials in all four administrations work closely together to maintain joint ways of working, and both UKG and the DAs continue to be party to various international obligations that further reduce any potential for harmful divergence.
DWP	Elements of EU Social Security Coordination	x*	x*		This is an area of shared EU competence for devolved benefits. The EU Social Security Coordination Regulations require Member States to ensure that citizens who exercise their right to free movement are not disadvantaged, e.g. by taking into account periods of residence and work and contributions paid in other Member States when considering the entitlement of claimants for UK benefits, including state pensions. The rules also require the UK to export benefits to persons living in another EU Member State in certain circumstances.	There are existing intergovernmental arrangements in place to ensure coherence and manage any risks of divergence in implementation.
DWP	Private Cross Border Pensions	x			EU legislation on the operation of the EEA internal market in financial services allows occupational pension schemes based in one country to operate (have members) in another.	Risk of divergence is minimal and no intergovernmental arrangements are needed; divergence is controlled as a single UK system was agreed in the Northern Ireland Act 1998.

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GEO	Equal Treatment Legislation	x*	x*	x*	It bans discrimination and harassment in employment on the following grounds: sex, race, age, disability, sexual orientation and religion or belief. It also bans discrimination in the provision of services on grounds of sex and race. It also requires the existence of an equalities monitoring body, such as EHRC.	UKG, Welsh Government and Scottish Government have assessed that a UK Common Framework for Equal Treatment Legislation is not required for Scotland and Wales. GB-wide equality law already covers most of the policy area that would fall under a Framework, and in the remainder, the risk of regulatory divergence is assessed to be very low. UKG has assessed that a UK Common Framework with Northern Ireland is not currently required due to the shared international obligations that GB and Northern Ireland are subject to. Should these circumstances change, this assessment can be revisited. The Northern Ireland Executive is assessing this policy area.
Home Office	Police and Criminal Justice Cooperation - Practical cooperation - European Judicial Network	x*	x*		Council Decision 2008/976/JHA on the European Judicial Network aims to facilitate judicial cooperation by establishing a network of Contact Points in EU Member States and partner third countries who are experts in matters such as Mutual Legal Assistance. These Contact Points assist with establishing direct contacts between competent authorities and by providing legal and practical information necessary to prepare an effective request for judicial cooperation or to improve cooperation more generally.	By virtue of leaving the EU, the UK now has third-country status within the EJM. Even so, any divergence is expected to have minimal impact and no framework is required.

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Home Office	Police and Criminal Justice Cooperation - Practical cooperation - Joint action on organised crime	x*	x*		Joint Action 97/827/JHA establishes a peer-evaluation mechanism that enables Member States to evaluate each other on the application and implementation of instruments designed to combat international organised crime.	By virtue of leaving the EU, the UK no longer cooperates with the EU on Joint Action on Organised Crime. Even so, any divergence is expected to have minimal impact and no Framework is required.
Home Office	Police and Criminal Justice Cooperation - Practical cooperation - Mutual legal assistance	x*	x*		The EU-UK Trade and Cooperation Agreement enables mutual assistance between the judicial, police and customs authorities of the UK and the EU Member States on criminal matters. This was previously facilitated by the Convention of Mutual Assistance in Criminal Matters between the Member States of the European Union (EU MLAC).	The TCA provides a new framework for cooperation. Any divergence is expected to have minimal impact and no Framework is required.
Home Office	Police and Criminal Justice Cooperation - Data sharing - False and Authentic Documents Online (FADO)	x*	x*		Joint Action 98/700/JHA establishing the European Image Archiving System, also known as False and Authentic Documents Online (FADO), is an EU database that facilitates the exchange of information between document experts in Member States on genuine and false identity documents, visas and border officer stamps used across the EU.	By virtue of leaving the EU, the UK no longer has access to FADO. Even so, any divergence is expected to have minimal impact and no Framework is required.

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Home Office	Police and Criminal Justice Cooperation - Agencies- CEPOL	x*	x*		Council Decision 2005/681/JHA establishing the European Police College (CEPOL) - a European agency that brings together a network of training institutes for law enforcement officials and supports them in frontline training on security priorities, law enforcement cooperation and information exchange.	As an EU Member State the UK opted out of CEPOL. No intergovernmental arrangements are needed.
Home Office	Police and Criminal Justice Cooperation - Agencies - EU-LISA	x*	x*		Regulation 1077/2011/EU establishing a European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice (EU-LISA) - the European Agency responsible for the operational management of large-scale IT systems in the area of freedom, security and justice, including EURODAC, SIS II and the Visa Information System.	By virtue of leaving the EU, the UK no longer interacts with EU-LISA. Even so, any divergence is expected to have minimal impact and no Framework is required.
Home Office	Police and Criminal Justice Cooperation - Agencies - Eurojust	x*	x*		<p>Eurojust is the EU's judicial cooperation agency which supports EU Member States', and partner third countries', investigation and prosecution agencies in tackling serious cross-border and organised crime. Eurojust helps prevent and resolve conflicts of jurisdiction and facilitates the execution of mutual legal assistance and mutual recognition instruments. It also provides funding, technical support and legal expertise on the requirements of different legal systems.</p> <p>The -UK-EU Trade and Cooperation Agreement (TCA) enables cooperation between EU Member States via Eurojust and the UK's competent authorities.</p>	The TCA provides a new framework for cooperation. Any divergence is expected to have minimal impact and no Framework is required.

Responsible UK Government Department	Area of EU Law (Policy Area)	Devolution Intersect <sup>5</sup>			Additional Information - previous EU law	Rationale for No Framework Required
		NI	S	W		
Home Office	Police and Criminal Justice Cooperation - Agencies - Europol	x*	x*		<p>Europol is an EU agency that assists EU Member States' law enforcement agencies in tackling cross-border crime by supporting practical cooperation for cross-border investigations; holding central databases with information on suspected criminals and objects associated with crime; and providing analytical support to make links between crimes committed in different countries.</p> <p>The UK-EU Trade and Cooperation Agreement (TCA) establishes cooperative relations between EU Member States via Europol and the UK's competent authorities.</p>	The TCA provides a new framework for cooperation. Any divergence is expected to have minimal impact and no Framework is required.
Home Office	Police and Criminal Justice Cooperation - Data sharing - European Criminal Records Information System (ECRIS)	x*	x*		<p>Council Framework Decision 2009/315/JHA on the organisation and content of the exchange of information extracted from the criminal record between Member States and Council Decision 2009/316/JHA on the establishment of the European Criminal Records Information System (ECRIS) - a secure electronic system providing for the exchange of information between Member States' authorities in relation to criminal records. It also places requirements on Member States to hold the criminal records of their nationals for offences committed across the EU.</p>	The TCA provides a new framework for cooperation. Any divergence is expected to have minimal impact and no Framework is required.

Responsible UK Government Department	Area of EU Law (Policy Area)	Devolution Intersect <sup>5</sup>			Additional Information - previous EU law	Rationale for No Framework Required
		NI	S	W		
Home Office	Police and Criminal Justice Cooperation - Data sharing - Prüm Framework	x*	x*		The EU-UK Trade and Cooperation Agreement enables the reciprocal searching of UK and EU Member States' databases for DNA profiles, vehicle registration data and fingerprint (or dactyloscopic) data.	The TCA provides a new framework for cooperation. Any divergence is expected to have minimal impact and no Framework is required.
Home Office	Police and Criminal Justice Cooperation - Data sharing - Schengen Information System (SIS II)	x*	x*		Council Decision 2007/533/JHA on the establishment, operation and use of the second generation Schengen Information System ('SIS II') (and see also Council Implementing Decision 2015/215) - a system providing law enforcement 'alerts', including on wanted or suspected criminals, suspected terrorists, missing people, and stolen or missing property. SIS II is a 'Schengen' measure. Whilst the UK is not part of the Schengen border-free zone, we have agreed access to SIS II for law enforcement purposes.	By virtue of leaving the EU, the UK no longer has access to SIS II. Even so, any divergence is expected to have minimal impact and no Framework is required.
Home Office	Police and Criminal Justice Cooperation - Minimum standards legislation - Cybercrime	x*	x*		Directive 2013/40/EU establishes common minimum standards for the definition of criminal offences and sanctions in the area of attacks against information systems. This measure also aims to facilitate the prevention of cybercrime and to improve cooperation between judicial and other competent authorities.	By virtue of leaving the EU, the UK is no longer subject to the EU's minimum standards on cybercrime. Even so, any divergence is expected to have minimal impact and no Framework is required.



Responsible UK Government Department	Area of EU Law (Policy Area)	Devolution Intersect <sup>5</sup>			Additional Information - previous EU law	Rationale for No Framework Required
		NI	S	W		
Home Office	Police and Criminal Justice Cooperation - Minimum standards legislation - Human trafficking	x*	x*		Directive 2011/36/EU establishes common minimum standards for the definition of criminal offences and sanctions in the area of trafficking in human beings. This measure also introduces common provisions on the prevention of human trafficking and the protection of victims of human trafficking.	By virtue of leaving the EU, the UK is no longer subject to the EU's minimum standards on human trafficking. Even so, any divergence is expected to have minimal impact and no Framework is required.
Home Office	Police and Criminal Justice Cooperation - Practical cooperation - Asset recovery offices	x*	x*		Council Decision 2007/845/JHA concerning cooperation between Asset Recovery Offices of the Member States in the field of tracing and identification of proceeds from, or property related to crime. AROs are national central contact points that facilitate EU-wide identification and tracing of assets derived from crime. The UK's ARO is housed within the UK Financial Intelligence Unit in the National Crime Agency.	By virtue of leaving the EU, the UK no longer has its own Asset Recovery Offices. Even so, any divergence is expected to have minimal impact and no Framework is required.
Home Office	Police and Criminal Justice Cooperation - Practical cooperation - Basic cooperation legislation on child sexual exploitation	x*	x*		Council Decision 2000/375/JHA sets common rules requiring all Member States to set up 24 hour contact points to receive and act on intelligence related to child pornography or indecent images of children.	By virtue of leaving the EU, the UK is no longer subject to the EU's legislation on child sexual exploitation. Even so, any divergence is expected to have minimal impact and no Framework is required.

Responsible UK Government Department	Area of EU Law (Policy Area)	Devolution Intersect <sup>5</sup>			Additional Information - previous EU law	Rationale for No Framework Required
		NI	S	W		
Home Office	Police and Criminal Justice Cooperation - Practical cooperation - Convention Implementing the Schengen Agreement (law enforcement cooperation)	x*	x*		The law enforcement cooperation provisions of the Convention implementing the Schengen Agreement aim to tackle the threat of cross-border crime within the Schengen Area by facilitating police cooperation and cross-border surveillance. In particular, Article 40 provides that law enforcement in one Member State who have a suspect under surveillance can continue their surveillance of that suspect in the territory of another Member State as long as the latter has authorised it. Member States can also request for other Member States to undertake the surveillance of a suspect on their behalf.	By virtue of leaving the EU, the UK is no longer subject to the EU's Convention implementing the Schengen Agreement. Even so, any divergence is expected to have minimal impact and no Framework is required.
Home Office	Police and Criminal Justice Cooperation - Practical cooperation - European Investigation Order	x*	x*		The European Investigation Order Directive (2014/41/EU) aims to make judicial cooperation in assisting in the investigation and prosecution of criminal offences on investigations between EU Member States faster and more efficient. The measure standardised requests made between EU Member States for information and evidence, allows for there to be mutual recognition of judicial decisions from other Member States and sets deadlines for recognising and executing requests.	The TCA provides a new framework for cooperation. Any divergence is expected to have minimal impact and no Framework is required.

Responsible UK Government Department	Area of EU Law (Policy Area)	Devolution Intersect <sup>5</sup>			Additional Information - previous EU law	Rationale for No Framework Required
		NI	S	W		
Home Office	Police and Criminal Justice Cooperation - Practical cooperation - Joint investigation teams	x*	x*		Council Frameworks Decision 2002/465/JHA of 13 June 2002 on joint investigation teams (JIT). A JIT is an investigation team set up for a specific purpose and a fixed period between two or more parties to investigate a specific matter or type of crime.	JITs have been operating on a non-EU legal basis since March 2019. Any divergence is expected to have minimal impact and no Framework is required.
Home Office	Police and Criminal Justice Cooperation - Practical cooperation - Mutual recognition of asset freezing orders	x*	x*		Council Framework Decision 2003/577/JHA covers the mutual recognition and execution in one Member State of orders freezing property and evidence that were issued in another Member State.	The TCA provides a new framework for cooperation. Any divergence is expected to have minimal impact and no Framework is required.
Home Office	Police and Criminal Justice Cooperation - Practical cooperation - Mutual recognition of confiscation orders	x*	x*		<p>The EU-UK Trade and Cooperation Agreement facilitates the mutual recognition and execution of confiscation orders issued between the UK and EU Member States.</p> <p>The mutual recognition and execution in one EU Member State of confiscation orders issued in another Member State was created by Council Framework Decision 2006/783/JHA.</p>	The TCA provides a new framework for cooperation. Any divergence is expected to have minimal impact and no Framework is required.

Responsible UK Government Department	Area of EU Law (Policy Area)	Devolution Intersect <sup>5</sup>			Additional Information - previous EU law	Rationale for No Framework Required
		NI	S	W		
Home Office	Police and Criminal Justice Cooperation - Practical cooperation - Swedish Initiative	x*	x*		Council Framework Decision 2006/960/JHA (the 'Swedish Initiative') sets out rules for the cross-border exchanges of criminal information and intelligence, ensuring time-bound procedures for cross-border data exchanges	The TCA provides a new framework for cooperation. Any divergence is expected to have minimal impact and no Framework is required.
Home Office	Police and Criminal Justice Cooperation - Practical cooperation - Cooperation on football disorder	x*	x*		Council Decision 2002/348/JHA that sets up National Football Information Points in each Member State. These Information Points share information and intelligence for facilitating international police cooperation in connection with international football matches.	By virtue of leaving the EU, the UK no longer cooperates with the EU on football disorder. Even so, any divergence is expected to have minimal impact and no Framework is required.
Home Office	Police and Criminal Justice Cooperation - Accreditation of Forensic Service Providers (FSP) and mutual recognition of	x*	x*		The EU-UK Trade and Cooperation Agreement ensures that the accreditation of forensic service providers carrying out laboratory activities, must continue to be accredited to international standard EN ISO/IEC 17025. The UK and EU Member States must also ensure that national authorities recognise the results of accredited FSPs of one another as equally reliable as the results of domestic FSPs. Council Framework Decision 2009/905/JHA created the FSP accreditation and recognition requirements for Member States.	The TCA provides a new framework for cooperation. Any divergence is expected to have minimal impact and no framework is required.

Responsible UK Government Department	Area of EU Law (Policy Area)	Devolution Intersect <sup>5</sup>			Additional Information - previous EU law	Rationale for No Framework Required
		NI	S	W		
	results of FSPs- Prüm Framework					
Home Office	Police and criminal justice cooperation - data sharing - Passenger Name Records (PNR) Data	x*	x*		The EU-UK Trade and Cooperation Agreement sets out the rules under which EU passenger name record (PNR) data may be transferred to, processed and used by the UK competent authority to prevent, detect, investigate or prosecute terrorist offences or serious crime and in exceptional cases to protect the vital interests of individuals. PNR data is created by airlines to process travel reservations. It can include the name of the passenger, contact details, travel itineraries, seating and baggage information, and payment details. PNR data is used by law enforcement authorities to identify criminal and terrorist travel and to disrupt and interdict criminal and terrorist activity.	The TCA provides a new framework for cooperation. Any divergence is expected to have minimal impact and no Framework is required.
Home Office	Regulatory Systems - Minimum standards legislation - the protection of animals used for scientific purposes	x			Directive 2010/63/EU implementing common minimum standards for the protection of animals used for experimental and scientific purposes. This is implemented through the use of risk-based inspections and increased transparency. Sets out a licencing regime covering establishments, people, and projects using animals in science and broader principles of animal welfare.	Relevant EU legislation has been transposed into UK law and sufficient intergovernmental structures are in place to manage divergence.

Responsible UK Government Department	Area of EU Law (Policy Area)	Devolution Intersect <sup>5</sup>			Additional Information - previous EU law	Rationale for No Framework Required
		NI	S	W		
Home Office	Regulatory Systems - Firearms - deactivation standards and techniques	x*			Regulation 2015/2403/EU establishing common guidelines on deactivation standards and techniques for ensuring that deactivated firearms are rendered irreversibly inoperable.	Relevant EU directives have already been transposed into UK law and further arrangements are not necessary in this area as divergence is highly unlikely.
Home Office	Regulatory Systems - Firearms - Illicit manufacturing and trafficking	x*			Council Decision 2014/164/EU approving Article 10 of the United Nations Protocol against the Illicit Manufacturing of and Trafficking in Firearms, their Parts and Counterparts and Ammunition; and Regulation 258/2012/EU implementing that protocol by laying down rules governing export authorisation, and import and transmit measures for firearms, their parts and essential components and ammunition.	Relevant EU directives have already been transposed into UK law and further arrangements are not necessary in this area as divergence is highly unlikely.
Home Office	Regulatory Systems - Firearms - Control on acquisition and possession of weapons	x*			Directive 91/477/EEC, as amended by Directives 2008/51/EC and EU/2017/853, on the control of the acquisition and possession of weapons, setting out certain minimum standards for the circulation of firearms within the EU.	Relevant EU directives have already been transposed into UK law and further arrangements are not necessary in this area as divergence is highly unlikely.

Responsible UK Government Department	Area of EU Law (Policy Area)	Devolution Intersect <sup>5</sup>			Additional Information - previous EU law	Rationale for No Framework Required
		NI	S	W		
HSE	Civil Use of Explosives	x			Directives setting out the permissions required to transfer, track and trace civil explosives (2008/43/EC) and rules on the product safety and market surveillance of these (2014/28/EU).	There are existing intergovernmental arrangements in place to ensure coherence and manage risks of divergence. The product safety aspects of civil explosives in GB are dealt with using reserved powers. The area is covered by separate legislation in NI with those provisions subject to the NI Protocol.
HSE	Control of Major Accident Hazards	x*	x*	x*	Seveso III Directive on the control of major accident hazards involving dangerous substances (2012/18/EU). This places duties on businesses using dangerous substances to take measures to prevent major accidents to people and the environment. This mainly applies to the chemical manufacture sector but covers any business that uses, produces or stores dangerous substances at or above determined thresholds.	<p>There are existing intergovernmental arrangements in place to ensure coherence and manage risks of divergence, though the risks are considered to be minimal. The workplace health and safety aspects of control of major accident hazards in GB are dealt with using reserved powers. Aspects related to environmental protection are devolved to Scotland and Wales. All of these aspects are transferred to NI (the area is not covered by the NI Protocol).</p> <p>There is an existing MoU between the five Competent Authorities in GB established by the Control of Major Accident Hazards (COMAH) Regulations 2015, with liaison with Northern Ireland authorities, when necessary (the area is not covered by the NI Protocol). The existing framework (same requirements in legislation, MoU and joint working arrangements) is considered to be sufficient to secure consistency of approach across the UK.</p>

Responsible UK Government Department	Area of EU Law (Policy Area)	Devolution Intersect <sup>5</sup>			Additional Information - previous EU law	Rationale for No Framework Required
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HSE	Genetically Modified Micro-Organisms Contained use (i.e. rules on protection of human health and the environment during the development)	x*	x*	x*	Directive 2009/41/EC on the contained use of genetically modified microorganisms (GMMs) to protect humans and the environment. This relates to work with GMMs in contained facilities, e.g. a research laboratory or biotechnology production facility, to ensure barriers (containment measures) are in place.	<p>There are existing intergovernmental arrangements in place to ensure coherence and manage risks of divergence, though the risks are considered to be minimal. The workplace health and safety aspects of the contained use of genetically modified organisms (GMOs) in GB are dealt with using reserved powers. Aspects related to environmental protection are devolved to Scotland and Wales. All of these aspects are transferred to NI (the area is not covered by the NI Protocol).</p> <p>There is an MoU between the Competent Authorities established in GB by the GMO Contained Use Regulations 2014. There is also an MoU between HSE and HSE for NI about provision of support from the former to the latter. The existing framework (same requirements in legislation, MoU and joint working arrangements) is considered to be sufficient to secure consistency of approach across the UK.</p>
HSE	Health and Safety at Work	x			Directives, including the Health and Safety At Work Frameworks Directive (89/391/EEC), that require employers to protect the health and safety of their employees. Requirements cover, inter alia, the general layout of workplaces, hazards at work, specific sectors (e.g. construction, mining and onshore and offshore drilling) and work equipment.	The risk of divergence is minimal and no intergovernmental arrangements are needed for this policy area. NI follows the GB approach to workplace health and safety regulation, which stems from the 1974 Health and Safety at Work Act, and was adopted in the 1978 NI Health and Safety at Work Order. Health and safety at work legislation is also exempt from the NI Protocol. This allows NI to continue to mirror developments and pursue the same cooperation with GB on health and safety regulation.



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		NI	S	W		
HSE	Ionising Radiation (occupational exposures)	x			Ionising radiation occur as either electromagnetic rays (such as X-rays and gamma rays) or particles (such as alpha and beta particles). It occurs naturally (e.g. radon gas) and can also be produced artificially. Directive 2013/59/Euratom lays down basic safety standards for protection against exposure to ionising radiation. This includes occupational exposures	The risk of divergence is minimal and no intergovernmental arrangements are needed for this policy area. NI follows the GB approach to workplace health and safety regulation, which stems from the 1974 Health and Safety at Work Act, and was adopted in the 1978 NI Health and Safety at Work Order. Health and safety at work legislation is also exempt from the NI Protocol. This allows NI to continue to mirror developments and pursue the same cooperation with GB on health and safety regulation.
MoJ	Civil Judicial Cooperation - Applicable law in contracts and non-contractual obligations	x	x		Rome I Regulation (593/2008) covers applicable law in contracts. Rome II Regulation (864/2007) covers applicable law in non-contractual obligations.	There are existing intergovernmental arrangements in place to ensure coherence and manage risks of divergence. While UK membership of the EU private international law (PIL) agreements to which the UK was party prior to the end of the transition period was a reserved matter, implementation of those rules locally in Scotland and in Northern Ireland was devolved, consistent with the fact that Scotland and Northern Ireland have had distinct legal systems for centuries. Where there are no international agreements which apply, the local private international rules in each of these jurisdictions will apply (much as they have always done where such agreements are absent).

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		NI	S	W		
MoJ	Civil Judicial Cooperation - Cross border mediation (Mediation Directive)	x	x		The Mediation Directive (2008/52) facilitates access to alternative dispute resolution and promotes amicable settlement of disputes through the use of mediation in cross-border disputes.	There are existing intergovernmental arrangements in place to ensure coherence and manage risks of divergence. While UK membership of the EU private international law (PIL) agreements to which the UK was party prior to the end of the transition period was a reserved matter, implementation of those rules locally in Scotland and in Northern Ireland was devolved, consistent with the fact that Scotland and Northern Ireland have had distinct legal systems for centuries. Where there are no international agreements which apply, the local private international rules in each of these jurisdictions will apply (much as they have always done where such agreements are absent).
MoJ	Civil Judicial Cooperation - Jurisdiction and recognition and enforcement of judgments in civil and commercial matters	x	x		The Brussels I Regulation (1215/2012) covers jurisdiction and recognition and enforcement of judgments and applies between EU Member States. Insolvency Regulation (1346/2000 and 2015/848) covers jurisdictional rules and applicable law and recognition of insolvency proceedings in cross-border insolvencies.	There are existing intergovernmental arrangements in place to ensure coherence and manage risks of divergence. While UK membership of the EU private international law (PIL) agreements to which the UK was party prior to the end of the transition period was a reserved matter, implementation of those rules locally in Scotland and in Northern Ireland was devolved, consistent with the fact that Scotland and Northern Ireland have had distinct legal systems for centuries. Where there are no international agreements which apply, the local private international rules in each of these jurisdictions will apply (much as they have always done where such agreements are absent).

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		NI	S	W		
MoJ	Civil Judicial Cooperation - Jurisdiction and recognition and enforcement of judgments: instruments in family law	x	x		The Brussels Ila Regulation (2201/2003) covers jurisdictional rules in matrimonial and parental responsibility matters and the recognition and enforcement of judgments. The Maintenance Regulation (4/2009) covers rules for determining which court has jurisdiction, and the recognition and enforcement of maintenance decisions. Regulation on protection measures in civil matters (606/2013) covers recognition and enforcement of protection measures, including for victims of 33 judgments: instruments in family law domestic violence.	There are existing intergovernmental arrangements in place to ensure coherence and manage risks of divergence. While UK membership of the EU private international law (PIL) agreements to which the UK was party prior to the end of the transition period was a reserved matter, implementation of those rules locally in Scotland and in Northern Ireland was devolved, consistent with the fact that Scotland and Northern Ireland have had distinct legal systems for centuries. Where there are no international agreements which apply, the local private international rules in each of these jurisdictions will apply (much as they have always done where such agreements are absent).
MoJ	Civil Judicial Cooperation - Legal aid in cross border cases	x	x		The Legal Aid Directive (2002/8) establishes common minimum rules for the grant of legal aid in cross-border disputes.	There are existing intergovernmental arrangements in place to ensure coherence and manage risks of divergence. While UK membership of the EU private international law (PIL) agreements to which the UK was party prior to the end of the transition period was a reserved matter, implementation of those rules locally in Scotland and in Northern Ireland was devolved, consistent with the fact that Scotland and Northern Ireland have had distinct legal systems for centuries. Where there are no international agreements which apply, the local private international rules in each of these jurisdictions will apply (much as they have always done where such agreements are absent).

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		NI	S	W		
MoJ	Civil Judicial Cooperation - Service of documents and taking of evidence	x	x		EU Service Regulation (2007/1393) covers rules for serving documents in other EU countries. Taking of Evidence Regulation (2001/1206) covers cross-border processing of requests to take evidence. European Judicial Network in Civil and Commercial Matters (2001/470) facilitates cross-border cooperation for judges and practitioners and access to justice for those involved in disputes.	There are existing intergovernmental arrangements in place to ensure coherence and manage risks of divergence. While UK membership of the EU private international law (PIL) agreements to which the UK was party prior to the end of the transition period was a reserved matter, implementation of those rules locally in Scotland and in Northern Ireland was devolved, consistent with the fact that Scotland and Northern Ireland have had distinct legal systems for centuries. Where there are no international agreements which apply, the local private international rules in each of these jurisdictions will apply (much as they have always done where such agreements are absent).
MoJ	Civil Judicial Cooperation - Uniform fast track procedures for certain civil and commercial claims	x	x		The Small Claims (861/2007 revised by 2015/2421), Enforcement Order (805/2004) and Order for Payment (1896/2006) Regulations facilitate means for obtaining decisions on claims that can be enforced throughout the EU.	There are existing intergovernmental arrangements in place to ensure coherence and manage risks of divergence. While UK membership of the EU private international law (PIL) agreements to which the UK was party prior to the end of the transition period was a reserved matter, implementation of those rules locally in Scotland and in Northern Ireland was devolved, consistent with the fact that Scotland and Northern Ireland have had distinct legal systems for centuries. Where there are no international agreements which apply, the local private international rules in each of these jurisdictions will apply (much as they have always done where such agreements are absent).

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		NI	S	W		
MoJ	Criminal Offences Minimum Standards Measures	x	x		The Combating Child Sexual Exploitation Directive (2011/92) establishes common minimum rules concerning the definition of criminal offences and sanctions in the area of sexual abuse and sexual exploitation of children, child pornography and solicitation of children for sexual purposes. It contains provisions aimed at preventing these crimes and protecting victims.	There are existing intergovernmental arrangements in place to ensure coherence and manage risks of divergence. While UK membership of the EU private international law (PIL) agreements to which the UK was party prior to the end of the transition period was a reserved matter, implementation of those rules locally in Scotland and in Northern Ireland was devolved, consistent with the fact that Scotland and Northern Ireland have had distinct legal systems for centuries. Where there are no international agreements which apply, the local private international rules in each of these jurisdictions will apply (much as they have always done where such agreements are absent).
MoJ	Mutual Recognition of Criminal Court Judgments Measures and Cross Border Cooperation	x	x		<p>Mutual Recognition of Financial Penalties (MRFP) (2005/214) provides for Member States to recognise and enforce financial penalties (of over 70 euros) issued by judicial or administrative authorities of another Member State, in which the person required to pay the fine is normally resident or has property or income. It covers criminal financial penalties including those imposed for road traffic offences.</p> <p>The Criminal European Protection Order (2011/99) allows individuals, including domestic violence victims, to have the terms of certain protection measures that are issued in one Member State recognised and, if necessary, enforced in any other EU Member State.</p> <p>Prisoner Transfer Framework Decision (PTFD) (2008/909) is the principal mechanism for</p>	There are existing intergovernmental arrangements in place to ensure coherence and manage risks of divergence. While UK membership of the EU private international law (PIL) agreements to which the UK was party prior to the end of the transition period was a reserved matter, implementation of those rules locally in Scotland and in Northern Ireland was devolved, consistent with the fact that Scotland and Northern Ireland have had distinct legal systems for centuries. Where there are no international agreements which apply, the local private international rules in each of these jurisdictions will apply (much as they have always done where such agreements are absent).

Responsible UK Government Department	Area of EU Law (Policy Area)	Devolution Intersect <sup>5</sup>			Additional Information - previous EU law	Rationale for No Framework Required
		NI	S	W		
					<p>transferring prisoners between EU Member States.</p> <p>European Supervision Order (ESO) (2009/829) establishes a legal framework that enables the court in a Member State which is prosecuting a suspect for a crime committed there to allow the suspect to go to another (usually their 'home') Member State to await trial, and for the "home" country to assume responsibility for supervising compliance with the conditions of that bail.</p> <p>Victims Compensation Directive (2004/80) requires Member States to set up a system of cooperation to facilitate access to compensation to victims of crimes in cross-border situations, which should operate on the basis of Member States' schemes on compensation to victims of violent intentional crime, committed in their respective territories.</p>	
MoJ	Procedural Rights (criminal cases) – minimum standards measures	x	x		<p>The Right to Information in Criminal Proceedings Directive (2002/13) sets common minimum standards for information to be provided to people suspected or accused of having committed a criminal offence. The Interpretation and Translation Directive (2010/64) sets common minimum standards on interpretation and translation in criminal proceedings throughout the EU.</p>	<p>There are existing intergovernmental arrangements in place to ensure coherence and manage risks of divergence. While UK membership of the EU private international law (PIL) agreements to which the UK was party prior to the end of the transition period was a reserved matter, implementation of those rules locally in Scotland and in Northern Ireland was devolved, consistent with the fact that Scotland and Northern Ireland have had distinct legal systems for centuries. Where there are no international agreements which apply, the local private international rules in each of these jurisdictions will apply (much as they have always done where such agreements are absent).</p>

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		NI	S	W		
MoJ	Provision of Legal Services (temporary and permanent basis)	x	x		Lawyers Establishment Directive (98/5) provides the framework for permanent establishment of lawyers from one EU member state in another, under home or host state title. Lawyers Services Directive (77/249) provides the framework for temporary provision of legal services under home state title (including fly-in/fly-out). (Both Directives apply only to specified titles. In the UK, these are solicitor, barrister, advocate.)	There are existing intergovernmental arrangements in place to ensure coherence and manage risks of divergence. While UK membership of the EU private international law (PIL) agreements to which the UK was party prior to the end of the transition period was a reserved matter, implementation of those rules locally in Scotland and in Northern Ireland was devolved, consistent with the fact that Scotland and Northern Ireland have had distinct legal systems for centuries. Where there are no international agreements which apply, the local private international rules in each of these jurisdictions will apply (much as they have always done where such agreements are absent).
MoJ	Sentencing - Taking Convictions Into Account	x	x		Framework Decision on taking convictions into account (2008/675) requires the national criminal courts of all Member States to take account of a defendant's known previous convictions in other Member States to the extent previous national convictions are taken into account.	There are existing intergovernmental arrangements in place to ensure coherence and manage risks of divergence. While UK membership of the EU private international law (PIL) agreements to which the UK was party prior to the end of the transition period was a reserved matter, implementation of those rules locally in Scotland and in Northern Ireland was devolved, consistent with the fact that Scotland and Northern Ireland have had distinct legal systems for centuries. Where there are no international agreements which apply, the local private international rules in each of these jurisdictions will apply (much as they have always done where such agreements are absent).

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		NI	S	W		
MoJ	Victims' Rights Measures in Criminal Cases – Minimum standards (Victims' Rights Directive)	x	x		Victims' Rights Directive (2012/99) sets common minimum standards on the rights, support and protection afforded to the victims of crime across all Member States.	There are existing intergovernmental arrangements in place to ensure coherence and manage risks of divergence. While UK membership of the EU private international law (PIL) agreements to which the UK was party prior to the end of the transition period was a reserved matter, implementation of those rules locally in Scotland and in Northern Ireland was devolved, consistent with the fact that Scotland and Northern Ireland have had distinct legal systems for centuries. Where there are no international agreements which apply, the local private international rules in each of these jurisdictions will apply (much as they have always done where such agreements are absent).



## Category 2: Frameworks with no associated primary legislation

29 Policy areas where, at the time of publication, common rules and ways of working had been or were due to be implemented through a non-legislative Common Framework agreement. In some of these areas, consistent fixes to retained EU law (made using secondary legislation) create a unified body of law alongside the non-legislative Framework agreement.

Responsible UK Government Department	Area of EU Law (Policy Area)	Devolution Intersect			Additional Information - previous EU law
		NI	S	W	
BEIS	<b>Company Law</b>	x			These Directives and Regulations cover aspects of the life cycle of a company, including company formation, capital & disclosure requirements, cross border mergers, shareholders rights, accounting and reporting, and audit. Regulations set out the frameworks for certain EU-specific legal entities. Also includes the establishment of branches, subsidiaries and agencies in other Member States, underpinned by Treaty Article 49.
BEIS	<b>Late Payment (commercial transactions)</b>	x	x	x	Late Payment Directive (2011/7/EU) protects businesses within the EU against late payment in commercial transactions.
BEIS (DHSC, MHCLG, DEFRA, DfE and MoJ also have interest)	<b>Mutual Recognition of Professional Qualifications (MRPQ)<sup>6</sup></b>	x*	x*	x*	The Directive defines the processes for the recognition for professional qualifications and professional experience throughout the EU, thereby enabling EU professionals to work in a regulated profession in an EU country other than that in which they qualified on either a permanent or temporary basis.
BEIS	<b>Radioactive Substances</b>	x*	x*	x*	Directive establishes a framework for responsible and safe management of spent fuel and radioactive waste, both for current workers and the general public, and to avoid imposing burdens on future generations.

<sup>6</sup> The Professional Qualifications Bill was introduced to Parliament on 12 May 2021.

Responsible UK Government Department	Area of EU Law (Policy Area)	Devolution Intersect			Additional Information - previous EU law
		NI	S	W	
BEIS	<b>Services Directive</b>	x*	x*	x*	The Directive seeks to realise the full potential of services markets in Europe by removing legal and administrative barriers to trade, by increasing transparency and by making it easier for businesses and consumers to provide or use services in the EU Single Market. The Directive is implemented by the Provision of Services Regulations in the UK. The Regulations set out rules for how competent authorities can design authorisation schemes for service providers in the UK. The Regulations prevent regulators imposing new regulatory or administrative requirements that act as discriminatory barriers to the provision of services, ensuring authorisation schemes are proportionate and justified by the public interest.
BEIS	<b>Specified Quantities and Packaged Goods Legislation</b>	x*			EU law sets the rules for quantity control, quantity labelling and specified quantities for packaged goods.
Cabinet Office	<b>Public Procurement</b>	x*	x*	x*	The regime provided by the EU procurement Directives, covering public procurement contracts for supplies, services, works and concessions above certain financial thresholds awarded by the public sector and by utilities operating in the energy, water, transport and postal services sectors (Directives 2014/24/EU, 2014/25/EU and 2014/23/EU).
Defra	<b>Agriculture - Fertiliser regulations</b>	x	x	x	Regulations providing common standards for compositional ingredients, labelling, packaging, sampling and analysis of fertilisers. The UK is also signed up to a number of international agreements (e.g. the Gothenburg Protocol) and EU agreements (the National Ceilings Directive) related to fertiliser regulation.
Defra	<b>Agriculture - Organic production</b>	x	x	x	Regulation 834/2007 sets out the principles and overarching standards for organic production certification. Specific Regulations also apply such as 889/2008 on labelling of organic produce and 710/2009 on organic aquaculture.

Responsible UK Government Department	Area of EU Law (Policy Area)	Devolution Intersect			Additional Information - previous EU law
		NI	S	W	
Defra	<b>Agriculture - Zotech</b>	x*	x*	x*	<p>EU Regulation 2016/1012 replaces a host of current zotech regulations by species from 1 November 2018. For the purpose of this exercise we treat the EU position as it will be on 1 November 2018 as the relevant framework.</p> <p>The EU rules support trade of pedigree breeding animals and germinal products by e.g. defining what constitutes “purebred”. They provide for individual breed societies to be officially recognised and breeding programmes to be approved by competent authorities. The rules impose rights and obligations on societies and proscribe rules when breeding animals and germinal products are traded between recognised breed societies across the EU.</p>
Defra	<b>Animal Health and Welfare</b>	x	x	x	<p>EU rules and standards that aim to maintain animal health and allow their movement, including policies covering: prevention of disease (entering UK), control of disease (endemic and exotic), surveillance (for exotic disease) movement of livestock, pet passports and veterinary medicines.</p> <p>EU rules relating to aspects of animal welfare including on-farm issues, movement of livestock and slaughter.</p>
Defra	<b>Air Quality</b>	x	x	x	<p>Policies, directives and regulations that aim to reduce harmful emissions and concentrations of air pollutants that can damage human health and the environment, including in relation to national emission ceilings, ambient air quality, industrial emissions and relevant product standards (Directives 2008/50/EC, 2004/107/EC). This includes regulations that implement international commitments under the UNECE Convention on Long-range Transboundary Air Pollution and Kiev Protocol to the UNECE Aarhus Convention.</p>

Responsible UK Government Department	Area of EU Law (Policy Area)	Devolution Intersect			Additional Information - previous EU law
		NI	S	W	
Defra	<b>Best Available Techniques</b>	x	x	x	Industrial facilities undertaking specific types of activity are required to use Best Available Techniques (BAT) to reduce emissions to air, water and land. BAT means the available techniques which are the best for preventing or minimising emissions and impacts on the environment. The Industrial Emissions Directive aims to prevent and reduce harmful industrial emissions, while promoting the use of techniques that reduce pollutant emissions and that are energy and resource efficient. The UK government will put in place a process for determining future UK BAT Conclusions for industrial emissions. This would be developed with the devolved administrations and competent authorities across the UK.
Defra and HSE	<b>Chemicals and Pesticides</b>	x*	x*	x*	Regulation of the manufacture, authorisation and sale and use of chemical products primarily through the REACH regulation but also including: Persistent Organic Pollutants (POPs), Polychlorinated Biphenyls (PCBs) and Minamata.  Regulations governing the authorisation and use of pesticide products and the maximum residue levels in food, and a framework for action on sustainable use of pesticides.
Defra	<b>Food Compositional Standards and Labelling</b>	x	x	x	Minimum standards for a range of specific food commodities such as sugar, coffee, honey, caseins, condensed milk, chocolate, jams, fruit juices and bottled water.  Regulations setting out requirements on provision of information to consumers on food labels.

Responsible UK Government Department	Area of EU Law (Policy Area)	Devolution Intersect			Additional Information - previous EU law
		NI	S	W	
Defra	<b>Ozone Depleting Substances and F-gases</b>	x	x	x	The UK has international obligations under the Montreal Protocol to phase out the use of ODS, phase down hydrofluorocarbons by 85% by 2036, licence imports and exports and report on usage to the UN. EU Regulations and institutions currently deliver these obligations through quota restrictions, licencing and reporting requirements. The EU Regulations also go further with product bans, leakage controls measures and certification requirements for technicians.
Defra	<b>Plant Health</b>	x	x	x	Requirements in relation to the import and internal EU movement of plants and plant products, risk assessment of new plant pests and outbreak management. Assurance and auditing of policies across the UK to protect plant biosecurity.
Defra	<b>Plant Varieties and Seeds</b>	x	x	x	Requirements for plant variety rights, registration of plant varieties and quality assurance of marketed seed and propagating material.
Defra	<b>Resources and Waste</b>	x*	x*	x*	<p>Policies and Regulations that aim to meet certain essential product requirements and set product standards including for packaging (e.g. ROHS in Electrical and Electronic Equipment, Batteries and Vehicles) in order to manage waste.</p> <p>Policies and regulations covering waste and its recovery/recycling (Landfill Directive, Waste Frameworks Directive) including producer responsibility (reuse/recovery/recycling targets under the Waste Electrical and Electronic Equipment Directive, Batteries Directive, End of Life Vehicles Directive and Packaging Directive). Also covering the shipment of waste.</p> <p>Management of Waste from Extractive Industries - The Directive is concerned with the management of waste from extractive (mining) industries. Specific EU Directives 2006/21/EC and the three Seveso-Directives</p>

Responsible UK Government Department	Area of EU Law (Policy Area)	Devolution Intersect			Additional Information - previous EU law
		NI	S	W	
					(82/501/EEC, 96/82/EC, 2012/18/EU) relating to the disposal of waste and overlapping safety of operations. Interaction with UNECE workshops in providing best practice guidance and Eurasian standards. Further interactions based on industry specific circumstances e.g. Water Framework Directive 2000/60/EC. Directive 2011/92/EU outlines future operational planning under Environmental Impact Assessments.
DfT	<b>Commercial Transport and Operator Licensing</b>	x			<p>Regulations 1072/2009 (for goods vehicles), 1073/2009 (for road passenger transport), and Directive EC 1992/106/EC Directive for Combined Transport (including access). All these rules involve access arrangements for non-UK vehicles and may be affected (and need to be consistent with) international agreements.</p> <p>Regulation (1071/2009) establishing common rules for the licensing of commercial goods and passenger transport operators.</p> <p>The Regulations/Directive require the UK to recognise the Operator's Licences and associated documents of EU based haulage, bus and coach operators that are issued in other member states. This gives a standard basis for them to operate to/from/within the UK. Operator Licensing requirements are implemented by the Office of the Traffic Commissioner in Great Britain and Department for Infrastructure in Northern Ireland and competent authorities in each of the other member states. These bodies also have a regulatory role in maintaining standards and compliance with the Directives. DVSA in GB and DVA in NI are the enforcement body for breaches of the regulations by EU hauliers, through roadside penalties, prosecution in UK courts or referral back to their home competent authority.</p>

Responsible UK Government Department	Area of EU Law (Policy Area)	Devolution Intersect			Additional Information - previous EU law
		NI	S	W	
DfT	<b>Rail Technical Standards (interoperability)</b>	x*			Directive 2008/57/EC establishing interoperability requirements for rail systems (which will be replaced by Directive 2016/797 technical pillar of 4th railway package - soft transposition deadline June 2019, hard transposition deadline June 2020).
DfT	<b>Driver Licensing</b>	x			<p>Driver Licensing Directive (roads) and directive and regulations relating to driver certificates of professional competence.</p> <p>Driving licences are governed by several international and EU arrangements, including the UN Conventions on road traffic, which provide for safety and standards. UK photocard licences comply with the format laid out in the 1968 Vienna Convention on Road Traffic.</p> <p>The EU Third Driving Licence Directive provides for mutual recognition and exchange of Member State driving licences.</p>
DfT	<b>Roads – Motor insurance</b>	x			<p>Directive 2009/103/EC. Directive relating to insurance against civil liability in respect of the use of motor vehicles. There are also a number of pieces of domestic HMT legislation which may operate in the area.</p> <p>(This area was previously called Compulsory (3rd Party) Motor Insurance - as per Part VI Road Traffic Act 1988).</p>
DHSC	<b>Nutrition Labelling, Composition and Standards</b>	x*	x*	x*	Regulations and Directives on the nutrition and health claims made on food; food for special medical purposes and weight control; food intended for infants; the addition of vitamins and other substances to food; and food supplements.

Responsible UK Government Department	Area of EU Law (Policy Area)	Devolution Intersect			Additional Information - previous EU law
		NI	S	W	
DHSC	<b>Blood Safety and Quality</b>	x	x	x	Defines the quality and safety standards for blood and its components as set out in Directive 2002/98/EC. It covers all steps in the transfusion process from donation, collection, testing, processing, and storage to distribution. Its implementation is supported by Commission Directive 2004/33/EC, Commission Directive 2005/61/EC and Commission Directive 2005/62/EC. There are also some specific technical requirements in the following commissioning directives 2009/135/EC, 2011/38/EU, 2014/110/EU, 2016/1214
DHSC	<b>Organs, Tissues and Cells (apart from embryos and gametes)</b>	x	x	x	Directives setting out standards on the quality and safety of human organs intended for transplantation and tissues and cells for human application as part of medical treatment, and sets out the information procedures for exchange between Member States (Directives 2010/53/EU, 2012/25/EU, 2004/23/EC, 2006/17/EC, 2006/86/EC, 2012/39/EU, 2015/565 and 2015/566).
DHSC	<b>Public Health Protection and Health Security</b>	x*	x*	x*	Decision No 1082/2013/EU on serious cross-border threats to health and Regulation 851/2004 establishing a European centre for disease prevention and control. These set rules on epidemiological surveillance, monitoring, early warning of, and combating serious cross-border threats to health, including preparedness and response planning related to those activities, in order to coordinate and complement national policies. It aims to support cooperation and coordination between Member States.
DLUHC	<b>Hazardous Substances (planning)</b>	x	x	x	Ensures that the objectives of preventing major accidents and limiting the consequences of such accidents are taken into account in land-use policies. This includes controls on the siting of new establishments and modifications to establishments which fall within the scope of the Directive (i.e. storing or using significant amounts of hazardous substances), and on new developments and public areas in the vicinity of such establishments.



Responsible UK Government Department	Area of EU Law (Policy Area)	Devolution Intersect			Additional Information - previous EU law
		NI	S	W	
Food Standards Agency	<b>Food and Feed Safety and Hygiene Law</b>	x	x	x	EU Regulations laying down the general principles and requirements of food and feed safety and hygiene; food and feed law enforcement (official controls); food safety labelling; risk analysis; and incident handling. The regulations set out an overarching and coherent framework for the development of food and feed legislation and lay down general principles, requirements and procedures that underpin decision making in matters of food and feed safety, covering all stages of food and feed production and distribution.

### Category 3: Frameworks with associated primary legislation

Three policy areas where, at the time of publication, new primary legislation had been introduced to reflect the fact that the UK is no longer an EU member state. This legislation implements common rules and ways of working, alongside a non-legislative Framework agreement.

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Responsible UK Government Department	Area of EU Law (Policy Area)	Devolution Intersect			Additional Information - previous EU law	Associated primary legislation
		NI	S	W		
BEIS	<b>Emissions Trading Scheme (ETS)</b>	x*	x*	x*	Directive 2003/87/EC establishes the European Union Emissions Trading System for greenhouse gases. The Scheme sets a maximum volume of gas that can be emitted by all participating installations and aircrafts. These operators then monitor, verify and report their emissions, and must surrender allowances equivalent to their emissions annually. Allowances are issued either by being sold at auction or allocated for free to some operators, and can be traded, with the price determined by the market.	Finance Act 2020
Defra	<b>Agricultural Support</b>	x*	x*	x*	Policies and Regulations under the EU Common Agricultural Policy covering Pillar 1 (income and market support); Pillar 2 (rural growth, agri-environment, agricultural productivity grants or services and organic conversion and maintenance grants); and cross-cutting issues, including cross compliance, finance & controls.	Agriculture Act 2020
Defra	<b>Fisheries Management and Support</b>	x*	x*	x*	Policies and Regulations relating to rules relating to the sustainability of fisheries (quotas), access to waters, conservation measures, enforcement and financial support.	Fisheries Act 2020

## Policy areas that the UK Government assesses are reserved, but are subject to ongoing discussion with the devolved administrations

Responsible UK Government Department	Area of EU Law (Policy Area)	Additional Information - previous EU law
Defra	<b>Food &amp; Drink Geographical Indications (Protected Food Names)</b>	Geographical Indications (GIs) are a form of intellectual property protection. Under the EU schemes, producers could apply to protect regionally distinct or traditional agri-food products. Once registered, these products were protected throughout the EU against imitation or misuse of their names.
Home Office	<b>Data Sharing- Eurodac</b>	Regulation 603/2013/EU established Eurodac - an EU database containing fingerprints of illegal entrants and asylum applicants. Its primary purpose is to support the effective application of the Dublin Convention by helping to determine which EU Member State is responsible for examining an asylum application.

Two policy areas overseen by BEIS have been removed since the last publication. The UK Government and Northern Ireland Executive have agreed that Elements of Product Safety and Standards Relating to Explosive Atmospheres (ATEX) is reserved. In relation to State Aid, the UK Internal Market Act 2020 amended the Scotland Act 1998, Northern Ireland Act 1998 and the Government of Wales Act 2006 and in doing so, established that the regulation of the provision of subsidies by public authorities is reserved.

## Glossary of terms

**BEIS** - Department for Business, Energy and Industrial Strategy

**Concordat** - a form of non-legislative agreement

**DA** - devolved administration

**Defra** - Department for Environment, Food and Rural Affairs

**DfT** - Department for Transport

**DHSC** - Department of Health and Social Care

**DLUHC** - Department for Levelling Up, Housing and Communities

**DWP** - Department for Work and Pensions

**GB** - Great Britain

**GEO** - Government Equalities Office

**HSE** - Health and Safety Executive

**JMC(EN)** - Joint Ministerial Committee (European Negotiations)

**MoJ** - Ministry of Justice

**MoU** - Memorandum of Understanding

**TCA** - EU-UK Trade and Cooperation Agreement

**UKG** - UK Government



Huw Irranca-Davies MS  
Chair  
Legislation, Justice and Constitution Committee

25 November 2021

Dear Huw,

Thank you for your letter of 15 November. I updated the Committee on the quadrilateral meeting of frameworks Ministers in my letter of 19 November.

Regarding your specific points:

At the quadrilateral meeting, on 10 November, agreement was reached on cross cutting issues affecting the wording for Common Frameworks, namely to the wording of the text for International Relations, the Northern Ireland Protocol and the process for how exclusions for policy areas in frameworks impacted by the UK Internal Market Act will be delivered. As I explained in my letter of 19 November, the agreement of the Welsh Government to UKIMA exclusions text is without prejudice to the ongoing judicial review in relation to the Internal Market Act.

Following the quadrilateral meeting, the frameworks are progressing rapidly to publication for scrutiny by committees of the legislatures. The Public Health Protection and Health Security Framework has already been published, on 28 October. Framework documents are being finalised and publication dates are still fluid, but given these caveats every effort is being made to publish frameworks for scrutiny on the following dates:

## **2 December**

Blood Safety and Quality; Organs Tissues and Cells; Company Law (NIE and UKG only); Specific Quantities (NIE and UKG only).

## **9 – 16 December**

Emissions Trading Scheme; Late Payment; Radioactive Substances; Public Procurement; Agricultural Support; Agriculture – Fertiliser Regulations, Agriculture – Organic Farming;

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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.

Agriculture – Zootech; Animal Health and Welfare; Plant Health; Plant Varieties and Seeds; Air Quality; Best Available Techniques (BAT: air quality); Food Compositional Standards and Labelling; Ozone Depleting Substances and F-Gases; Chemicals and Pesticides; Resources and Waste.

**January 2022**

Fisheries: Management and Support.

My officials have been liaising with committee clerks for some time on approaches to handling the frameworks and I understand Senedd officials are preparing to analyse frameworks and package them for scrutiny by Committees as soon as they are published.

The length of the framework scrutiny process is of course a matter for committees. It would be hugely desirable if the frameworks could be scrutinised and signed off before the beginning of Northern Ireland's pre-election period. This date has not yet been confirmed but it is likely to be in late March if the elections take place as scheduled on 5 May. I fully appreciate this puts very considerable pressure on already hard-pressed Committees to examine a very substantial amount of frameworks material in a short space of time. My frameworks policy team would be happy to offer any assistance they can to aid the scrutiny process.

Yours sincerely,

A handwritten signature in blue ink, reading "Mick Antoniw". The signature is written in a cursive style and is positioned above a short horizontal line.

**Mick Antoniw AS/MS**

Y Cwnsler Cyffredinol a Gweinidog y Cyfansoddiad  
Counsel General and Minister for the Constitution

Mick Antoniw AS/MS  
Y Cwnsler Cyffredinol a Gweinidog y Cyfansoddiad  
Counsel General and Minister for the Constitution



Llywodraeth Cymru  
Welsh Government

Huw Irranca-Davies MS  
Chair  
Legislation, Justice and Constitution Committee

19 November 2021

Dear Huw,

Further to my letter of 8 November, I am writing in accordance with the Inter-institutional Relations Agreement to update you on the outcome of the Quadrilateral Ministerial meeting on Common Frameworks that took place on 10 November.

Agreement was reached on all the outstanding cross-cutting issues, namely a process for exclusions under the United Kingdom Internal Market Act in cases of proposed divergence, and on wording regarding International Relations and the Northern Ireland Protocol. In respect of the exclusions process, all discussions, negotiations and decisions were taken by the Welsh Government without prejudice to the ongoing judicial review in relation to the Internal Market Act.

In addition, all parties committed to future reporting on the frameworks as part of the process for the oversight of the frameworks within the Intergovernmental Relations Review. This process will also provide assurance to Senedd committees that they will be able to monitor the progress of the frameworks over the longer term. I have asked my officials to produce a paper by the end of this year, to be agreed by Ministers of the four governments, outlining an approach to reporting on Common Frameworks.

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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.

I will issue a Written Statement providing an update on the Common Frameworks programme in the first half of December ahead of the majority of frameworks being published for scrutiny.

Yours sincerely,

A handwritten signature in blue ink, reading "Mick Antoniw". The signature is written in a cursive style. Below the signature, there is a short horizontal line.

**Mick Antoniw AS/MS**

Y Cwnsler Cyffredinol a Gweinidog y Cyfansoddiad  
Counsel General and Minister for the Constitution



Ein cyf/Our ref: MA/RE/2315/21

Huw Irranca-Davies MS  
Chair of the Legislation, Justice and Constitution Committee

[SeneddLJC@senedd.wales](mailto:SeneddLJC@senedd.wales)

20 November 2021

Dear Huw,

### **The Valuation for Rating (Wales) (Coronavirus) Regulations 2021**

I am writing in response to your letter dated 16 November. Although non-domestic rates policy is devolved, there are elements of the rating system that, in practice, operate across Wales and England. Valuation and, in turn, the initial processing of appeals fall under this categorisation, and the Valuation Office Agency is the body responsible for those matters across Wales and England.

The Welsh Government's intention in addressing this matter was to achieve a collaborative approach with that of the UK Government, and we have made frequent calls for communication and cooperation in reaching a consensus on a suitable approach. Unfortunately, this cohesive approach has not proven possible, and the Welsh Government was not sighted on UK Government's intentions until announcements had been made. In addition, the sharing of relevant data from the Valuation Office Agency has been limited, adversely impacting appropriate and timely policy development for Wales.

Welsh Policy on devolved matters is set in Wales, although it is also recognised that the interconnected nature of certain policy and operational matters across Wales and England means that for the sake of certainty, it is sometimes better to adopt an aligned approach. In this instance, given the impact on businesses and other ratepayers in both Wales and England, and the fact that subsequent business support is linked to the passing of the Rating (Coronavirus) and Dissolved Companies (Directors Disqualification) Bill (the Bill), an aligned approach better enables use of financial levers, that are to a lesser extent, within the Welsh Government's devolved arsenal.

I have also noted the Committee's comments about the timing of laying, and commencement of these Regulations.

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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.

On 23 November, there will be a Plenary debate on the Legislative Consent Motion for the Bill. I will ensure that as part of the debate reference is made to the Regulations, providing Members with context on the matter at hand.

Yours sincerely,

A handwritten signature in black ink that reads "Rebecca Evans". The signature is written in a cursive, flowing style.

**Rebecca Evans AS/MS**  
Y Gweinidog Cyllid a Llywodraeth Leol  
Minister for Finance and Local Government

Rebecca Evans MS

Minister for Finance and Local Government

16 November 2021

Dear Rebecca

## The Valuation for Rating (Wales) (Coronavirus) Regulations 2021

At our meeting yesterday afternoon we considered The Valuation for Rating (Wales) (Coronavirus) Regulations 2021 (the Regulations) and the Welsh Government response to the first merits reporting point contained in our draft report, which has since been laid.

You will know that we asked for an explanation as to the reason for the Regulations being laid before the Senedd on 1 November 2021, noting that equivalent regulations applying to England (The Valuation for Rating (Coronavirus) (England) Regulations 2021 (SI 2021/398)) were laid before the UK Parliament and came into force on 25 March 2021, over seven months prior to the subject Regulations.

There are two matters raised in the response which we believe require further consideration.

First, you state:

*"The Valuation for Rating (Coronavirus) (England) Regulation 2021 (SI 2021/398) (the UKG Regulations) were laid before the UK Parliament and came into force on 25 March. The UKG Regulations were laid, without prior discussion with Welsh Government officials. Consequently, the timing of the making of the UKG Regulations meant that it was not possible to develop immediately policy or regulations applicable to Wales, because of the operation of the Senedd pre-election period between 25 March and 6 May."*

This response suggests that the timing and content of UK Government policy and regulations for England acts as a trigger point for the Welsh Government to consider how it may and/or should develop policy and law in a devolved area in Wales. We would be grateful if you would provide further clarity on this point.

Secondly, the response to our report on the Regulations closes with the following statement:

*"Following the outcome of the consultation, draft regulations were finalised and laid at the earliest possible date. This occurred on 1 November, as it was considered to be poor practice to lay the regulations the week before, ie during recess."*

While I acknowledge a good intention behind a wish to not lay regulations before the Senedd in a week where Committees and Plenary are not sitting, the Welsh Ministers doing so is not an uncommon occurrence. Indeed, in the specific recess week in question, The Representation of the People (Amendment) (Wales) (Coronavirus) (No. 2) Regulations 2021 were laid before the Senedd in your name. The Welsh Ministers also laid five sets of regulations on various other matters in this same week. We would suggest that, where "urgency" and "immediate risk" are used to justify the somewhat extreme nature of the breach of the 21 day rule (the Regulations being laid a little more than seven hours before they came into force), a more appropriate course of action would have been to lay the Regulations as soon as they had been drafted, signed and registered. Such action would have, incidentally, given persons affected by the Regulations more than a few hours' notice that the law was about to change. We hope that you will bear this in mind in the future.

Your response as regards the Regulations is relevant to the Welsh Government Legislative Consent Memorandum on the Rating (Coronavirus) and Directors Disqualification (Dissolved Companies) Bill and we hope you will draw attention to the Regulations during the Plenary debate on a motion to consent to the relevant provisions in the Bill.

Yours sincerely,

*Huw Irranca-Davies*

Huw Irranca-Davies

Chair





Ein cyf/Our ref: MA/RE/2314/21

Members of the Senedd

22 November 2021

Dear colleague

### **The Rating (Coronavirus) and Directors Disqualification (Dissolved Companies) Bill 2021**

I am writing to provide further detail prior to the 23 November Plenary debate on the Legislative Consent Motion for the Rating (Coronavirus) and Directors Disqualification (Dissolved Companies) Bill. I would like to thank both the Legislation, Justice and Constitution Committee, and the Economy, Rural Affairs and Trade Committee for their consideration of the Legislative Consent Memorandum on the Bill.

The provisions relating to Wales have the effect of preventing non-domestic rates appeals which cite Material Change of Circumstances based on Covid-19 related matters (MCC Covid-19 appeals). The provisions apply both prospectively and retrospectively: the retrospective aspect of the provisions can only be achieved by using primary legislation.

On 25 March the UK Government laid the Valuation for Rating (Coronavirus) (England) Regulations 2021 (the UKG Regulations) before the UK Parliament which came into force later that day. The UKG Regulations have the effect of preventing MCC Covid-19 appeals in England after 25 March. Prior to the introduction of the UKG Regulations, my officials were in discussion with counterparts in the UK Government to obtain information about the impact of the pandemic on non-domestic rates appeals in Wales and the options for managing this impact. This is an area where clarity and consistency and clarity of approach is important for ratepayers, given the interconnected nature of the non-domestic rating system in Wales and England: in particular, the initial stages of the appeals systems in both countries are managed by the Valuation Office Agency.

Limited information for Wales was available before the end of March and given the timing, it was not possible for policy and regulations applicable to Wales to be fully developed during the Senedd pre-election period.

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The UK Government's Rating (Coronavirus) and Directors Disqualification (Dissolved Companies) Bill (the Bill) was introduced on 12 May. No opportunity was provided beforehand for the Welsh Government to consider whether provisions for Wales should be included on introduction.

In light of the information then available, we considered options for managing the impact of MCC Covid-19 appeals. The initial priority was given to seeking the inclusion of provisions applying to Wales in the Bill. These provisions, whilst having prospective effect, would also importantly have retrospective effect, which could not be achieved using subordinate legislation.

On 7 July, I [announced](#) our plans for MCC Covid-19 appeals, noting that we would seek to include provisions in the Bill and pursue secondary legislation to prospectively prevent appeals whilst the Bill progressed. Following 7 July, my officials liaised with UK Government counterparts to lay foundations for provisions for Wales to be included in the Bill.

I subsequently wrote to the then Secretary of State for Housing, Communities and Local Government on 27 July asking for relevant provisions for Wales to be included in the Bill. A response was received on 3 September from the then Minister for Regional Growth and Local Government, confirming that relevant provisions for Wales would be tabled as an amendment at House of Commons Report Stage on 9 September.

In tandem with developing provisions for inclusion in the Bill, we also recognised the need to pursue the making of regulations to protect public finances while the Bill progressed through the UK Parliament and as a mitigation against the risk of the Bill falling.

Though the UK Government did not consult when making its regulations, we considered it appropriate to carry out a technical consultation on its draft regulations. The six weeks consultation closed on 27 September, with a [summary of consultation responses](#) published on 21 October.

Following the outcome of the consultation, draft regulations were finalised and laid at the earliest possible date. [The Valuation for Rating \(Wales\) \(Coronavirus\) Regulations 2021](#) (the Wales Regulations) were laid on 1 November coming into force later that day. From 1 November, the Wales Regulations prevent appeals which seek to rely on Covid-19 related matters. Data is not yet available to illustrate the full effect of the Wales Regulations: this includes data about the risk to Welsh public finances which might have occurred between 25 March, when regulations for England were laid, and 1 November, when the Wales Regulations were made. However, the Wales Regulations have provided protection against any relevant appeals lodged since 1 November and will continue to do so whilst the Bill progresses through Parliament or in the event the Bill falls.

Provisions in the Bill have the effect of superseding both the UKG Regulations and the Wales Regulations, with clause 1(9) in the Bill as introduced revoking the UKG Regulations. As a result of timing constraints, it has not been possible to include a clause in the Bill revoking the Wales Regulations. I intend to lay further regulations to revoke the Wales Regulations, which will align with the timing of Royal Assent, should the Bill continue to progress.

Yours sincerely

A handwritten signature in black ink that reads "Rebecca Evans". The signature is written in a cursive style with a period at the end.

**Rebecca Evans AS/MS**

Y Gweinidog Cyllid a Llywodraeth Leol  
Minister for Finance and Local Government

Ein cyf/Our ref MA-LG-3776-21

Huw Irranca-Davies MS,  
Chair, Legislation, Justice and  
Constitution Committee

24 November 2021

Dear Huw,

### **Animal Welfare (Kept Animals) Bill**

I am writing in response to the Legislation, Justice and Constitution Committee report on the Welsh Government's Legislative Consent Memorandum in relation to the Animal Welfare (Kept Animals) Bill.

I have set out my response to the Committee's two recommendations below:

**Recommendation 1.** The Minister should, at the earliest opportunity and in advance of the Senedd's debate on the relevant consent motion, provide the Committee with an update on the discussions had with the UK Government about the necessary carve out from the relevant restrictions in Schedule 7B to the Government of Wales Act 2006.

**Response:** Following discussions with the UK Government, Defra confirmed their agreement to making modifications to the consenting arrangements. Government amendments to the Bill have been tabled which include provision which 'carves out' the need for Minister of the Crown consent in the future in respect of the consenting arrangements in Schedule 7B to GOWA.

**Recommendation 2.** The Minister should, at the earliest opportunity and in advance of the Senedd's debate on the relevant consent motion, provide the Committee with further detail on the Welsh Government's analysis of clause 46 given the UK Government's intention to use the powers in the clause to make regulations for the purpose of meeting WTO obligations; confirm whether the Minister was aware of the UK Government's proposals in this regard and whether the Minister is supportive of this approach.

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**Response:** My officials have discussed this with Defra and I am content with the proposed approach. The measures in clause 46 will impact principally the illegal trade in puppies. It is possible there will be broader impacts on the trade of legal pets as these measures could potentially be applied to the commercial importation of dogs. However, proposals to introduce future measures in regulations will be considered in more detail at that stage. An impact assessment, which would include appraisal of any WTO implications, would need to be considered in respect of the detailed proposals and this would be undertaken at a GB level before introducing any restrictions via regulations. In addition, proposals in respect of secondary legislation would be subject to consultation and/or further stakeholder engagement before being introduced.

I trust the above is of assistance.

Regards,

A handwritten signature in black ink that reads "Lesley Griffiths". The signature is written in a cursive style with a large, sweeping flourish at the end.

**Lesley Griffiths AS/MS**  
**Y Gweinidog Materion Gwledig a Gogledd Cymru, a'r Trefnydd**  
**Minister for Rural Affairs and North Wales, and Trefnydd**

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Julie James AS/MS  
Y Gweinidog Newid Hinsawdd  
Minister for Climate Change



Llywodraeth Cymru  
Welsh Government

John Griffiths MS  
Chair – Local Government & Housing Committee  
Senedd Cymru  
Cardiff Bay  
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SeneddHousing@senedd.wales

22 November 2021

Dear John,

### **Supplementary Legislative Consent Memorandum (LCM) on the Leasehold Reform (Ground Rent) Bill**

Thank you for your letter of 18 November asking for a further update on the Supplementary Legislative Consent Memorandum (SLCM) on the Leasehold Reform (Ground Rent) Bill.

In light of the comments set out in your letter, I will now look to lay an SLCM by 26 November. That SLCM will relate only to those amendments made to the Bill during its passage through the House of Lords. We propose to hold the consent debate on 14 December but appreciate this will provide only a limited scrutiny period. We will therefore ask Business Committee to consider extending the reporting deadline for the LCM laid on 26 May (and consequently the SLCM) to 9 December.

I still anticipate that the UK Government will table further amendments to the Bill ahead of Committee Stage in the House of Commons but do not yet know when that might be. It is, however, very unlikely to be before the week commencing 29 November.

I will lay another SLCM in relation to the anticipated further amendments as soon as possible after they are tabled but in the absence of a confirmed timetable I am unable to commit to any date.

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I am copying this letter to Huw Irranca-Davies, Chair of the Legislation, Justice and Constitution Committee

Yours sincerely

A handwritten signature in blue ink that reads "Julie James". The signature is written in a cursive, flowing style.

**Julie James AS/MS**  
Y Gweinidog Newid Hinsawdd  
Minister for Climate Change

Julie James MS  
Minister for Climate Change  
Welsh Government

18 November 2021

Dear Julie

**Supplementary Legislative Consent Memorandum (SLCM) on the Leasehold Reform (Ground Rent)  
Bill**

Following your letter of 11 November, we would be grateful if you could provide a further update on the SLCM on the Leasehold Reform (Ground Rent) Bill.

As the SLCM is yet to be laid, we are concerned that we will have insufficient time to consider it before reporting. The next scheduled meeting of our committee is 1 December, the day before the reporting deadline of 2 December. This timetable does not allow for meaningful scrutiny.

In order to plan the committee's approach to considering and reporting on the LCM and SLCM, we would be grateful if you could confirm the date on which you expect to lay a SLCM.

We would also be grateful if you could lay a SLCM in relation to the amendments made to the Bill on 20 July at your earliest convenience. As you know, standing order 29.2 (iii) stipulates that the Government should lay a LCM normally no later than two weeks after any relevant amendments are tabled. Nearly four months have now elapsed and the Bill is expected to receive Royal Assent shortly before Christmas. In your letter of 1 October, you stated that it would be more helpful to issue a SLCM once all amendments have been tabled. However, the decision to delay laying a SLCM has constrained our ability to scrutinise the relevant provisions in a timely manner. Given the extremely tight reporting deadline, we believe it would be more useful to Members if you were to issue a SLCM relating to the amendments tabled in July as soon as possible.

We would appreciate a response by 22 November.

I am copying this letter to Huw Irranca-Davies, Chair of the Legislation, Justice and Constitution Committee.

Yours sincerely

A handwritten signature in black ink that reads "John". The letters are cursive and connected.

John Griffiths MS

Chair

Cc. Huw Irranca-Davies, Chair of the Legislation, Justice and Constitution Committee

Croesewir gohebiaeth yn Gymraeg neu Saesneg.

We welcome correspondence in Welsh or English.



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Huw Irranca-Davies MS  
Legislation, Justice and Constitution Committee  
Welsh Parliament  
Cardiff Bay, Cardiff, CF99 1SN

Llywodraeth Cymru  
Welsh Government

23 November 2021

Dear Huw,

I am writing in response to your letter of 9 November regarding the UK/Switzerland Convention on social security coordination.

It may help if I first of all clarify that international agreements are reserved to the UK Government and the Devolved Administrations are required to implement and observe them irrespective of the implications on devolved competence or for Welsh bodies.

I have addressed your specific questions below:

### **The Welsh Government's assessment of the agreement's implications on devolved competence**

The agreement requires the delivery of healthcare for visitors from Switzerland to Wales both in relation to urgent medically necessary treatment and pre-arranged planned treatment. This will be the role of Welsh Local Health Boards to deliver. The implications of the agreement on devolved competence is the requirement of Welsh Government to implement and observe the agreement and for Local Health Boards to deliver healthcare in accordance with its terms.

However what I would also clarify is that prior to EU Exit, Switzerland was part of the reciprocal healthcare agreement in place with the EU and EFTA countries. The healthcare arrangements under the new Swiss Convention are broadly the same as the previous EU reciprocal healthcare agreement (prior to EU Exit) and the new Trade and Co-operation Agreement/Social Security Protocol between the UK Government and the EU. There are no

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new requirements being placed on Welsh Local Health Boards under the Swiss Convention (or EU Trade and Co-operation Agreement).

What also must be remembered is that this is a reciprocal healthcare agreement which means that Welsh residents are able to access urgent medically necessary and pre-planned treatment in Switzerland free of charge with the costs met by the UK Government.

### **Whether the Welsh Government agrees with the UK Government's assessment of reserved and devolved matters in the agreement**

The UK Government has acknowledged in the Explanatory Memorandum on the Convention that the negotiation of reciprocal healthcare agreements and the welfare of UK nationals abroad are reserved matters but that some of the areas that reciprocal healthcare agreements cover are devolved including domestic healthcare and the recovery of overseas visitors' costs. It has also been acknowledged by the UK Government that, as the charging of overseas visitors is a devolved matter, the Devolved Administrations will ensure that these aspects are implemented accordingly.

Paragraph 10(1) of Schedule 7A to GOWA reserves "international relations" (which includes relations with territories, countries and international institutions outside the United Kingdom) to the UK Parliament.

Pursuant to paragraph 10(3) of Schedule 7A to GOWA, observing and implementing international obligations and assisting a Minister of the Crown in relation to international relations (insofar as they relate to devolved matters) are carved out of the international relations reservation. Health is a devolved matter, which includes the recovery of overseas visitors' costs in relation to Wales. Furthermore, the giving effect to healthcare agreements which concern healthcare that is provided in Wales is within the legislative competence of Senedd Cymru.

I agree therefore that the entering into of the Convention is a matter for the UK, rather than the Devolved Administrations, and I am satisfied with the UK Government's position regarding the implications of the Convention with respect to devolved matters in Wales.

### **Whether the Welsh Government will be represented in the new UK-Swiss governance mechanisms created by the agreement, particularly in relation to attendance at the Joint Administrative Committee when devolved matters are discussed**

UK Government has confirmed that the representation arrangements regarding the Devolved Governments and the governance mechanisms under the Swiss Convention mirror those under the Trade and Cooperation Agreement and Protocol on Social Security Coordination – meaning that central UK Government will represent the UK at the Joint Administrative Committee under the Convention, but there is the ability to invite representatives of the Devolved Governments Joint Administrative Committee meetings as appropriate and if needed, for example if an issue was to be discussed that was of particular interest or on an area of devolved delivery such as planned treatment.

### **What plans are in place for the Welsh Government to implement the agreement, if any, including timescales**

International Agreements made by the UK Government are binding on the UK as a whole and the Devolved Administrations are required to implement them in line with any timescales in the Agreement. The Swiss Convention came into effect on 1 November 2021 and Welsh Local Health Boards are required to operate it from that date. The Local Health Boards have been notified about the Agreement and all necessary arrangements (for

example guidance and application forms for pre-planned treatment, administrative and reimbursement arrangements with the NHS Business Services Authority) have been incorporated within the processes already in place for the EU Trade and Co-operation Agreement.

We will however need to reflect the agreement within the National Health Service (Charges to Overseas Visitors) Regulations 1989 which set out the exemptions for the charging of overseas visitors, and we will be making amendments to those regulations in respect of this as soon as possible.

**Whether the Welsh Government is satisfied with the level and frequency of consultation with the UK Government during the negotiation of this agreement, as described in the Explanatory Memorandum**

Whilst the UK Government informed Welsh Government officials about the development and progress of the Convention and the likely timings of signing and implementation, the Welsh Government were not involved in any of the actual negotiations with the Swiss Government. Whilst I recognise this is not an ideal position, international agreements are reserved to the UK Government and broadly the Memorandum of Agreement in place with the UK Government in support of the consultation requirements of the Healthcare (European Economic Area and Switzerland Arrangements) Act 2019 was followed. And in this case there was an agreed position of the UK Government and the Devolved Administrations that any agreement with Switzerland should seek to broadly replicate the arrangements in place under the UK/EU Trade and Co-operation Agreement following EU Exit (and the arrangements with Switzerland prior to EU Exit).

I trust this response will be helpful in the Committee's the Committee's consideration of the Convention.

Yours sincerely

A handwritten signature in black ink that reads "Mark Drakeford". The signature is written in a cursive, slightly slanted style.

**MARK DRAKEFORD**

Rt Hon Mark Drakeford MS  
First Minister of Wales

9 November 2021

Dear Mark

**UK/Switzerland: Convention on social security coordination**

You will be aware that the Legislation, Justice and Constitution Committee is responsible for the scrutiny and monitoring of non-trade international agreements in the Sixth Senedd.

At our meeting on 1 November 2021 we considered the UK/Switzerland: Convention on social security coordination.

The agreement establishes new post-Brexit social security coordination arrangements between the UK and Switzerland in respect of certain benefits, including access to reciprocal healthcare.

During our consideration we agreed to write to you to seek the following information:

- the Welsh Government's assessment of the agreement's implications on devolved competence;
- Whether the Welsh Government agrees with the UK Government's assessment of reserved and devolved matters in the agreement;
- Whether the Welsh Government will be represented in the new UK-Swiss governance mechanisms created by the agreement, particularly in relation to attendance at the Joint Administrative Committee when devolved matters are discussed;
- What plans are in place for the Welsh Government to implement the agreement, if any, including timescales;

- Whether the Welsh Government is satisfied with the level and frequency of consultation with the UK Government during the negotiation of this agreement, as described in the Explanatory Memorandum.

We would be grateful for a response by 23 November 2021.

Yours sincerely,

*Huw Irranca-Davies*

Huw Irranca-Davies  
Chair