

Agenda – Legislation, Justice and Constitution Committee

Meeting Venue:

Video Conference via Zoom

Meeting date: 21 March 2022

Meeting time: 13.30

For further information contact:

P Gareth Williams

Committee Clerk

0300 200 6565

SeneddLJC@senedd.wales

1 Introductions, apologies and substitutions

(13.30)

2 Instruments that raise no reporting issues under Standing Order 21.2 or 21.3

(13.30–13.35)

(Pages 1 – 5)

Attached Documents:

LJC(6)–10–22 – Paper 1 – Statutory instruments with clear reports

Made Negative Resolution Instruments

2.1 SL(6)170 – The Council Tax (Joint and Several Liability of Care Leavers) (Wales) Regulations 2022

[Regulations](#)

[Explanatory Memorandum](#)

2.2 SL(6)171 – The Menai Strait (East) Mussel and Oyster Fishery Order 2022

[Regulations](#)

[Explanatory Memorandum](#)



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2.3 SL(6)179 – The National Health Service Trusts (Membership and Procedure) (Amendment) (Wales) Regulations 2022

[Regulations](#)

[Explanatory Memorandum](#)

Affirmative Resolution Instruments

2.4 SL(6)174 – The Local Authorities (Amendments Relating to Publication of Information) (Wales) Regulations 2022

[Regulations](#)

[Explanatory Memorandum](#)

Made Negative Resolution Instruments

3 Instruments that raise issues to be reported to the Senedd under Standing Order 21.2 or 21.3 (13.35–13.40)

3.1 SL(6)173 – The Local Election Survey (Wales) (Amendment) Regulations 2022 (Pages 6 – 8)

[Regulations](#)

[Explanatory Memorandum](#)

Attached Documents:

LJC(6)–10–22 – Paper 2 – Draft report

LJC(6)–10–22 – Paper 2a – Welsh Government response

4 Common frameworks (13.40–13.45)

(Pages 9 – 16)

Attached Documents:

LJC(6)-10-22 – Paper 3 – Letter from the Chair of the Common Frameworks Scrutiny Committee to the Counsel General and Minister for the Constitution, 11 March 2022

LJC(6)-10-22 – Paper 4 – Letter from the Chair of the Common Frameworks Scrutiny Committee, 17 March 2022

LJC(6)-10-22 – Paper 18 – Letter to the Chair of the Common Frameworks Scrutiny Committee from the Chairperson of the Committee for the Executive Office, 18 March 2022

LJC(6)-10-22 – Paper 18a – Scrutiny of the common frameworks in the Northern Ireland Assembly Committee for the Executive Office, 11 March 2022

4.1 Provisional plant health common framework

(Pages 17 – 19)

Attached Documents:

LJC(6)-10-22 – Paper 5 – Letter from the Chair of the Common Frameworks Scrutiny Committee to the Secretary of State for Environment, Food and Rural Affairs, 11 March 2022

4.2 Provisional fertilisers common framework

(Pages 20 – 21)

Attached Documents:

LJC(6)-10-22 – Paper 6 – Letter from the Chair of the Common Frameworks Scrutiny Committee to the Secretary of State for Environment, Food and Rural Affairs, 15 March 2022

4.3 Provisional food compositional standards and labelling common framework

(Pages 22 – 25)

Attached Documents:

LJC(6)-10-22 – Paper 19 – Letter from the Chair of the Health and Social Care Committee to the Deputy Minister for Mental Health and Wellbeing, 18 March 2022

5 Inter-Institutional Relations Agreement

(13.45)

6 Papers to note

(13.45–13.50)

6.1 Written statement by the First Minister: Publication of the terms of reference for the UK-wide Covid-19 Public Inquiry

(Pages 26 – 28)

Attached Documents:

LJC(6)–10–22 – Paper 7 – Written statement by the First Minister, 10 March 2022

LJC(6)–10–22 – Paper 8 – UK COVID-19 Inquiry draft terms of reference, March 2022

6.2 Correspondence from the Minister for Education and Welsh Language: Tertiary Education and Research (Wales) Bill

(Pages 29 – 35)

Attached Documents:

LJC(6)–10–Paper 9 – Letter from the Minister for Education and Welsh Language, 14 March 2022

6.3 Correspondence from the Deputy Minister for Arts and Sport, and Chief Whip: Legislative Consent on the Cultural Objects (Protection from Seizure) Bill

(Pages 36 – 38)

Attached Documents:

LJC(6)–10–22 – Paper 10 – Letter from the Deputy Minister for Arts and Sport, and Chief Whip, 17 March 2022

LJC(6)–10–22 – Paper 11 – Letter from the Deputy Minister for Arts and Sport, and Chief Whip to the Llywydd, 16 March 2022

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

(13.50)

8 Welsh Tax Acts etc. (Power to Modify) Bill – consideration of draft report

(13.50–14.20)

(Pages 39 – 112)

Attached Documents:

LJC(6)–10–22 – Paper 12 – Draft report

9 Supplementary Legislative Consent Memorandum (Memorandum No. 2) on the Animal Welfare (Kept Animals) Bill – consideration of legal advice note

(14.20–14.35)

(Pages 113 – 130)

Attached Documents:

LJC(6)–10–22 – Paper 13 – Legal advice note

LJC(6)–10–22 – Paper 14 – Letter from the Minister for Rural Affairs and North Wales, and Trefnydd, 3 March 2022

10 Supplementary Legislative Consent Memorandum (Memorandum No. 3) on the Professional Qualifications Bill

(14.35–14.40)

(Pages 131 – 140)

Attached Documents:

LJC(6)–10–22 – Paper 15 – Supplementary Legislative Consent Memorandum (Memorandum No. 3) on the Professional Qualifications Bill

LJC(6)–10–22 – Paper 16 – Letter from the Minister for Education and Welsh Language, 17 March 2022

11 International agreements considered on 7 March 2022 and 14 March 2022 – consideration of draft report

(14.40–14.50)

(Pages 141 – 145)

Attached Documents:

LJC(6)-10-22 – Paper 17 – Draft report

Statutory Instruments with Clear Reports 21 March 2022

SL(6)170 – The Council Tax (Joint and Several Liability of Care Leavers) (Wales) Regulations 2022

Procedure: Made Negative

These [Regulations](#) amend the Local Government Finance Act 1992 to remove eligible care leavers aged 24 and under from joint and several liability for the payment of council tax in relation to chargeable dwellings in Wales.

Where care leavers are living with a spouse or partner or in households with more than one adult, all of the adults may be held jointly and severally liable for the council tax bill on their home. Therefore a care leaver could be held liable for payment of council tax where another person (who is not exempt) fails to pay their council tax. Local authorities have discretionary powers to offer reductions on council tax bills and some have used these powers to exempt care leavers from liability.

These Regulations will have the effect of reducing the council tax liability for eligible care leavers to nil.

Parent Act: The Local Government Finance Act 1992

Date Made: 01 March 2022

Date Laid: 04 March 2022

Coming into force date: 01 April 2022



Statutory Instruments with Clear Reports

21 March 2022

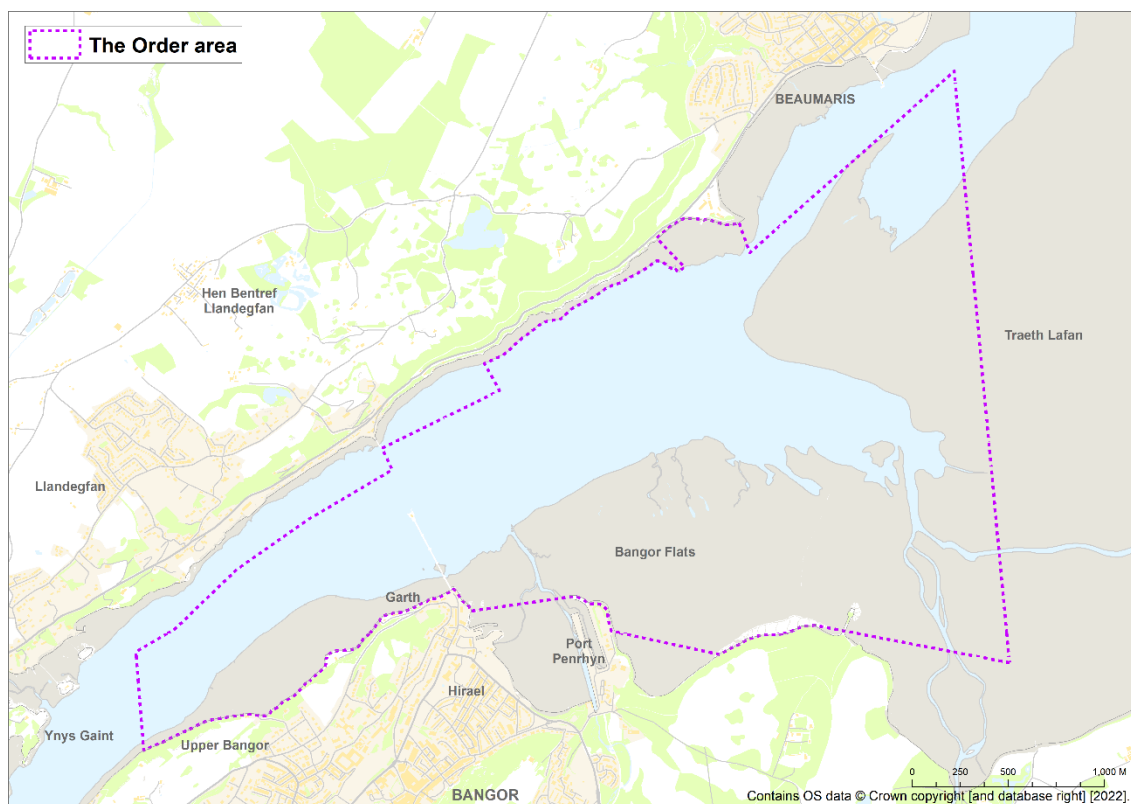
SL(6)171 – The Menai Strait (East) Mussel and Oyster Fishery Order 2022

Procedure: Made Negative

This [Order](#) confers on the Menai Strait Fishery Order Management Association (“the Grantee”) a right of several fishery and a right of regulating a fishery for prescribed species of shellfish. The effect of granting a right of several fishery is that the Grantee is given the exclusive right of depositing, propagating, dredging, fishing for and taking those shellfish. The prescribed species are mussels and oysters.

The rights subsist over an area of approximately 694 hectares of the foreshore and bed of the Menai Strait in the counties of Gwynedd and Anglesey as specified in the Schedule to the Order and as indicated in the map below.

The right of several fishery and the right of regulating a fishery are conferred on the Grantee for a period of 35 years commencing on 2 April 2022. This is intended to provide a secure basis for aquaculture.



Parent Act: Sea Fisheries (Shellfish) Act 1967

Date Made: 03 March 2022

Date Laid: 04 March 2022

Coming into force date: 02 April 2022



Senedd Cymru
Pwyllgor Deddfwriaeth, Cyfiawnder a'r Cyfansoddiad
—
Welsh Parliament
Legislation, Justice and Constitution Committee

Statutory Instruments with Clear Reports

21 March 2022

SL(6)179 – The National Health Service Trusts (Membership and Procedure) (Amendment) (Wales) Regulations 2022

Procedure: Made Negative

These [Regulations](#) make amendments to legislation concerning the membership and procedures of NHS Trusts.

They make provision for the role of a statutory vice-chair on the boards of directors of NHS Trusts in Wales as an additional non-executive director post, including with respect to their tenure of office (including termination and suspension), appointment, disqualification for appointment, eligibility for reappointment and their powers and role in the proceedings and committees of NHS Trusts.

These Regulations also make provision providing for a decrease in the maximum permitted number of non-executive directors (excluding the chair and vice-chair) from 7 to 6 in consequence of the addition of the statutory vice-chair post. They also increase the maximum permitted number of executive directors of NHS Trusts from 5 to 6 (including the Chief Executive).

Parent Act: National Health Service (Wales) Act 2006

Date Made: 08 March 2022

Date Laid: 11 March 2022

Coming into force date: 01 April 2022



Senedd Cymru
Pwyllgor Deddfwriaeth, Cyfiawnder a'r Cyfansoddiad
—
Welsh Parliament
Legislation, Justice and Constitution Committee

Statutory Instruments with Clear Reports

21 March 2022

SL(6)174 – The Local Authorities (Amendments Relating to Publication of Information) (Wales) Regulations 2022

Procedure: Affirmative

Regulation 12 of the Local Authorities (Executive Arrangements) (Decisions, Documents and Meetings) (Wales) Regulations 2001 ("the 2001 Regulations") places a duty on county and county borough councils to maintain a register stating the name and address of every member of their executive and of every member of a committee of the executive. The 2001 Regulations require the register to be open to inspection by the public at the principal office of the authority.

In order to provide a safe environment for those prepared to put themselves forward for elected office, one of the steps identified to achieve that aim is to remove the requirement for members' addresses to be included as part of the register that must be open to inspection by the public.

These [regulations](#) make the necessary amendments to provide that the information open to inspection must not include a member's address included in the registers.

Parent Act: Local Government and Elections (Wales) Act 2021 / Local Government Act 2000

Date Made:

Date Laid:

Coming into force date: 05 May 2022



Senedd Cymru
Pwyllgor Deddfwriaeth, Cyfiawnder a'r Cyfansoddiad
—
Welsh Parliament
Legislation, Justice and Constitution Committee

Agenda Item 3.1

SL(6)173 – The Local Election Survey (Wales) (Amendment) Regulations 2022

Background and Purpose

These [Regulations](#) amend the Local Election Survey (Wales) Regulations 2012 (“the 2012 Regulations”).

Section 1 of the Local Government (Wales) Measure 2011 imposes a duty on a local authority (a county council or county borough council) to conduct, or to arrange for the conduct of, a survey by asking prescribed questions of candidates who are standing for election as councillors to the council of the county or county borough or to a community council in its area. Alternatively, the survey may be conducted entirely after the ordinary election, of both the successful and unsuccessful candidates. The 2012 Regulations prescribe the questions that must be asked when conducting a survey. Responding to the survey is voluntary.

Regulation 2 of these Regulations replaces the survey set out in the Schedule to the 2012 Regulations with a new survey (“the New Survey”), which makes minor amendments to the previous survey, including providing additional optional answers to certain questions and altering the wording of some questions. The New Survey also asks additional questions in relation to awareness of the Contribution towards Costs of Care and Personal Assistance, and the Access to Elected Office Fund Wales.

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 point is 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



The Explanatory Memorandum notes that one of the main issues addressed by the changes made by the Regulations is the evolution of language relating to the equalities and diversity agenda. However, we note there is no equality impact assessment for these Regulations. We ask the Welsh Government to confirm whether any equality impact assessment was undertaken in relation to these Regulations and, if not, why such an assessment was not undertaken.

Welsh Government response

A Welsh Government response is required.

Legal Advisers

Legislation, Justice and Constitution Committee

14 March 2022



Senedd Cymru

Pwyllgor Deddfwriaeth, Cyfiawnder a'r Cyfansoddiad

—
Welsh Parliament

Legislation, Justice and Constitution Committee

Pack Page 7

Government Response: *The Local Election Survey (Wales) (Amendment) Regulations 2022*

Merit Scrutiny point 1: It was not considered necessary to conduct a full equality impact assessment as there is no change in the policy underpinning these Regulations. As set out in the Explanatory Memorandum, the requirement to conduct the survey is prescribed in legislation, including the questions to be asked when undertaking the survey.

Whilst it would have been legally compliant to use the previous survey contained within the 2012 Regulations for the May 2022 elections, it was felt appropriate to test the questions to establish whether they remained appropriate.

As part of this engagement process, it was clear there were some issues in terms of the language used in that previous survey in respect of equality and diversity. This was explored further with stakeholders to ensure the language used in the survey reflected current appropriate language.

It is intended that there will be a full evaluation of the survey arrangements including the approach and contents following the completion of the 2022 survey. At this point a full set of impact assessments will be undertaken to inform future policy.

Agenda Item 4



HOUSE OF LORDS

Common Frameworks Scrutiny Committee

House of Lords
London

SW1A 0PW

Tel: 020 7219 8664

hlcommonframeworks@parliament.uk

11 March 2022

Mick Antoniw MS
Welsh Parliament
Cardiff Bay
Cardiff
CF99 1SN

Dear Mick,

The Common Frameworks Scrutiny Committee have become increasingly concerned about the lack of reference in common frameworks to the UK Internal Market Act exclusions process. I am writing to you and the other devolved administrations to seek your view on this issue.

As you will be aware, the UK Government have issued guidance about how common frameworks can be used to exempt certain areas from the UK's market access principles.¹ This exclusions process ensures Parties to frameworks can diverge on certain policy issues, ensuring that the devolution settlements are respected. As the Committee remain concerned that the UK Internal Market Act threatens this aspect of the devolution settlements, we consider this to be a vital amendment, secured by one of our own committee members, Lord Hope.

Section 2b of the exclusions process guidance indicates that the frameworks should contain text outlining the process. However, none of the published frameworks contain this text. On 25 January, the Committee asked Danny Jeyasingam, Deputy Director of the Devolution Team at DEFRA, why this was the case. He responded that as the exclusions process is "already in the public domain", more information about it was not deemed necessary. He said that the general processes set out in the framework are used for the exclusions process.² This position was confirmed by George Eustice MP, Minister for Environment, Food and Rural Affairs, in a letter to the Committee of 14 February. He said that "prior to publication, all governments agreed that the process for considering exclusions, published on 9 December, would sit separately to individual frameworks and that references in specific Framework agreements was not required."³

¹ <https://www.gov.uk/government/publications/process-for-considering-ukim-act-exclusions-in-common-framework-areas/process-for-considering-uk-internal-market-act-exclusions-in-common-framework-areas>

² Q265

³ <https://committees.parliament.uk/publications/9154/documents/159640/default/>

This position is of significant concern to the Committee. In order for the UK Internal Market Act to function as per schedule 10 (3), and to avoid any misunderstanding, it is key that common frameworks should explicitly set out the process through which exclusions can be agreed. It is the spirit of common frameworks that the autonomy of the devolved administrations within their areas of competence is respected, and that they should have the opportunity to diverge from the rest of the UK on certain policy areas. The frameworks' failure to outline the exclusions process from the UK Internal Market Act puts this in jeopardy.

The Committee would therefore welcome your opinion in writing.

Given the significance of this issue, I would be very happy to speak to you directly about our concerns if this would be helpful.

Yours sincerely,

Baroness Andrews
Chair of the Common Frameworks Scrutiny Committee



HOUSE OF LORDS

Common Frameworks Scrutiny Committee

House of Lords
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17 March 2022

Huw Irranca-Davies MS
Welsh Parliament
Cardiff Bay
Cardiff
CF99 1SN

Dear Huw,

I am writing to thank you, and your officials, for sharing recent correspondence you received from Mick Antoniw MS of 2 March concerning the Common Frameworks Programme.

We found the matters raised by your committee to be of the utmost importance. We were particularly pleased to see the Welsh Government have confirmed their commitment to regular ongoing reporting to the Senedd on common frameworks. This is a commitment we have repeatedly recommended that the UK Government should replicate. We believe this is crucial for ensuring transparency and accountability with respect to common frameworks and intergovernmental working more broadly. Our committee are therefore seeking updates from the UK Government concerning ongoing work being led by the Welsh Government to develop a mechanism for all governments to use for ongoing reporting to the legislatures.

We also note with interest the Minister's answers concerning the UK Internal Market Act exclusions process. We strongly advocate the new process for agreeing exclusions that was published in December, and are following up with both the Scottish and Welsh governments for their views on whether the process should be set out explicitly in the text of common frameworks. Doing so, we believe, is crucial to ensuring that there is no misunderstanding about the process that should be followed and that the devolution settlements must be respected.

We look forward to engaging with you further on these matters.

Yours sincerely,

Baroness Andrews
Chair of the Common Frameworks Scrutiny Committee



Committee for the Executive Office

Baroness Andrews
Chair
Common Frameworks Scrutiny Committee
House of Lords
London
SW1A 0PW

hlcommonframeworks@parliament.uk

18 March 2022

Dear Baroness Andrews,

COMMON FRAMEWORKS PROCESS

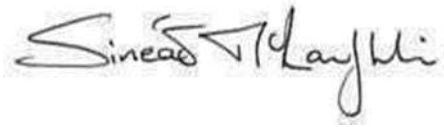
At its meeting on 27 January 2022 the Committee for the Executive Office agreed to write to those statutory committees of the Northern Ireland Assembly who have responsibility for the scrutiny of Common Frameworks asking for their experiences of this process. Three of the five affected committees responded covering 21 of the 32 Common Frameworks.

At its meeting on 16 March 2022, the Committee for the Executive Office considered a paper which constitutes a summary of those experiences by Northern Ireland Assembly statutory committees regarding the Common Frameworks process. The Committee agreed to forward a copy of this summary paper to you for reference.

I trust you will find this information useful.

I am copying this letter to the Convenor of the Constitution, Europe, External Affairs and Culture Committee, Clare Adamson MSP and the Chair of the Legislation, Justice and Constitution Committee, Huw Irranca-Davies MS.

Yours sincerely,

A handwritten signature in black ink, reading 'Sinéad McLaughlin'.

Sinéad McLaughlin MLA
Chairperson, Committee for the Executive Office

Committee for the Executive Office

Room 375a, Parliament Buildings, Ballymiscaw, Stormont, Belfast, BT4 3XX

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SCRUTINY OF THE COMMON FRAMEWORKS IN THE NORTHERN IRELAND ASSEMBLY

COMMITTEE FOR THE EXECUTIVE OFFICE

11 March 2022

Introduction

On 27 January 2022 the Committee for the Executive Office wrote to those statutory committees of the Northern Ireland Assembly which had responsibility for the scrutiny of Common Frameworks asking for their experiences. The table in the Appendix summarises the state of scrutiny of frameworks at the time of writing to the Committees.

Three of the five affected committees responded, encompassing 21 of the 32 frameworks. This paper constitutes a summary of those experiences.

Experiences of the Frameworks

Comments by Committees for their experiences of the common frameworks can be summarised as follows:

- Unclear or ambiguous timelines for publication: This has been problematic for planning scrutiny.
- Lack of consultation on the March 2022 deadline: The requirement that all scrutiny should be complete by the end of the mandate was not discussed with committees. Equivalent Welsh and Scottish committee colleagues have also expressed concerns about meeting this deadline.
- Poor quality of documentation: The documentation received for some frameworks has lacked detail or the information was to be made available elsewhere, making scrutiny difficult.
- Technical language in summaries: Some of the accompanying framework summaries cover very specific areas and use very technical language, which require further explanation.
- Lack of North-South engagement: There is little or no indication that the common frameworks take into account the circumstances of Northern Ireland in relation to the land border and north-south relationships.
- Lack of clarity: Only limited information could be provided in respect of some frameworks when further elucidation was sought from UK Departments, limiting the effectiveness of scrutiny.

APPENDIX: COMMON FRAMEWORKS AT COMMITTEES OF THE NORTHERN IRELAND ASSEMBLY IN JANUARY 2022

Committee	Common Framework	Status/documents received by Committee
AERA	Implementation of EU Emissions Trading System (ETS)	Awaiting provisional framework
AERA	Agricultural support	Awaiting provisional framework
AERA	Agriculture - fertiliser regulations	Awaiting provisional framework
AERA	Agriculture - organic farming	Awaiting provisional framework
AERA	Agriculture - Zootech	Awaiting provisional framework
AERA	Animal health and welfare	Awaiting provisional framework
AERA	Fisheries management & support	Awaiting provisional framework
AERA	Ozone depleting substances and Fgases	Awaiting provisional framework
AERA	Plant Health	Awaiting provisional framework
AERA	Plant varieties and seeds	Awaiting provisional framework
AERA	Resources and Waste	Awaiting provisional framework
AERA	Radioactive substances	Committee scrutiny stage
AERA	Air Quality	Awaiting provisional framework
AERA	Best available Techniques	Awaiting provisional framework
AERA/Economy	Chemicals and Pesticides	Awaiting provisional framework
Economy	Mutual Recognition of professional qualification (MRPQ)	Awaiting provisional framework
Economy	Services Directive	Awaiting provisional framework
Economy	Company law	Committee scrutiny stage
Economy	Specified quantities and packaged goods	Awaiting provisional framework
Economy	Late payment (commercial transactions)	Committee scrutiny stage
Finance	Public procurement	Committee scrutiny stage

Health	Organs, tissues and cells (apart from embryos and gametes)	Committee scrutiny stage
Health	Public health protection and health security	Committee scrutiny stage
Health	Blood Safety and Quality	Committee scrutiny stage
Health	Food Compositional Standards and Labelling	Awaiting provisional framework
Health	Food and feed safety and hygiene law	Committee scrutiny stage
Health	Nutrition Labelling, Composition and Standards	Committee scrutiny stage
Infrastructure	Hazardous substances planning	Implemented
Infrastructure	Commercial Road Transport and Operator licensing	Committee scrutiny stage
Infrastructure	Rail technical standards (interoperability)	Committee scrutiny stage
Infrastructure	Driver licensing	Committee scrutiny stage
Infrastructure	Roads - Motor Insurance	Committee scrutiny stage

Agenda Item 4.1



HOUSE OF LORDS

Common Frameworks Scrutiny Committee

House of Lords

London

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11 March 2022

The Rt Hon George Eustice MP
Secretary of State for Environment, Food and Rural Affairs
Department for Environment Food & Rural Affairs
Seacole Building
2 Marsham St
London
SW1P 4DF

Dear George,

Thank you for the Plant Health Provisional Framework that was published on 3 February and considered by the Committee on 11 March. We appreciate this framework being privately shared with our secretariat before its publication so we could prepare for scrutiny in a timely fashion. Whilst I want to confirm the Committee's intention to produce recommendations for this framework, there are several areas where we would first appreciate more information.

We were concerned that, despite the large number of working groups that play a role in the operation of the framework, proper information was only provided for four of them – the UK NPPO, the UK Plant Health Policy Group, the UK Plant Health Market Access Working Group and the UK Plant Health Risk Group. Even in these cases, the information is limited. For example, the regularity of meetings is not outlined in Annex 4, nor is there a mention of who chairs meetings. Could you provide this information for these groups? Additionally, we are concerned at the large number of groups, some with titles that could suggest overlapping responsibilities for which there is very little information. Could you therefore provide us with more detail on the work and composition of the following groups:

- Plant Health Outbreak Readiness Board
- FTA and TCA Coordination Group
- Plant Health Advisory Forum
- Tree Health Policy Group
- Surveillance and Control sub-group
- IT preparedness sub-group
- Training and Exercises sub-group
- Outbreak management process/lessons learned sub-group
- Risk Register and PRA sub-group
- Import Threats sub-group

- Publicity and Awareness Raising sub-group
- Legislation and Implementation sub-group
- Surveillance, Incidents, Contingency Plans sub-group
- Science Coordination WG
- Forest Reproductive Material (Ad Hoc) Working Group

We are also concerned that such a large number of working groups and complex set of working arrangements could create excessive bureaucracy. Were the groups mentioned above established in line with the development of the framework, or did they already exist in some form? If they were newly established, what was the reason for having so many groups rather than fewer groups with larger remits?

We were concerned that in the diagram in Annex 3, it seemed that stakeholder groups are only consulted at the point a matter goes to the UK NPPO Group. This seems to contradict the framework's vision that "Stakeholders will continue to be engaged early in the decision-making process to gather views and opinions that will feed into the UK Plant Health Risk Group decision making process." Additionally, we were surprised that the provisional framework seemed to limit stakeholder engagement to the UK NPPO or the UK Plant Health Risk Group. Could you therefore clarify at what stage in the process stakeholders are consulted, and by who? If stakeholders can only be consulted by the UK NPPO or the UK Plant Health Risk Group, could you clarify why this is the case? Why should other groups at a similar level not be able to consult stakeholders on the specific matters they consider?

We were particularly confused about the Plant Health Policy Group, which is mentioned in the text of the framework but does not appear in the diagram in Annex 3. Please could you outline where this group should fit in the diagram? Could you also provide more information about the role and operation of the group, including membership, frequency of meetings, secretariat, and chair?

In our [previous correspondence](#) with you, we discussed the Plant Health Service Operational monitoring group, but this group does not appear in the Annex 3 diagram, nor is it mentioned in the framework. What has happened to it?

We note that the Crown Dependencies are invited to attend the UK Plant Health Risk Group, but that the Crown Dependencies do not appear in the Annex 3 diagram. Could you explain why the decision was made not to include them?

We were interested to read that the dispute resolution process outlines how legal counsel can be sought at any stage in the process. We have not seen mention of legal counsel in other frameworks. Could you clarify why this particular framework mentions legal counsel as an option in the dispute resolution process?

We again also note with concern the absence of any reference to the UK Internal Market Act's exclusions process. However, we acknowledge that you are looking to see if this issue can be resolved.

Finally, the Committee is keenly aware of the fact that cross-border co-operation with the Republic of Ireland is integral to the successful protection and management of plant health and believe that the framework must be sensitive to this. As the North-South Ministerial

Council is the official forum for discussion between Northern Ireland and the Republic of Ireland on plant health issues, could you confirm if discussion of the development of this framework has taken place at the Council? Additionally, we were pleased to see the framework clarified that a Plant Health & Pesticides Steering Group oversee an annual work programme that co-operates with Ireland's Department of Agriculture, Food and the Marine. Could you clarify why this group does not appear in the diagram in Annex 3?

In order to facilitate the swift scrutiny of this framework, we ask that you respond within 5 working days.

Yours sincerely,

Baroness Andrews
Chair of the Common Frameworks Scrutiny Committee

Agenda Item 4.2



HOUSE OF LORDS

Common Frameworks Scrutiny Committee

House of Lords

London

SW1A 0PW

Tel: 020 7219 8664

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15 March 2022

The Rt Hon George Eustice MP
Secretary of State for Environment, Food and Rural Affairs
Department for Environment Food & Rural Affairs
Seacole Building
2 Marsham St
London
SW1P 4DF

Dear George,

Thank you for the Fertilisers Provisional Framework that was published on 3 February and considered by the Committee on 15 March. We appreciate this framework being privately shared with our secretariat before its publication so we could prepare for scrutiny in a timely fashion. Whilst I want to confirm the Committee's intention to produce recommendations for this framework, there are several areas where we would first appreciate more information.

First, we were concerned that the framework does not provide enough information on its interaction with the Protocol on Ireland/Northern Ireland. On page 10, we read that "The following paragraphs of Annex 2 of the Northern Ireland Protocol are relevant to this framework", but the paragraphs are not then listed. Could you clarify which paragraphs of the Protocol are relevant to the framework? We would also like to highlight the importance of communication with the Republic of Ireland on fertilisers, especially as NI will be diverging on fertilisers in July₂ and because the island of Ireland is considered one epidemiological unit from a public and animal health standpoint.

We were confused by the framework's description of the decision-making process, particularly the role of senior officials. We read in paragraph 10.6 that "There is no specific senior official group that exists for fertilisers with regard to decision making. Policy officials also consider that there is no need for a specific senior official group only for fertiliser related decisions." However, a different arrangement appears in the diagram labelled 'Decision making Flow Diagram', which shows 'Senior Officials' are consulted if there is a disagreement at official level. Then, to add further confusion, page 15 states that "If there is agreement [by officials] that ... divergence is acceptable, then this is referred to senior officials for their agreement." This implies that senior officials are expected to approve divergence even when officials agree it is acceptable. Could you clarify what role senior officials play in the decision-making process?

We were also confused by the framework's description of the dispute resolution process. According to the text outline of the dispute resolution process on page 15, and the diagram on page 20, the first stage of the process is said to be the 'Fertiliser Liaison Group'. However, no information about this group is given in the framework, and elsewhere it is implied the UKFRC are really the first stage of the process. Could you clarify who the Fertiliser Liaison Group are?

Additionally, while the text outline of the dispute resolution process on page 15 and the diagram on page 20 state the Fertiliser Liaison Group are 'level one' in the dispute resolution process, this is not reflected in the 'Levels explained' text on page 20. This text outlines that a dispute is discussed wither by the 'four governments Directors group' or the 'fertiliser Frameworks management group'. Could you clarify how the dispute resolution process operates?

In our [previous correspondence](#) with you on this framework, you told us that a second round of stakeholder engagement would take place before the provisional framework was published. Could you update us on which stakeholders were consulted in this round of engagement, and if any feedback given caused you to make changes to the framework? Particularly, were farmers consulted?

We had a number of other concerns which we do not feel we require further clarity on but want to highlight to you. We feel it is essential that the devolved administrations participate in UK-EU meetings where there is an agenda item concerning devolved competence. As such, the framework should be updated to say that the UK Government "will" facilitate the attendance of the devolved administrations at a similar level to that of UK Government representatives, not that it "should". We are also concerned that not enough information is given in the framework on the monitoring of divergence and direction of policy. We will make full recommendations on these issues in a separate letter.

In order to facilitate the swift scrutiny of this framework, we ask that you respond within 5 working days.

Yours sincerely,

Baroness Andrews
Chair of the Common Frameworks Scrutiny Committee

Agenda Item 4.3

Y Pwyllgor Iechyd a
Social Cymdeithasol

Health and Social Care Committee

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Lynne Neagle MS
Deputy Minister for Mental Health and
Wellbeing
Welsh Government

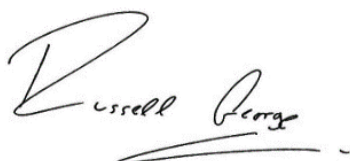
18 March 2021

Dear Lynne

Provisional food compositional standards and labelling common framework

To inform our consideration of the food compositional standards and labelling provisional common framework, we would welcome the views of the Welsh Government on the matters set out in the annex to this letter by Friday 22 April.

Yours sincerely



Russell George MS
Chair, Health and Social Care Committee

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

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



Annex: Common frameworks: request for further information

To assist our deliberations on the food compositional standards and labelling provisional common framework, we would welcome further information on the matters listed below. We would be grateful to receive your response **by Friday 22 April**.

Reasons

1. Why is a framework needed for this policy area?
2. The framework sets out that governments will be able to diverge under this framework “where evidence is clear that divergence is both necessary and proportionate to meet local needs”. How will you determine if divergence is “necessary and proportionate”?
3. This framework is closely linked to frameworks for food and feed safety and hygiene and nutritional labelling, composition and standards. How will the connections between these common frameworks be managed?

Managing divergence

4. The framework requires the Welsh Government not to take forward a policy proposal in scope until it has gone through a joint decision-making process. What impact could this have on the competence of the Senedd and Welsh Government?
5. The framework requires that Welsh Government not launch a public consultation, or progress in any other material way, with a policy proposal in scope, until it has been considered by the FCSL officials’ group. How will this affect the role of Welsh stakeholders in developing Welsh law and policy?
6. Why will changes to the law be in scope of the framework’s decision-making processes where EU law allows scope for national measures to achieve common outcomes?
7. Why will changes to the law be in scope of the framework’s decision-making processes that would only apply to businesses established or products circulated in Wales?
8. The UK Government intends to bring forward new proposals on food labelling as part of its upcoming National Food Strategy. What consideration have you given to these proposals and whether any changes should apply in Wales?
9. Are you content that the list of legislation in scope of the framework in Annex C is complete? For example, why are regulations on spreadable fats listed, but regulations on olive oil absent?

10. How will the Welsh Government ensure the FSA has the expertise and capacity to make decisions and recommendations on future food labelling and compositional standards for Wales?
11. Will Welsh Government officials play any role in the work of the FCSL officials' group?
12. What progress has been made in the review of FSA Wales announced in June 2021?
13. When will the Welsh Government and Food Standards Agency publish an updated Concordat?

UK Internal Market Act 2020

14. What impact could the UK Internal Market Act 2020 have on Welsh law on food compositional standards and labelling?
15. Do you intend to request any exclusions from the Act in this common framework area?

EU and Northern Ireland

16. How will the Welsh Government continue to monitor changes to EU law on food compositional standards and labelling and assess the implications of divergence from the EU and Northern Ireland?
17. How will you assess the risks and benefits of keeping pace with changes to EU law on food compositional standards and labelling?

International law and international agreements

18. What international obligations are there in this policy area?
19. Will the governments work together to agree positions for international policy on food standards, and (if so) how?
20. Why does the framework make no reference to the UK-EU Trade and Cooperation Agreement?
21. The framework provides that it will enable the governments to "consider any implications stemming from international trade which have a direct bearing on the operation of a Common Framework." Do you consider that this gives the Welsh Government adequate involvement in UK positions on food compositional standards and labelling during international trade negotiations?

- 22. Do you consider the dispute resolution mechanism robust enough for its intended purpose?
- 23. If another government objects to a Welsh Government policy proposal through the dispute resolution mechanism, could that cause delays to Welsh legislation?
- 24. Why are no time limits for dispute resolution set?

How the framework was developed

- 25. How did the Welsh Government engage with stakeholders on the development of the framework?
- 26. How does the framework reflect the responses of stakeholders in Wales?

Review and revision

- 27. How will the Senedd be able to contribute to the review and amendment process for the framework?
- 28. How will stakeholders be able to contribute to the review and amendment process for the framework?



WRITTEN STATEMENT BY THE WELSH GOVERNMENT

TITLE	Publication of the terms of reference for the UK-wide Covid-19 Public Inquiry
DATE	10 March 2022
BY	Mark Drakeford MS, First Minister of Wales

In the latest stage in its development, the [Prime Minister has published the draft terms of reference for the Covid-19 public inquiry](#), following a period in which the Welsh Government, together with the other devolved governments have been consulted about the terms of reference before their publication..

In advance of their publication, the Welsh Government has made concerted representations to the Prime Minister to ensure the experiences of people in Wales will be properly and thoroughly reflected in the inquiry and that the decisions made by the Welsh Government and other Welsh public services are properly scrutinised by the inquiry team.

I have met representatives from the Covid-19 Bereaved Families for Justice (Cymru) group to discuss the inquiry and terms of reference. Their experiences and comments were also directly reflected in our representations to the Prime Minister about the terms of reference.

A period of consultation on the terms of reference, which will be led by the chair of the inquiry, Baroness Heather Hallett, will begin shortly. I would encourage everyone to take part in this process and provide their feedback.

The Welsh Government will further respond to this latest public phase of consultation to ensure the experiences of people in Wales are properly heard by the inquiry.

UK COVID-19 INQUIRY
DRAFT TERMS OF REFERENCE – MARCH 2022

The inquiry will examine, consider and report on preparations and the response to the pandemic in England, Wales, Scotland and Northern Ireland, up to and including the inquiry's formal setting-up date. In doing so, it will consider reserved and devolved matters across the United Kingdom, as necessary, but will seek to minimise duplication of investigation, evidence gathering and reporting with any other public inquiry established by the devolved administrations.

The aims of the inquiry are to:

1. Examine the COVID-19 response and the impact of the pandemic in England, Wales, Scotland and Northern Ireland, and produce a factual narrative account. Including:

- In relation to central, devolved and local public health decision-making and its consequences:
 - preparedness and resilience;
 - how decisions were made, communicated and implemented;
 - intergovernmental decision-making;
 - the availability and use of data and evidence;
 - legislative and regulatory control;
 - shielding and the protection of the clinically vulnerable;
 - the use of lockdowns and other 'non-pharmaceutical' interventions such as social distancing and the use of face coverings;
 - testing and contact tracing, and isolation;
 - restrictions on attendance at places of education;
 - the closure and reopening of the hospitality, retail, sport and leisure sectors, and cultural institutions;
 - housing and homelessness;
 - prisons and other places of detention;
 - the justice system;
 - immigration and asylum;
 - travel and borders; and
 - the safeguarding of public funds and management of financial risk.
- The response of the health and care sector across the UK, including:
 - preparedness, initial capacity and the ability to increase capacity, and resilience;
 - the management of the pandemic in hospitals, including infection prevention and control, triage, critical care capacity, the discharge of patients, the use of '*Do not attempt cardiopulmonary resuscitation*' (DNACPR) decisions, the approach to palliative care, workforce testing, changes to inspections, and the impact on staff and staffing levels;
 - the management of the pandemic in care homes and other care settings, including infection prevention and control, the transfer of residents to or from homes, treatment and care of residents, restrictions on visiting, and changes to inspections;

- the procurement and distribution of key equipment and supplies, including PPE and ventilators;
 - the development and delivery of therapeutics and vaccines;
 - the consequences of the pandemic on provision for non-COVID related conditions and needs; and
 - provision for those experiencing long-COVID.
- The economic response to the pandemic and its impact, including government interventions by way of:
 - support for businesses and jobs, including the Coronavirus Job Retention Scheme, the Self-Employment Income Support Scheme, loans schemes, business rates relief and grants;
 - additional funding for relevant public services; and
 - benefits and sick pay, and support for vulnerable people.

2. Identify the lessons to be learned from the above, thereby to inform the UK's preparations for future pandemics.

In meeting these aims, the inquiry will:

- listen to the experiences of bereaved families and others who have suffered hardship or loss as a result of the pandemic. Although the inquiry will not investigate individual cases of harm or death in detail, listening to these accounts will inform its understanding of the impact of the pandemic and the response, and of the lessons to be learned;
- highlight where lessons identified from preparedness and the response to the pandemic may be applicable to other civil emergencies;
- consider the experiences of and impact on health and care sector workers, and other key workers, during the pandemic;
- consider any disparities evident in the impact of the pandemic and the state's response, including those relating to protected characteristics under the Equality Act 2010 and equality categories under the Northern Ireland Act 1998, as applicable;
- have reasonable regard to relevant international comparisons; and
- produce its reports (including interim reports) and any recommendations in a timely manner.



Huw Irranca-Davies MS
Chair
Legislation, Justice and Constitution Committee
Senedd Cymru
Ty Hywel
Cardiff Bay
Cardiff
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14 March 2022

Dear Huw

Tertiary Education and Research (Wales) Bill

I would like to thank the Legislation, Justice and Constitution Committee for their scrutiny of the Tertiary Education and Research (Wales) Bill during Stage 1 and for the report which was published on 2 March 2022.

In the report there were some recommendations which sought further information ahead of the general principles debate, for the ease of the Committee I have set out my response to these recommendations below.

In **recommendation 2** the committee queried our consideration of the Bill's provisions, including the rights of entry and inspection provided for in sections 62 and 72, in relation to the Human Rights Act 1988 (the 1988 Act). I can confirm that the human implications of the Bill's provisions have been considered during the development of the Bill and I am content the Bill, including those provisions specifically mentioned by the Committee are compatible with the Convention rights.

Recommendation 11 and **recommendation 14** relate to subjecting certain Welsh Minister's regulation making powers, specifically section 30 and 77 of the Bill, to a statutory consultation duty.

As I explained when I attended the Committee in December, there is a general expectation that Welsh Government subordinate legislation be subject to consultation. Certain

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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.

regulation making powers in the Bill are subject to a statutory consultation duty in light of their nature or due to consultation with certain persons being of specific relevance. I will consider further whether these powers specifically would benefit from a statutory consultation duty.

My response to **recommendation 4**, regarding a range of regulation making powers in Part 2 and 3 of the Bill is set out in the Annex to this letter.

In relation to **recommendation 17**, which queries whether the direction making power in section 106 of the Bill is derived from section 81(3) of the Further and Higher Education Act 1992 (the 1992 Act) and if so, the rationale for the procedure specified in section 106 in relation to the issuing of a financial support direction to the Commission.

I can confirm that section 106 of the Bill is derived from section 81(3) of the 1992 Act. Currently, section 81(3) of the 1992 Act enables the Welsh Ministers to direct HEFCW about the provision of financial support to an institution in the higher education sector if they consider that the institution's financial affairs have been, or are being, mismanaged.

Section 106 of the Bill, makes similar provision which enables the Welsh Ministers to issue financial support directions to the Commission about the provision or securing of financial resources under specified powers to a relevant person, where it appears to the Welsh Ministers that the financial affairs of that person have been, or are being, mismanaged.

All powers within the Bill have been subject to thorough consideration in respect of the manner in which the power is to be exercised and the appropriate Senedd procedure. In doing so the nature of any existing provision, from which the power has been derived, has been considered, however the historic approach to the original power has not automatically been carried forward if doing so was not necessarily considered appropriate.

The power in section 106 enables the giving of directions to the Commission by the Welsh Ministers in relation to specific matters, as set out in section 106. As such, these directions relate to a single body and specific matters and do not provide for general law-making of a wider nature.

I consider that the requirements set out in the Bill in respect of the requirement on the Welsh Ministers to publish the direction, report to the Senedd that a direction has been given and lay of copy before the Senedd is sufficient to ensure the accessibility and transparency of directions given to the Commission under section 106.

Turning to **recommendation 20** which sought confirmation that bodies affected by section 111 of the Bill, which provides for the specification of requirements in relation to approved Welsh apprenticeship, will be consulted before requirements are prescribed in relation to that section.

I can confirm that section 112 of the Bill requires the Welsh Ministers to first consult the Commission and such other persons as they consider appropriate before specifying, revising or withdrawing any requirements under section 111. I consider that 'such other persons' would capture those bodies affected by any provision made under section 111 however I am content to consider the drafting of section 112 and consider whether an amendment may be necessary to strengthen the requirement.

I can also confirm, in response to **recommendation 21**, that no duty is placed on the Commission in the Bill to respond to a consultation under section 112 of the Bill.

I will respond to the remaining recommendations at the general principles debate and through a further letter which I intend to send to the Committee following that debate.

I hope this letter is helpful in providing further information to the Committee. This letter has been copied to the Children and Young People Committee.

Yours sincerely

A handwritten signature in black ink, appearing to be 'JM' with a stylized flourish.

Jeremy Miles AS/MS

Gweinidog y Gymraeg ac Addysg

Minister for Education and Welsh Language

Recommendation 4. The Minister should, in advance of the Stage 1 debate on the general principles of the Bill, provide further clarity regarding the powers in sections 32, 52(8), 55(1)(f), 59(1), 61(9)(a), 86(1), 95(2) and 101(3) of the Bill and how they are intended to be used by the Welsh Ministers

Section	Description	Intended purpose
32	Power for the Welsh Ministers to provide for further mandatory ongoing registration conditions	<p>It is intended that this power be used by the Welsh Minister to specify mandatory ongoing registration conditions additional to those specified on the face of the Bill.</p> <p>Whilst there is no immediate intention to exercise this power, as all currently relevant ongoing registration conditions are set out on the face of the Bill, it is anticipated that as the tertiary education sector evolves there may be additional regulatory matters in respect of which it may be appropriate or necessary to make provision.</p> <p>This power enables such regulatory expectations to be clearly specified and subject to Senedd scrutiny.</p> <p>The Bill provides for an equivalent power in relation to providing for additional initial conditions of registration (section 25(3)) and the statement of policy intent published with the Bill sets out the intended use of that power.</p>
52(8)	Power to make provision about the circumstances in which a person is to be treated as responsible for providing a course.	<p>Section 52(8) allows the Welsh Ministers to specify circumstances where an external provider should, or should not, be treated as providing all or part of a course on behalf of a registered provider. The Welsh Ministers currently have an equivalent power under section 17(4)(a) of the Higher Education (Wales) Act 2015.</p> <p>Partnership arrangements between providers, such as franchise arrangements, often take novel forms and are regularly evolving. These can include, for example, arrangements between higher education providers or between universities and colleges where, as stated in section 52(7)(b), a person other than a registered provider</p>

Section	Description	Intended purpose
		<p>may be responsible for providing all or part of a higher education course.</p> <p>In such cases it is critically important for the purposes of quality assurance that, where there may be a risk of confusion over which provider is to be treated as responsible for providing a course, that the law is able to provide clarity on such matters. Providing for all possible current forms of arrangement on such matters in primary legislation risks unwieldy and unduly lengthy legislation which may also become out-dated, and so it is appropriate that such a power to provide clarity exists through secondary legislation.</p>
55(1)(f)	Power to specify education and training which the Chief Inspector of Education and Training (the “Chief Inspector”) must inspect, in addition to education and training set out on the face of the Bill.	<p>The functions of the Chief Inspector adapt over time in line with changes in the post-16 sector.</p> <p>For example, apprenticeship provision, both at lower and higher levels of qualification, is much more widespread today than it was in 2000, when the Chief Inspector’s post-16 functions were last laid in legislation. Higher level apprenticeships in particular are an area where the functions of the Chief Inspector may be less clear under the primary legislative framework, and this has been a subject of discussion and partnership working in recent years between Welsh Government, Estyn and HEFCW.</p>
59(1)	Power to confer further functions on the Chief Inspector in connection with the education and training described in section 55(1).	<p>It is vital that, whatever is agreed on the role of the Chief Inspector in respect of higher apprenticeships or any other emerging forms of post-16 education and training, that such functions are within <i>vires</i>. The rationale for maintaining these powers to further specify in secondary legislation the description of education which Estyn must inspect and its functions in that respect is therefore to ensure that Estyn’s work can continue to reflect future changes in the pattern and delivery of post-16 education and training.</p>

Section	Description	Intended purpose
61(9)(a)	Power to make further provision in relation to the obligations to provide the Chief Inspector with information in connection with an area inspection; and to require area inspection reports to be published before the end of a certain period.	The matters and persons relevant to the conduct of an area inspection may vary depending on the current policy of Estyn, the Commission, or Welsh Ministers. Section 61 provides that in conducting an area inspection Estyn may consider the quality of and financial management of resources for education and training within an area, including value for money. In making such a judgement on the quality of or value for money of education and training, the Chief Inspector may require relevant information from a range of stakeholders wider than those set out in section 61(7), such as Regional Skills Partnerships, Corporate Joint Committees, employer groups and representatives, trade unions, student and learner representatives, or other relevant bodies. This power ensures that provision can be made for, where required, such relevant information to be acquired by the Chief Inspector.
86(1)	Power to specify a particular course of higher education or description of course of higher education in respect of which the Commission can provide financial resources.	<p>It is intended that this power could be used to address gaps in the provision of higher education should the need arise. Gaps in provision may arise due to a lack of specified providers (i.e providers registered in a category specified in regulations made under section 85(3)) being able to fulfil an identified need. For example, a need for a specialist course to be delivered in Wales or to be undertaken by small numbers of students ordinarily resident in Wales, which may not be cost effective for specified providers to deliver.</p> <p>In addition, certain courses below degree level which lead to professional qualifications at levels 4 and 5 on the qualifications framework are currently funded by the Welsh Government and delivered by FE institutions. Such courses may be relevant to improving employment prospects, re-skilling or to meet industry or sector specific standards.</p>

Section	Description	Intended purpose
95(2)	Power to provide that financial support for specified purposes for further education and training can only be secured under section 94(1)(a) or (b) to providers registered in specified categories. Regulations may provide for exceptions for specified courses or specified descriptions of courses to the requirement to be registered.	Whilst it is not government policy to create any registration categories for providers of apprenticeships, further education or training in the short term, the Bill has been drafted in such a way to enable the regulatory arrangements as set out in the Bill to be expanded over time to include other categories without the need for further primary legislation.
101(3)	Power to provide that the Commission can only provide financial resources in respect of expenditure incurred in connection with the provision of an approved Welsh apprenticeship to providers registered in categories specified in the regulations.	

Agenda Item 6.3

Dawn Bowden AS/MS
Dirprwy Weinidog y Celfyddydau a Chwaraeon, a'r Prif Chwip
Deputy Minister for Arts and Sport, and Chief Whip



Llywodraeth Cymru
Welsh Government

Ein cyf/Our ref

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

SeneddLJC@senedd.wales

17 March 2022

Dear Huw,

Thank you for the Committee's report on the Legislative Consent Memorandum on the Cultural Objects (Protection from Seizure) Bill.

In response to Recommendation 1 being:

"The Deputy Minister should, in advance of the Senedd's debate on the relevant consent motion, provide an update on her discussions with the UK Government in relation to the concurrent power provision contained within clause 1 of the Bill."

I have provided an update in my letter of 16 March 2022 to the Llywydd, a copy of which has been provided to you.

Yours sincerely,

Dawn Bowden AS/MS

Dirprwy Weinidog y Celfyddydau a Chwaraeon, a'r Prif Chwip
Deputy Minister for Arts and Sport, and Chief Whip

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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.



Ein cyf/Our ref:

Elin Jones MS
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16 March 2022

Dear Elin,

In the Legislative Consent Memorandum laid on 10 December 2021 regarding the Cultural Objects (Protection from Seizure) Bill ("the Bill") I reserved the decision regarding whether to recommend consent to the concurrent power provision contained in Clause 1(2) of the Bill as introduced.

The Bill as introduced brought into question its impact on the Senedd's powers to make legislation in this area in the future and contravened the Welsh Government's principles on concurrent powers.

In line with our principles, a number of attempts at both official and ministerial level (ministerial letter of 25 January 2022 available on request) were made to request an amendment to the Bill, to include a provision which would provide a carve out from the application of paragraph 11(1)(a) of Schedule 7B to the Government of Wales Act 2006. This was a relatively straight forward request and several recent UK Bills have included this carve out. The request was refused.

I am therefore writing to update the Senedd that unfortunately on 28 January the Member in Charge tabled amendments to the Bill for consideration at House of Commons Report Stage which sought to remove Wales from the Bill. These amendments were agreed by the House of Commons and form part of the Bill now being considered by the House of Lords. The Lords' First reading took place on 31 January, with Lords' Second reading scheduled for 18 March 2022. Consequently the Bill no longer contains provision falling within the legislative competence of the Senedd.

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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 am disappointed with the UK Government's approach. The potential impacts of Wales' removal from the Bill include:

1. UK touring exhibitions may be unable to be displayed in Wales
2. If UK touring exhibitions are displayed, some items from abroad may not to be included in the exhibition during its stay in Wales, resulting in a lower quality exhibition in Wales than in other nations
3. Museums and cultural institutions from some countries might not lend artefacts to Welsh venues
4. Possibility of reputational damage if an item on loan to a Welsh venue is seized due to lack of extension of protection.

Currently, under section 134 of the Tribunals, Courts and Enforcement Act 2007 ("the 2007 Act"), cultural objects on loan from abroad to UK museums and galleries approved under the 2007 Act are protected from court-ordered seizure for a period of 12 months from the date the object enters the UK. In principle, items on loan to Wales will still be protected under these provisions, however at the time of writing there are currently no approved Welsh institutions who are able to offer such protections.

This matter has clearly highlighted the need for devolved governments to be included early in the drafting stages of any UK-wide Bill. This has been stressed to UK Government officials.

I believe there were benefits to Wales being included in the Bill and have already set these out in the Legislative Consent Memorandum. As this will no longer be the case we intend to explore alternative options for Wales. As part of our work to develop a new Culture Strategy we will consult with the sectors and consider the need for Wales-specific legislation on this and other issues relating to cultural objects.

I am copying this letter to the Minister for Rural Affairs and North Wales, and Trefnydd, Huw Irranca-Davies MS, Chair of the Legislation, Justice and Constitution Committee, Delyth Jewell MS, Chair of the Culture, Communications, Welsh Language, Sport, and International Relations Committee and all Members of the Senedd.

Yours sincerely



Dawn Bowden AS/MS

Dirprwy Weinidog y Celfyddydau a Chwaraeon, a'r Prif Chwip
Deputy Minister for Arts and Sport, and Chief Whip

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

Huw.irranca-davies@senedd.wales

3 March 2022

Dear Huw,

Animal Welfare (Kept Animals) Bill

Thank you for your letter dated 8 February 2022 regarding the Supplementary Legislative Consent Memorandum (Memorandum No.2) (SLCM (No 2)) on the Animal Welfare (Kept Animals) Bill ('the Bill').

Your letter informed me the Legislation, Justice and Constitution Committee ('the Committee') had considered SLCM (No.2) at a meeting on 7 February and in the Committee's view it is missing information and lacks clarity. The Committee raised the following points:

- a) It is unclear as to which provisions of Part 1 of the Bill and Schedules 1 to 4 will require the Senedd's consent.
- b) It does not explain the provisions of Part 1 or Schedules 1 to 4 in any detail.
- c) The Committee was unsure as to the numbering used in SLCM (No.2) to identify relevant clauses in the Bill.

Response

The consent of the Senedd is required for the provisions of Part 1 of the Bill, and Schedules 1 to 4 (as amended). To address the points raised in your letter and to provide absolute clarity for your Committee and Members of the Senedd, I have today laid a revised version of SLCM (No 2). The revised SLCM (No 2), explains these provisions and also provides greater detail in relation to the amendments to Parts 2, 3, 4 and 5 of the Bill.

I am also enclosing with this letter, for reference, a table setting out the clauses of the Bill as introduced and as now amended. I hope this will assist with your consideration of SLCM (No 2). The clause numbering in the revised version of SLCM (No 2) laid today is consistent with the current version of the Bill published on 18 November 2021.

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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.

For absolute clarity the previous version of SLCM (No 2) laid on 7 January has been withdrawn and replaced by the SLCM (No 2) laid today.

The revised SLCM (No 2) sets out amendments made to the Bill, as reflected in the reprinted version of 18 November 2021 and also refers to the issue covered in the original LCM laid on 22 June 2021 in relation to Part 2 of the Bill on livestock worrying.

Defra Ministers have declined my request to amend Part 2 of the Bill to include the Welsh Ministers on the basis that they view the matter as reserved to the UK Parliament. Defra consider that the provisions in Part 2 of the Bill relates to dangerous, or dangerously out of control dogs. The Welsh Government does not support this view.

Whilst acknowledging “dangerous dogs” is a reserved matter I am still awaiting a response from Defra Minister as to why they consider they cannot confer powers in the Bill in relation to the definition of livestock which is devolved to Wales. Should agreement to amend the Bill not be forthcoming I may recommend the Senedd withholds its consent “in part” for Part 2 of the Bill. This matter is referenced in the new SLCM (No 2) for your Committee’s information.

Regards,

A handwritten signature in black ink, reading 'Lesley Griffiths'. The signature is written in a cursive, flowing style with a large loop at the end of the last name.

Lesley Griffiths AS/MS

**Y Gweinidog Materion Gwledig a Gogledd Cymru, a'r Trefnydd
Minister for Rural Affairs and North Wales, and Trefnydd**

<u>AS INTRODUCED</u> (8 June 2021)		<u>AS AMENDED</u> (18 November 2021)
Animal Welfare (Kept Animals) Bill		
PART 1		
PRIMATES		
CHAPTER 1		
KEEPING PRIMATES		
<i>Licensing requirement</i>		
1	Prohibition on keeping primates without a licence	1
<i>Primate licences: introductory</i>		
2	Primate licences	2
3	Licensing standards and other requirements	3
<i>Primate licences: operation</i>		
4	Applications	4
5	Determination of applications	5
6	Conditions	6
7	Variation and surrender	7
8	Renewal	8
9	Death of licence-holder	9
<i>Inspections and fees relating to primate licences</i>		
10	Inspections of licensed premises	10
11	Fees	11
<i>Enforcement of primate licences</i>		
12	Offences	12
13	Rectification notices	13
14	Revocation etc of licence	14
<i>Primates kept without a primate licence</i>		
15	Directions	15
16	Forfeiture	16
CHAPTER 2		
SELLING AND BREEDING PRIMATES		
17	Selling primates to unlicensed persons	17

18	Breeding primates	18
CHAPTER 3		
SUPPLEMENTARY AND GENERAL		
<i>Powers of Entry</i>		
19	Powers of entry	19
<i>Oversight of local authority functions</i>		
20	Guidance	20
21	Information	21
<i>General</i>		
22	Power to extend Part 1	22
23	Regulations under Part 1	
24	Meaning of “keep”	23
25	General interpretation	24
PART 2		
DOGS ATTACKING OR WORRYING LIVESTOCK		
<i>Attacking or worrying livestock</i>		
26	Offence where dog attacks or worries livestock	25
<i>Powers before conviction</i>		
27	Seizure and detention of dogs	26
28	Collection of samples and impressions	27
29	Power of justice of the peace to authorise entry and search	28
<i>Orders available after conviction etc</i>		
30	Control order upon conviction under section 26	
	Control order upon conviction under section 25	29
31	Destruction order upon conviction under section 26	
	Destruction order upon conviction under section 25	30
32	Disqualification order upon conviction under section 26 or breach of control order	
	Disqualification order upon conviction under section 25 or breach of control order	31
33	Seizure and disposal of dogs in connection with disqualification order	32
34	Termination of disqualification order	33
35	Sections 31 and 33: supplementary	

	Sections 30 and 32: supplementary	34
36	Control, destruction and disqualification orders: appeals	35
General		
37	Crown application	36
38	Regulations under Part 2	
39	Meaning of “worrying livestock”	37
40	General interpretation	38
41	Repeal of the 1953 Act in England and Wales	39
PART 3		
OTHER PROVISIONS ABOUT KEPT ANIMALS		OTHER PROVISIONS ABOUT KEPT ANIMALS ETC
Export of livestock		
42	Prohibition of export of livestock for slaughter etc	40
43	Power to make provision in connection with the enforcement of section 42	
	Power to make provision in connection with the enforcement of section 40	41
Animal welfare and retained direct EU legislation		
44	Powers to amend or revoke retained direct EU legislation	
	Powers to amend or revoke retained EU law	42
Taking of pets		
	Taking a dog without lawful authority etc	43
	Power to extend section 43	44
Importation of dogs, cats and ferrets		
45	Reduction in limit on non-commercial movement of dogs, cats and ferrets	45
46	Powers relating to importation of certain dogs, cats and ferrets	46
Zoos		
47	Zoos	47
General		Miscellaneous and General
	Animal Welfare Act 2006: minor amendments	48
48	Meaning of “appropriate national authority” and “enactment”	49
49	Regulations under Part 3	
PART 4		

GENERAL		
50	Power to make consequential provision	50
	Concurrent functions in Wales	51
	Regulations	52
51	Commencement	53
52	Extent	54
53	Short title	55
Schedule 1	Transitional provision relating to primates	Schedule 1
Schedule 2	Offences relating to primates: fixed penalty notices	Schedule 2
Schedule 3	Decisions relating to primates: representations and appeals	Schedule 3
Schedule 4	Powers of entry relating to primates	Schedule 4
Schedule 5	Zoos	Schedule 5

SUPPLEMENTARY LEGISLATIVE CONSENT MEMORANDUM (MEMORANDUM NO 3)

Professional Qualifications Bill

1. This supplementary legislative consent memorandum is laid under Standing Order (“SO”) 29.2. SO29 prescribes that a legislative consent memorandum must be laid, and a legislative consent motion may be tabled, before Senedd Cymru if a UK Parliamentary Bill makes provision in relation to Wales for any purpose within, or which modifies the legislative competence of the Senedd.
2. The Professional Qualifications Bill (“the Bill”) was introduced into Parliament (the House of Lords) on 12 May 2021. I laid a Legislative Consent Memorandum on 17 June and a supplementary Legislative Consent Memorandum (Memorandum No 2) on 6 December. Legislative Consent Motion debates were held on 5 October and 15 February 2022, in both cases the Senedd withheld its consent to provision falling within the legislative competence of the Senedd being included in the Bill.
3. On 22 February the UK Government tabled two amendments for consideration at House of Commons Report stage. These amendments make provisions falling within the legislative competence of the Senedd. The amendments raise a number of complex constitutional issues the analysis of which has resulted in a delay to laying this Supplementary Legislative Consent Memorandum. These amendments were agreed at House of Commons Report Stage on 14 March, and can be found at: [Amendments](#)
4. Consideration of the Bill by the House of Commons took place on 18 November 2021. The Bill, as amended during House of Commons Committee Stage, can be found at: [Professional Qualifications Bill](#).

Policy Objective(s)

5. The UK Government’s stated policy objectives of the Bill are set out in the Policy Statement which can be found at: <https://www.gov.uk/government/publications/recognition-of-professional-qualifications-and-regulation-of-professions-policy-statement>
6. In summary, the UK Government is proposing a new framework for the recognition of professional qualifications and regulation of professions. The Bill is intended to revoke and replace the current system for the recognition of professional qualifications that derived from the UK’s membership of the EU. The Bill creates a framework to enable the recognition of professional qualifications from overseas professions in the UK.

Summary of the Bill

7. The Bill is sponsored by the Department for Business, Energy and Industrial Strategy (BEIS).

8. The Bill as introduced contains provisions to:

- a. End the interim system for professional qualifications that derives from the UK's membership of the EU (Clauses 5 and 6)
- b. Create a framework for the recognition of professional qualifications and experience from overseas by professions in the UK, or a part of the UK, to meet the needs and demands for the services provided by those professions. (Clauses 1 and 2)
- c. Enable Government to implement international agreements or parts of international agreements that the UK strikes with partners so far as they relate to the recognition of professional qualifications. (Clause 3)
- d. Enable Government to provide regulators with a consistent set of powers to enter into agreements with regulators overseas to recognise professional qualifications. (Clause 4)
- e. Maintain a designated 'Assistance Centre' with which regulators must cooperate, to provide advice and guidance to the public.(Clause 7)
- f. Require regulators in the UK to provide certain information to overseas regulators where an individual is or has been entitled to practise that profession in the UK, or a part of the UK, and is seeking entitlement to practise overseas.(Clause 10)
- g. Require regulators of professions in all parts of the UK to publish information on the entry and practice requirements of their profession. (Clause 8)
- h. Require regulators in the UK to, where requested, provide certain information to counterpart regulators in other parts of the UK. (Clause 9)
- i. Amend the Architects Act 1997 to allow a new recognition system for architects, alongside adjustments to the administration of the Architects Registration Board to support efficiency.(Clause 11)

Update on the position since the publication of the second Legislative Consent Memorandum

9. I laid Memorandum No 2 on 6 December 2021, following the tabling of three amendments on 2 November by the UK Government falling within the legislative competence of the Senedd. Memorandum No 2 confirmed I remained concerned about the concurrent powers in the Bill, and that I was not in a position to recommend the Senedd gives its consent unless the Bill was substantially amended to address those concerns.

10. I continue to be concerned about the continued inclusion of concurrent regulation making powers in the Bill, for the reasons set out in paragraphs 32 to 37 of the initial Legislative Consent Memorandum laid on 17 June 2021.

How this supplementary memorandum differs from the Memorandum No 2.

11. The UK Government has made an amendment to insert a new clause to the Bill, and an amendment to insert an additional sub-clause, as agreed at the House of Commons Report Stage on 14 March. This Supplementary Legislative Consent Memorandum sets out my position on these amendments.

Amendments since the publication of the first and second Legislative Consent Memoranda, for which consent is now being sought

New Clause – “Consultation with devolved authorities”

12. The amendment requires the Secretary of state or Lord Chancellor to consult with devolved authorities before making regulations under the Bill that contain provision which could be made under the Bill by the devolved authorities. The amendment also requires the UK Government to publish a report on the consultation before making the regulations. The report must include a description of the process undertaken to comply with the duty to consult, including a description of any agreement, objection or other views expressed as part of that process and an explanation of whether and how such views have been taken into account in the regulations (including, in a case where the Secretary of State/Lord Chancellor propose to make the regulations despite an objection, an explanation of the reasons for doing so).

Welsh Government Position

13. The amendment requires the Secretary of State or Lord Chancellor to consult with Welsh Ministers before making regulations under the Bill that contain provision which could be made under the Bill by the Welsh Ministers themselves and to publish a report on the consultation.
14. The ‘consult plus’ amendment does not adequately protect the devolution settlement, as the Secretary of State/Lord Chancellor are able to disregard any opposition raised by the Welsh Ministers during any such consultation, and ultimately legislate as the UK Government sees fit.

Recommendation

15. I am opposed to this new clause as, despite my ongoing opposition, the UK Government has refused to make an amendment to require the Secretary of State and Lord Chancellor to obtain the consent of the Welsh Ministers before making any legislation in areas which have been devolved to Wales.

I therefore recommend the legislative consent of the Senedd for this new clause, which relates to the requirement of the Secretary of State or Lord Chancellor to consult when using concurrent regulation making powers under clauses 1, 3 and 4 of the Bill, is withheld.

Sub-clause 16 (7):

16. The amendment is a specific carve out from the Minister of the Crown consent requirements in paragraph 11 of Schedule 7B to the Government of Wales Act 2006 (GoWA).

Welsh Government Position

17. The amendment to provide for a specific carve out from the Minister of the Crown consent requirements in paragraph 11 of Schedule 7B to GoWA means that the Secretary of State's consent is not needed for Senedd Cymru to be able to remove the powers that the Secretary of State and Lord Chancellor have under the Bill to make regulations that are within the legislative competence of the Senedd.
18. A 'carve out' provision has been used to address concerns over the restrictions in Schedule 7B of GoWA in a number of UK Parliament Acts, beginning with the European Union (Withdrawal) Act 2018
19. The addition of the carve out provision in this Bill is welcome, although it should have appeared on the face of the Bill in the initial stages of its passage through the UK Parliament. The inclusion of this provision in the Bill addresses our concerns about the Secretary of State being able to make regulations under the Bill in relation to those professions whose regulation is devolved and which are regulated separately in Wales. However, it would still require a Senedd Bill to remove the Secretary of State powers.
20. The extent of the concurrent powers within this Bill, and the intention of the UK Government to disregard the Sewel Convention and proceed with the Bill despite not securing legislative consent from any of the Devolved Governments, remain a serious concern.

Recommendation

21. I have made it clear to the UK Government that this Bill must be amended to require the UK Government to secure the consent of Devolved Governments before making regulations in devolved areas.

Despite securing this welcome amendment to the Bill, it does not go far enough to satisfy my significant concerns on the extent of the concurrent powers contained in the Bill. Therefore, I recommend the position should remain that the legislative consent of the Senedd for clause 16, as amended, is withheld.

Financial implications

22. The Bill primarily enables other legislation to be made, and therefore does not by itself trigger significant financial implications for Welsh Government.

Conclusion

23. As set out above, the legislative consent of the Senedd is required for the new clause and sub-clause 16 (7) of the Bill.
24. I cannot recommend the Senedd gives its consent to these provisions being included in the Bill on the basis of the amendments brought forward to date. We will continue to monitor the Bill's developments and update the Senedd as appropriate.

Jeremy Miles MS
Minister for Education and the Welsh Language
16 March 2022

Annex 1 – Government Amendments tabled on 22 February 2022 for consideration at House of Commons Report Stage on 14 March.

New Clause – “Consultation with devolved authorities”

(1) Before making regulations under this Act, the Secretary of State or the Lord Chancellor must consult—

(a) the Welsh Ministers, to the extent that the regulations contain provision which could also be made by the Welsh Ministers by virtue of section 16(2) (ignoring any requirement for the consent of a Minister of the Crown under section 16(5));

(b) the Scottish Ministers, to the extent that the regulations contain provision which could also be made by the Scottish Ministers by virtue of section 16(3);

(c) a Northern Ireland department, to the extent that the regulations contain provision which could also be made by a Northern Ireland department by virtue of section 16(4).

(2) The Northern Ireland department which is to be consulted in accordance with subsection (1)(c) is such Northern Ireland department as the Secretary of State or (as the case may be) the Lord Chancellor considers appropriate having regard to the provision which is to be contained in the regulations concerned.

(3) Before making regulations under this Act in relation to which the Secretary of State or the Lord Chancellor has consulted a devolved authority (or more than one devolved authority) in accordance with subsection (1), the Secretary of State or (as the case may be) the Lord Chancellor must publish a report on the consultation.

(4) But the Secretary of State or (as the case may be) the Lord Chancellor may not

publish the report unless either—

(a) the devolved authority concerned (or, if more than one, each of them) has agreed to the description included in the report for the purposes of subsection (5)(a), or

(b) there is no such agreement but the period of 30 days, beginning with the day on which a draft of the report was first sent to the devolved authority concerned (or, if more than one, the last of them), has expired.

(5) The report on the consultation must include—

(a) a description of—

(i) the process undertaken in order to comply with subsection (1), and

(ii) any agreement, objection or other views expressed as part of that process by the devolved authority (or devolved authorities) concerned, and

(b) an explanation of whether and how such views have been taken into account in the regulations (including, in a case where the Secretary of State or (as the case may be) the Lord Chancellor proposes to make the

regulations despite an objection, an explanation of the reasons for doing so).

(6) The duty to consult in subsection (1) does not apply in relation to any revision of the regulations which arises from the consultation; and, for the purposes of subsection (4)(b), the draft report need not be identical to the published report for the period of 30 days to begin.

(7) In this section “devolved authority” means the Scottish Ministers, the Welsh Ministers or a Northern Ireland department.”

Sub-clause 16 (7):

(7) In Schedule 7B to the Government of Wales Act 2006 (general restrictions on legislative competence of Senedd Cymru) in paragraph 11(6)(b) (exceptions to restrictions relating to Ministers of the Crown)—
(a) omit the “or” at the end of paragraph (vi), and
(b) after paragraph (vii) insert “; or
(viii) the Professional Qualifications Act 2022”.



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

Paul Davies MS
Chair, Economy, Trade, and Rural Affairs Committee
Senedd Cymru
SeneddEconomy@senedd.wales

17 March 2022

Dear Huw and Paul

I am writing to inform the Committees that the UK Government tabled two amendments to the Professional Qualifications Bill on 22 February which were agreed at House of Commons Report Stage on 14 March.

The amendments tabled by the UK Government make provision falling within the legislative competence of the Senedd, and yesterday I laid a [Supplementary Legislative Consent Memorandum \(Memorandum No.3\)](#) before the Senedd.

New Clause – Consultation with devolved authorities

The amendment requires the Secretary of state or Lord Chancellor to consult with devolved authorities before making regulations under the Bill that contain provision which could be made under the Bill by the devolved authorities. The amendment also requires the UK Government to publish a report on the consultation before making the regulations. The report must include a description of the process undertaken to comply with the duty to consult, including a description of any agreement, objection or other views expressed as part of that process and an explanation of whether and how such views have been taken into account in the regulations (including, in a case where the Secretary of State/Lord Chancellor propose to make the regulations despite an objection, an explanation of the reasons for doing so).

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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.

Back Page 138
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.

The amendment requires the Secretary of State or Lord Chancellor to consult with Welsh Ministers before making regulations under the Bill that contain provision which could be made under the Bill by the Welsh Ministers themselves and to publish a report on the consultation.

The 'consult plus' amendment does not adequately protect the devolution settlement, as the Secretary of State/Lord Chancellor are able to disregard any opposition raised by the Welsh Ministers during any such consultation, and ultimately legislate as the UK Government sees fit.

Sub-clause 16 (7)

The amendment is a specific carve out from the Minister of the Crown consent requirements in paragraph 11 of Schedule 7B to the Government of Wales Act (GOWA).

The amendment to provide for a specific carve out from the Minister of the Crown consent requirements in paragraph 11 of Schedule 7B to GoWA means that the Secretary of State's consent is not needed for Senedd Cymru to be able to remove the powers that the Secretary of State and Lord Chancellor have under the Bill to make regulations that are within the legislative competence of the Senedd.

A 'carve out' provision has been used to address concerns over the restrictions in Schedule 7B of GoWA in a number of UK Parliament Acts, beginning with the EU (Withdrawal) Act 2018

The addition of the carve out provision in this Bill is welcome, although it should have appeared on the face of the Bill in the initial stages of its passage through the UK Parliament. The inclusion of this provision in the Bill addresses our concerns about the Secretary of State being able to make regulations under the Bill in relation to those professions whose regulation is devolved and which are regulated separately in Wales. However, it would still require a Senedd Bill to remove the Secretary of State powers.

The extent of the concurrent powers within this Bill, and the intention of the UK Government to disregard the Sewel Convention and proceed with the Bill despite not securing legislative consent from any of the Devolved Governments, remain a serious concern.

Welsh Government position

The amendments do not go far enough to satisfy my significant concerns on the extent of the concurrent powers contained in the Bill. Therefore I cannot recommend the Senedd gives its consent to these provisions being included in the Bill.

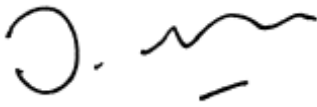
Legislative Consent Memorandum

As you are aware, Standing Orders require a Legislative Consent Memorandum to be laid "normally" within two weeks of the tabling of UK Government amendments, in this case by 8 March. The amendments raise a number of complex constitutional issues the analysis of which has resulted in a delay to laying.

Although we are continuing to make the views of the Senedd known to the UK Government, there is no further opportunity for the Senedd to hold a further meaningful debate to indicate its view in relation to this Bill and influence the outcome. Therefore, the Business Committee on 15 March agreed not to refer the Supplementary Legislative Consent Memorandum (Memorandum No.3) for scrutiny when laid.

I have copied this letter to all Members of the Senedd.

Yours sincerely,

A handwritten signature in black ink, consisting of a large 'J' followed by a series of loops and a horizontal stroke.

Jeremy Miles AS/MS

Gweinidog y Gymraeg ac Addysg

Minister for Education and Welsh Language

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