

Agenda – Legislation, Justice and Constitution Committee

Meeting Venue:	For further information contact:
Video Conference via Zoom	P Gareth Williams
Meeting date: 16 May 2022	Committee Clerk
Meeting time: 13.30	0300 200 6565
	SeneddLJC@senedd.wales

1 Introductions, apologies, substitutions and declarations of interest

13.30

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

13.30–13.35

(Page 1)

Attached Documents:

LJC(6)-14-22 – Paper 1 – Draft report

Made Negative Resolution Instruments

2.1 SL(6)198 – The Genetically Modified Food and Feed (Authorisations) (Wales) Regulations 2022

[Regulations](#)

[Explanatory Memorandum](#)

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

13.35–13.40



Made Affirmative Resolution Instruments

3.1 SL(6)200 – The Health Protection (Coronavirus Restrictions) (No. 5) (Wales) (Amendment) (No. 10) Regulations 2022

(Pages 2 – 3)

[Regulations](#)

[Explanatory Memorandum](#)

Attached Documents:

LJC(6)-14-22 – Paper 2 – Draft report

4 Instruments that raise issues to be reported to the Senedd under Standing Order 21.2 or 21.3 – previously considered

13.40–13.45

4.1 SL(6)188 – The National Health Service (Charges to Overseas Visitors) (Amendment) (No. 2) (Wales) Regulations 2022

(Pages 4 – 6)

Attached Documents:

LJC(6)-14-22 – Paper 3 – Report

LJC(6)-14-22 – Paper 4 – Welsh Government response

5 Inter-Institutional Relations Agreement

13.45–13.50

5.1 Correspondence from the Minister for Economy: Freeport policy in Wales

(Pages 7 – 11)

Attached Documents:

LJC(6)-14-22 – Paper 5 – Letter from the Minister for Economy, 12 May 2022

LJC(6)-14-22 – Paper 6 – Press notice

LJC(6)-14-22 – Paper 7 – Written Statement by the Minister for Economy, 12 May 2022

5.2 Correspondence from the Minister for Finance and Local Government: Inter-Institutional Relations Agreement: Inter-ministerial Group (IMG) for Housing, Local Government and Communities

(Pages 12 – 14)

Attached Documents:

LJC(6)-14-22 – Paper 8 – Letter from the Minister for Finance and Local Government, 12 May 2022

LJC(6)-14-22 – Paper 9 – Written Statement by the Minister for Climate Change, 12 May 2022

6 Papers to note

13.50–13.55

6.1 Correspondence from the Llywydd to the Leader and Co-chair of the UK Delegation to the UK–EU Parliamentary Partnership Assembly: UK–EU Parliamentary Partnership Assembly, Brussels 12–13 May 2022

(Pages 15 – 16)

Attached Documents:

LJC(6)-14-22 – Paper 10 – Letter from the Llywydd to the Leader and Co-chair of the UK Delegation to the UK–EU Parliamentary Partnership Assembly, 27 April 2022

LJC(6)-14-22 – Paper 11 – Letter from the Leader and Co-chair of the UK Delegation to the UK–EU Parliamentary Partnership Assembly to the Llywydd, 8 April 2022

6.2 Correspondence from the Minister for Health and Social Services: Supplementary Legislative Consent Memorandum (Memorandum No. 4) on the Health and Care Bill

(Pages 17 – 19)

Attached Documents:

LJC(6)-14-22 – Paper 12 – Letter from the Minister for Health and Social Services to the Chair of the Legislation, Justice and Constitution Committee,

9 May 2022

LJC(6)-14-22 – Paper 13 – Letter from the Minister for Health and Social Services to the Chair of the Health and Social Care Committee, 9 May 2022

6.3 Correspondence from the Chair of the Climate Change, Environment and Infrastructure Committee to the Minister for Climate Change: Exclusion to the UK Internal Market Act for single use plastics

(Pages 20 – 25)

Attached Documents:

LJC(6)-14-22 – Paper 14 – Letter from the Chair of the Climate Change, Environment and Infrastructure Committee to the Minister for Climate Change, 10 May 2022

LJC(6)-14-22 – Paper 15 – Letter from the Minister for Rural Affairs and North Wales, and Trefnydd, 28 March 2022

6.4 Correspondence from the Minister for Finance and Local Government: Welsh Tax Acts etc. (Power to Modify) Bill

(Pages 26 – 36)

Attached Documents:

LJC(6)-14-22 – Paper 16 – Letter from the Minister for Finance and Local Government to the Chair of the Legislation, Justice and Constitution Committee, 11 May 2022

LJC(6)-14-22 – Paper 17 – Letter from the Minister for Finance and Local Government to the Chair of the Finance Committee, 11 May 2022

6.5 Correspondence from the Deputy Minister for Climate Change: International Organization for Marine Aids to Navigation

(Pages 37 – 38)

Attached Documents:

LJC(6)-14-22 – Paper 18 – Letter from the Deputy Minister for Climate Change, 11 May 2022

LJC(6)-14-22 – Paper 19 – Letter to the First Minister, 23 March 2022

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

13.55

8 The Queen's Speech 2022

13.55-14.05

(Pages 39 – 43)

Attached Documents:

LJC(6)-14-22 – Paper 20 – Research briefing

Statutory Instruments with Clear Reports 16 May 2022

SL(6)198 – The Genetically Modified Food and Feed (Authorisations) (Wales) Regulations 2022

Procedure: Made Negative

The legislative framework for authorising genetically modified organisms (“GMOs”) for food and feed uses is contained within retained EU law (Regulation (EC) No. 1829/2003 on Genetically Modified Food and Feed). Authorisations are valid for ten years. After this period, authorisation holders may apply to renew the authorisation for continued marketing.

These Regulations authorise the placing on the market of nine food and feed products containing, consisting of, or produced from GMOs.

Parent Act: Articles 7(3), 9(2), 11, 19(3), 21(2), 23 and 35 of Regulation (EC) No. 1829/2003 of the European Parliament and of the Council on genetically modified food and feed

Date Made: 25 April 2022

Date Laid: 27 April 2022

Coming into force date: 20 May 2022



Agenda Item 3.1

SL(6)200 – The Health Protection (Coronavirus Restrictions) (No. 5) (Wales) (Amendment) (No. 10) Regulations 2022

Background and Purpose

These Regulations amend the Health Protection (Coronavirus Restrictions) (No. 5) (Wales) Regulations 2020 (S.I. 2020/1609 (W. 335)) (“the principal Regulations”) to provide that they expire at the end of the day on 30 May 2022 (rather than 9 May 2022).

The practical effect of these Regulations is to retain the requirement (in regulation 20) to wear face coverings in health and social care premises.

As amended by these Regulations, the principal Regulations continue to provide that no alert level applies to Wales. This means that none of the restrictions and requirements in Schedules 1 to 4 to the principal Regulations apply.

Procedure

Made Affirmative.

The Regulations were made by the Welsh Ministers before they were laid before the Senedd. The Senedd must approve the Regulations within 28 days (excluding any days when the Senedd is: (i) dissolved, or (ii) in recess for more than four days) of the date they were made for them to continue to have effect.

Technical Scrutiny

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

Merits Scrutiny

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

1. Standing Order 21.3(ii) – that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Senedd

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

Whilst the principal Regulations, as amended by these Regulations, engage individual rights under the Human Rights Act 1998 and the European Convention on Human Rights, the Government considers that they are justified for the purpose of preventing the spread of infectious diseases and/or the interference is permitted on the basis that it



is in pursuit of a legitimate aim, namely of protecting public health, and are proportionate.

Article 5 (right to liberty), Article 8 (right to respect for private and family life), Article 9 (freedom of thought, conscience and religion), Article 11 (freedom of assembly and association) and Article 1 of the First Protocol (protection of property) are, or have from time to time been, engaged by the principal Regulations.

Each of these is a qualified right, which permits the Welsh Ministers to interfere with the exercise of the rights if necessary in a democratic society in the interests of public safety or for the protection of health. All restrictions and requirements must be justified on the basis that they are in pursuit of a legitimate aim, namely of protecting public health, and are proportionate to that aim. Any interference with these rights also needs to be balanced with the state's positive obligations under Article 2 (right to life). The extension of specific requirements under the principal Regulations by these Regulations is a proportionate response to the spread of coronavirus. It balances the need to maintain an appropriate response to the threat posed by coronavirus against the rights of individuals and businesses, in a manner which remains proportionate to the need to control the rate of transmission of the coronavirus, taking into account the scientific evidence.

2. Standing Order 21.3(ii) – that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Senedd

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

Given the ongoing threat arising from coronavirus and the need for a proportionate and prompt public health response, there has been no public consultation in relation to these Regulations. However, engagement has taken place with various stakeholders.

Welsh Government response

A Welsh Government response is not required.

Legal Advisers

Legislation, Justice and Constitution Committee

11 May 2022



Agenda Item 4.1

SL(6)188 – The National Health Service (Charges to Overseas Visitors) (Amendment) (No. 2) (Wales) Regulations 2022

Background and Purpose

The National Health Service (Charges to Overseas Visitors) Regulations 1989 (“the Principal Regulations”) allow Local Health Boards and NHS Trusts in Wales to make and recover charges for relevant healthcare services that are provided to overseas visitors not ordinarily resident in the United Kingdom, unless the overseas visitor or the service they receive falls within a charging exemption.

These Regulations amend the Principal Regulations to provide exemptions from charging in relation to overseas visitors who are lawfully present in the United Kingdom but are ordinarily resident in Ukraine, as well as providing exemptions for their family members, authorised companions and authorised children.

These Regulations provide that charges incurred between 24 February 2022 (the date that the full scale Russian invasion of Ukraine began) and the date on which these Regulations come into force, in respect of such overseas visitors:

- if not yet made, must not be made,
- if made, must not be recovered, or
- if paid, must be repaid.

These Regulations are subject to review by the Welsh Ministers before 1 October 2022.

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

We note the breach of the 21-day convention (i.e. the convention that 21 days should pass between the date a “made negative” instrument is laid before the Senedd and the date the instrument comes into force), and the explanation for the breach provided by Eluned Morgan MS, Minister for Health and Social Services in a [letter to the Llywydd dated 30 March 2022](#).

In particular, we note the following part of the letter:

“The 2022 Regulations were made and laid as soon as practicable after the final draft SI for amending England’s Charging Regulations was shared by the Department for Health and Social Care in mid-March. The Wales’ 2022 Regulations have been made contingent to the English regulations so that the same exemptions apply in Wales and due to the urgency of the situation, requires that the Wales’ Regulations come into force less than 21 days after they were made.

If the 21 day convention is adhered to, there is a risk that Ukrainian refugees coming into Wales will be subject to NHS charges for treatment whereas the position in England will be more favourable as they will have a legal exception in force already. This will provide an unacceptable position of inequality between Ukrainian refugees in Wales and those across the border in England in a time of humanitarian crisis.”

However, it is unclear why the Welsh Government had to wait for the equivalent regulations in England. Could the Welsh Government have proceeded with the policy that is right for Wales, regardless of the position in England?

Welsh Government response

A Welsh Government response is required.

Committee Consideration

The Committee considered the instrument at its meeting on 25 April 2022 and reports to the Senedd in line with the reporting point above.



Government Response: The National Health Service (Charges to Overseas Visitors) (Amendment) (No. 2) (Wales) Regulations 2022

Merit Scrutiny point 1: The Welsh Government's policy was to attain broad consistency with the policy position adopted by the UK Government, to ensure equality of access to healthcare for Ukrainian refugees across the two nations. Accordingly, it was necessary to see the UK Government's draft regulations before proceeding with ours. Following our review of the UK Government's draft regulations, Welsh Government officials were then better placed to prepare a set of regulations which achieved the policy objective, subject to some minor differences which were required to align with the existing legal landscape for healthcare charges in Wales.

It should also be noted that whilst our regulations were implemented a little later than in England, they applied from the same date, that is, the start of the conflict (24 February 2022). Therefore, any person arriving lawfully from the Ukraine to the UK in that period would still be exempt from charges and therefore not disadvantaged compared to the position in England.

Vaughan Gething AS/MS
Gweinidog yr Economi
Minister for Economy

Agenda Item 5.1



Llywodraeth Cymru
Welsh Government

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

12 May 2022

Dear Huw,

In recognition of the Inter-Institutional Relations Agreement, between the Senedd and the Welsh Government, I write to notify the LJCC Committee of a formal agreement made between Welsh Government and UK Government in respect of Freeport policy in Wales.

Please see attached a copy of the joint press notice that issued on 12 May 2022, at Doc 1.

Please be aware that I also intend to lay a Written Statement regarding Freeport/s, since this is a UK Government policy that Welsh Ministers have consented to.

Yours sincerely,

Vaughan Gething AS/MS
Gweinidog yr Economi
Minister for Economy

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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.

Welsh and UK Governments agree to establish Freeports in Wales

The Welsh Government has reached agreement with the UK Government on the establishment of Freeports in Wales, Economy Minister, Vaughan Gething, has confirmed.

Welsh Ministers have agreed to support Freeport policies in Wales following the UK Government's agreement to meet the Welsh Government's demands that UK Ministers provide at least £26m of non-repayable starter funding for any Freeport established in Wales, which represents a parity with the deals offered to English Freeports.

The UK Government have agreed to meet a number of other demands – including that both Governments will act on the basis of a 'partnership of equals' to deliver any Freeports in Wales.

In addition, both Governments have agreed a Freeport will only be implemented if it can be demonstrated clearly it will operate in a manner that aligns with the Welsh Government's policies on fair work and environmental sustainability, including the commitment to Wales becoming a net-zero carbon nation.

Economy Minister, Vaughan Gething said:

“Following considerable engagement between our Governments, I'm pleased we have been able to reach agreement with UK Ministers to establish Freeports in Wales. The agreement we have reached is fair to Wales, and respects the Welsh Government's responsibilities in devolved policy areas.

“However, we have made it clear to the UK Government that a Freeport will only be implemented if it can be demonstrated, using robust evidence and analysis, that it will support our fair work agenda and deliver long-term, sustainable benefits for Wales, and value for money for Welsh taxpayers.

“I very much hope that the UK Government's willingness to work with the Welsh Government as equals on Freeports can provide a positive model for future co-operation between our governments on other initiatives.”

The UK Government's Secretary of State for Levelling Up, Housing and Communities, Michael Gove said:

“I am delighted that Wales is the latest area in the UK set to benefit from a new Freeport.

“The UK Government's ambitious Freeports agenda will help to level up our coastal communities and create new opportunities for people right across the country.

“Together with the Welsh Government, I look forward to seeing innovative proposals come forward that demonstrate tangible benefits for the people of Wales.”

In addition, Welsh and UK Ministers have agreed:

- The UK Government will provide tax incentives for Freeports in Wales in parity with Freeports in other parts of the United Kingdom for the reserved taxes that have been designated to advance the policy aims. The Welsh Government will design tax reliefs from local and devolved taxes (Non-Domestic Rates and Land Transaction Tax) to support the policy aims.
- Both Governments will remain open to the possibility of a multi-site Freeport in Wales. In recognition of Wales' unique economic geography and the Welsh Government's aspirations for economic development in Wales, the UK Government is willing to relax the 45 km boundary limit for a multi-site Freeport solution, should there be a sufficiently compelling case for doing so.
- Both Governments will remain open to the possibility of allowing more than one Freeport in Wales, should they be presented with a sufficiently compelling business case.

As with English Freeports, a fair and open competitive process will be used to determine where the policy should be implemented in Wales. Both Governments will work together to co-design the process for Freeport site selection, and both will have an equal say in all decisions throughout the implementation process. This includes the final decision on site selection.

Both Governments have begun the process of designing the bid prospectus for the competition and further details about the timing of next steps will be released in due course.

ENDS



Llywodraeth Cymru
Welsh Government

WRITTEN STATEMENT BY THE WELSH GOVERNMENT

TITLE **Update on Freeports policy in Wales**

DATE **12 May 2022**

BY **Vaughan Gething MS, Minister for Economy**

I am pleased to announce that Welsh Government has reached agreement with the UK Government on the establishment of a Freeports policy in Wales.

The agreement we have reached is fair to Wales, and respects the Welsh Government's responsibilities in devolved policy areas and follows considerable engagement between our Governments.

The UK Government agreed to meet a number of Welsh Government demands, including that:

- UK Ministers provide at least £26m of non-repayable starter funding for any Freeport established in Wales, which represents a parity with the deals offered to English Freeports;
- both Governments will act on the basis of a 'partnership of equals' to deliver any Freeports in Wales; and
- a Freeport will only be implemented if it can be demonstrated clearly it will operate in a manner that aligns with the Welsh Government's policies on fair work and environmental sustainability, including the commitment to Wales becoming a net-zero carbon nation.

Members of the Senedd will be aware from my previous Written Statement, dated 15 July 2021, that these reflect the conditions outlined in our letter to the UK Government in February 2021, namely:

- "Joint decision-making between the Welsh and UK Governments - including setting the criteria for bids, assessing bids and awarding Freeport status.
- Conditionality – to ensure the implementation of Freeports reflects Welsh Ministers' values and priorities, particularly regarding environmental standards, fair work and social partnership.

- A fair funding settlement - that neither disadvantages Freeports in Wales nor requires us to divert millions of pounds away from other priorities. On average, Freeports in England are expected to receive £25 million each in direct financial support.”

In addition, Welsh and UK Ministers have agreed:

- The UK Government will provide tax incentives for Freeports in Wales in parity with Freeports in other parts of the United Kingdom for the reserved taxes that have been designated to advance the policy aims. The Welsh Government will design tax reliefs from local and devolved taxes (Non-Domestic Rates and Land Transaction Tax) to support the policy aims.
- Both Governments will remain open to the possibility of a multi-site Freeport in Wales. In recognition of Wales’ unique economic geography and the Welsh Government’s aspirations for economic development in Wales, the UK Government is willing to relax the 45 km boundary limit for a multi-site Freeport solution, should there be a sufficiently compelling case for doing so.
- Both Governments will remain open to the possibility of allowing more than one Freeport in Wales, should they be presented with a sufficiently compelling business case.

As with English Freeports, a fair and open competitive process will be used to determine where the policy should be implemented in Wales. Both Governments will work together to co-design the process for Freeport site selection, and both will have an equal say in all decisions throughout the implementation process. This includes the final decision on site selection.

Both Governments have begun the process of designing the bid prospectus for the competition and further details about the timing of next steps will be released in due course.

I very much hope that the UK Government’s willingness to work with the Welsh Government as equals on Freeports can provide a positive model for future co-operation between our Governments on other initiatives.



Llywodraeth Cymru
Welsh Government

Ein cyf/Our ref: RE/697/2022

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

SeneddLJC@senedd.wales

12 May 2022

Dear Huw,

Inter-Institutional Relations Agreement: Inter-ministerial Group (IMG) for Housing, Local Government and Communities

I am writing in accordance with the inter-institutional relations agreement to notify you of the first meeting of the Inter-Ministerial Group (IMG) for Housing, Local Government and Communities, which will take place on the 24 May.

The IMG will be chaired by the Secretary of State for Levelling Up, Housing and Communities. The Minister for Climate Change and I will represent the Welsh Government at the meeting.

In this virtual meeting we will discuss the IMG's ways of working and Building Safety.

I will provide an update after the meeting.

Yours sincerely,

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

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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.



Llywodraeth Cymru
Welsh Government

WRITTEN STATEMENT BY THE WELSH GOVERNMENT

TITLE **Update on building safety**

DATE **12 May 2022**

BY **Julie James MS, Minister for Climate Change**

While we continue to do everything in our power to repair building safety defects – without these costs falling on leaseholders – and to reform building safety law. There are many things our governments can do to improve building safety on a UK basis.

I was deeply disappointed when the Secretary of State for Housing, Levelling Up and Communities Michael Gove announced an England-only developer pledge last month.

The Scottish Government Cabinet Secretary for Social Justice, Local Government and Housing, Shona Robison and I have repeatedly called on the UK Government to adopt a UK-wide approach to the pledge. A UK “pledge” would commit developers to repairing buildings they were involved in developing.

The UK Government’s unilateral approach to building safety issues makes it harder to ensure all developers take their responsibilities to contribute towards the costs of fixing building safety problems in Wales seriously.

It inhibits our ability to hold developers and manufacturers to account for fixing their mistakes and it runs counter to the recent Review of Intergovernmental Relations.

It also creates more confusion for residents at a time when they need consistency and clarity.

We raised these matters directly with Lord Greenhalgh, the Minister for Building Safety and Fire at a meeting earlier this month.

There we told him there is a limited window of opportunity to make the Department of Housing, Levelling Up and Communities’ approach work for all parts of the UK through a collective crafting of the legal contracts with developers.

Lord Greenhalgh has assured us the legal underpinning of the developer pledge would be extended and tailored to include the Devolved Governments.

We have subsequently received a letter from Michael Gove MP, Secretary of State for Levelling Up, Housing and Communities and Minister for Intergovernmental Relations, providing renewed assurances of collaborative working.

In the interests of Welsh homeowners, leaseholders and tenants, we will continue to press for the following:

1. A change in the pledge letters with developers and in the resulting detailed legal agreements from “with no prejudice to other nations” to a matching and proportionate commitment to self-remediate across the United Kingdom.
2. UK Government redoubles its efforts to introduce this year a credible, affordable and UK-wide Professional Indemnity Insurance scheme, and commissions work to support the creation of a companion insurance scheme for certification of remedial works which includes relevant aspects of fire safety.
3. Our officials to be engaged directly with developers and UK Finance bodies as a pragmatic approach to designing-in the needs of Devolved Governments.
4. An assurance that the Devolved Governments will receive every support in extending the introduction of the Building Safety Levy.
5. Support from Secretary of State Gove in seeking additional baseline capital and resource funding from HM Treasury over the UK Spending Review period.

A building safety four nations meeting is due to take place later this month and I hope the outcome will be more positive for the many thousands of people living in buildings with identified safety defects.

Sir Oliver Heald

Leader and Co-chair of the UK Delegation to the UK-EU Parliamentary Partnership Assembly
House of Commons

London

SW1A 0AA

cc: Alun Davies MS, Member of the Legislation, Justice and Constitution Committee

Sam Kurtz MS, Member of the Economy, Trade and Rural Affairs Committee

27 April 2022

Dear Oliver

UK-EU Parliamentary Partnership Assembly, Brussels 12-13 May 2022

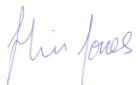
Thank you for your letter of 8 April and for the invitation to send two Senedd representatives to the first meeting of the Parliamentary Partnership Assembly on 12-13 May. As you will know, the issues to be discussed by the Assembly are of great importance to the Senedd and its Members. We warmly welcome the opportunity to attend the first meeting.

The Senedd representatives attending the first meeting will be Alun Davies MS, Member of the Legislation, Justice and Constitution Committee and Sam Kurtz MS, Member of the Economy, Trade and Rural Affairs Committee.

I would be grateful if you could confirm if the intention is to invite the devolved legislatures to attend future meetings as a matter of course, as this will assist with our internal discussions. I know that there are also ongoing conversations about the engagement of the devolved legislatures in the work of the UK delegation and I am sure much will be gained from making the most of the opportunity to strengthen interparliamentary working and dialogue.

I wish you and the UK delegation well in your discussions at the first meeting and in your future work.

Yours sincerely,




Elin Jones MS



Llywydd



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**The Rt Hon Elin Jones MS, Presiding Officer
Senedd
Cardiff Bay
Cardiff CF99 1 SN**

8 April 2022

Dear 

UK-EU Parliamentary Partnership Assembly: first meeting, Brussels 12-13 May 2022

I am writing as the UK Co-Chair of the UK-EU Parliamentary Partnership Assembly (PPA) to invite the Senedd to send two elected representatives as observers to the inaugural meeting of the UK-EU Parliamentary Partnership Assembly. The meeting is to take place at the European Parliament in Brussels on Thursday 12 May (2.30pm to 6pm) and Friday 13 May (9.00am to 12.30pm).

The draft agenda will be agreed and circulated at least 8 days before the meeting. It is likely to include exchanges of views on the state of play within the Partnership Council as well as on specific subjects such as the situation in Ukraine. Although the draft Rules of Procedure for the PPA do not include a right for your colleagues to participate in debates within the PPA, I am sure that it would be beneficial to all concerned for representatives from the Senedd to attend the working sessions.

I have also secured a provision in the draft Rules of Procedure that PPA papers may be shared with those who attend its meetings. I will ensure that any such papers are communicated to you as soon as they are available for circulation. In addition, I would be very happy to offer you an opportunity to discuss the agenda with myself and other members of the Bureau ahead of the meeting. The delegation staff will be in touch to make the necessary arrangements.

Please could you confirm as soon as possible whether you wish to send observers to this meeting.

I look forward to hearing from you.



Rt Hon Sir Oliver Heald QC MP
Leader and Co-Chair, United Kingdom Delegation to the
UK-EU Parliamentary Partnership Assembly
House of Commons
London SW1A 0AA
United Kingdom

Eluned Morgan AS/MS
Y Gweinidog Iechyd a Gwasanaethau Cymdeithasol
Minister for Health and Social Services

Agenda Item 6.2

Llywodraeth Cymru
Welsh Government

Huw Irranca-Davies MS
Chair, Legislation, Justice and Constitution Committee
Senedd Cymru
Cardiff Bay,
Cardiff,
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9 May 2022

Dear Huw,

Thank you for the Legislation, Justice and Constitution Committee's report laid on 25 April in relation to the Supplementary Legislative Consent Memorandum (Memorandum No. 4) (the SLCM) on the Health and Care Bill (the Bill).

I welcome the Committee's acknowledgement of the prompt tabling of the SLCM, though I appreciate that the lateness of the tabling of the amendment by the UK Government in relation to commercial dealing in organs for transplantation abroad did not provide the Senedd with the scrutiny period it would normally be afforded. I fully acknowledge the importance of full and effective scrutiny by the Senedd of legislation where the Senedd is being asked to agree to the UK Parliament legislating on its behalf in areas which impact on Wales. As you will appreciate, the UK Parliamentary timetable is outside of our control, however, I took steps to lay the SLCM as soon as I possibly could to give as much time as possible to its consideration.

I am copying this letter to Russell George MS, Chair of the Health and Social Care Committee.

Yours sincerely,



Eluned Morgan AS/MS
Y Gweinidog Iechyd a Gwasanaethau Cymdeithasol
Minister for Health and Social Services

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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.



Russell George MS
Chair, Health and Social Care Committee
Senedd Cymru
Cardiff Bay, Cardiff, CF99 1SN

By email: SeneddHealth@senedd.wales

09 May 2022

Dear Russell,

Thank you for the Health and Social Care Committee's report laid on 25 April in relation to the Supplementary Legislative Consent Memorandum (Memorandum No. 4) (the SLCM) on the Health and Care Bill (the Bill).

I appreciate that the lateness of the tabling of the amendment by the UK Government, in relation to commercial dealing in organs for transplantation abroad, did not provide the Senedd with the scrutiny period it would normally be afforded. I fully acknowledge the importance of full and effective scrutiny by the Senedd, where it is being asked to agree to the UK Parliament legislating on its behalf in areas which impact on Wales. As you will appreciate, the UK Parliamentary timetable is outside of our control, however, I took steps to lay the SLCM as soon as I possibly could to give as much time as possible to its consideration.

In your report you express concern at the apparent 'overuse' of Legislative Consent Motions and that this could be undermining devolution. This was also discussed in the Legislative Consent Motion debate on 26 April. I understand the concerns and indeed the First Minister's principles for legislating in UK Bills make it clear we follow the principle that primary legislation in devolved areas should be enacted by the Senedd. However, the principles also acknowledge there are, and will continue to be, circumstances in which it is sensible and advantageous if provision, which would be within the Senedd's legislative competence, is sought for Wales in UK Parliament Bills, with the consent of the Senedd. Our approach to the Health and Care Bill aligns with the principles.

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

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'M. E. Morgan', with a long horizontal flourish extending to the right.

Eluned Morgan AS/MS

Y Gweinidog Iechyd a Gwasanaethau Cymdeithasol
Minister for Health and Social Services

Agenda Item 6.3

**Pwyllgor Newid Hinsawdd,
yr Amgylchedd a Seilwaith**

**Climate Change, Environment,
and Infrastructure Committee**

Senedd Cymru

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Julie James MS

Minister for Climate Change

10 May 2022

Dear Minister,

Exclusion to the UK Internal Market Act for single use plastics

I am writing following the Minister for Rural Affairs, and North Wales, and Trefnydd's letter to the Legislation, Justice and Constitution Committee, dated 28 March 2022, in which she refers to the UK Government's decision to grant an exclusion to the UK Internal Market Act ('the UKIMA') for single use plastics ('SUPs').

Given our ongoing interest in the proposed ban on SUPs, and our continuing calls for clarity on the outcome of intergovernmental discussions concerning a possible exclusion to the UKIMA, we are disappointed not to have received an update from you. To this end, we would be grateful if you could address the questions set out in this letter.

It is our understanding that the exclusion would have been considered and agreed in line with established processes set out in the Resources and Waste Common Framework ('the Framework'). We note that the Framework has yet to be published or made available for parliamentary scrutiny and is the subject of ongoing delay. We are concerned about the lack of transparency in the decision making process, and the reliance on an unpublished provisional Framework as a basis for consideration and agreement of the exclusion.

1. Can you provide an indication of when the provisional Framework for Resources and Waste will be made available for scrutiny and explain the reason for the ongoing delay in its publication?

2. While we acknowledge the request for the exclusion originated from the Scottish Government, it appears the Welsh Government will be relying on the exclusion to progress its proposals to ban SUPs. Can you confirm that this is the case?

3. In the absence of the Resources and Waste Common Framework, can you outline the processes for considering and agreeing the exclusion?

In her letter, the Minister for Rural Affairs, and North Wales, and Trefnydd refers to the Welsh Government's disappointment at the "narrow nature of the exclusion".

4. Can you provide details of the exclusion and explain in what way it is narrower than you and your counterpart in the Scottish Government had hoped for?

The [Process for considering UK Internal Market exclusions in Common Framework areas](#) sets out that the four governments are able to engage the dispute resolution mechanism within the relevant Framework if desired.

5. Can you clarify whether the dispute resolution mechanism was utilised with a view to securing a wider exclusion? If not, why was this?

6. Can you explain whether and how the "narrow nature of the exclusion" will impact on the scope of the proposed ban on SUPs in Wales?

Under the Act, amendments to the schedules containing exclusions require the approval of both Houses of the UK Parliament. The Secretary of State is responsible for ensuring that draft regulations are put before the UK Parliament. Before making regulations, the Secretary of State must seek the consent of the devolved administrations.

7. What discussions have you had with the UK Government about the timing of draft regulations that will give effect to the exclusion?

8. Can you confirm that you will notify the Senedd when the draft regulations are laid before the UK Parliament?

9. Can you confirm that you will seek the views of the Senedd before deciding on whether to give consent to the Secretary of State making the regulations? If so, can you provide an indication of when this is likely to be and what process you intend to follow?

In September 2021, you told us the Welsh Government's response to the consultation on the proposed ban on SUPs, including next steps, would be published in October 2021. Again, in December 2021, you said the response would be published in January 2022. The response is still to be published.

10. Can you confirm the timing of the publication of the response and explain the reason for the ongoing delay?

I should be grateful if you could respond to the above as soon as possible, and by 24 May at the latest.

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

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Llyr', is centered on a light yellow rectangular background.

Llyr Gruffydd MS,
Chair, Climate Change, Environment and Infrastructure Committee



Huw Irranca-Davies MS

Chair

Legislation, Justice and Constitution Committee

Huw.Irranca-Davies@senedd.wales

28 March 2022

Dear Huw,

In accordance with the inter-institutional relations agreement I wish to notify you that a further meeting of the Inter-Ministerial Group for Environment, Food and Rural Affairs was held on 21 March.

The meeting was attended by George Eustice MP (Chair), Secretary of State for Environment, Food and Rural Affairs, UK Government; Victoria Prentis MP, Minister of State, Defra, UK Government; Mairi Gougeon MSP, Cabinet Secretary for Rural Affairs and the Islands, Scottish Government; Lorna Slater MSP (Chair), Minister for Green Skills, Circular Economy, and Biodiversity, Scottish Government; Edwin Poots MLA, Minister of Agriculture, Environment and Rural Affairs, Northern Ireland Executive; David TC Davies MP, Parliamentary Under Secretary of State for Wales and Connor Burns MP, Minister of State for Northern Ireland were also in attendance.

At the meeting we discussed the terrible situation in Ukraine and the impacts for the production costs of fertiliser, feed, and the processing of white fish. Pet travel and quarantine concerns were also raised.

The UK Government introduced their proposals for protected site designations outlined in their Nature Green Paper. They also provided an update on the publication and scrutiny of Common Frameworks.

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When discussing Border control preparations I pressed the UK Government for assurances devolved administrations would be consulted as soon as possible in the drafting of any necessary further legislation and in discussions around infrastructure funding.

The decision by the UK Government to grant an exclusion to the Internal Market Act for single use plastics was noted by all administrations. On behalf of the Minister for Climate Change I joined my Scottish Government colleagues in noting disappointment at the narrow nature of the exclusion.

There were a number of items of AOB including an update on the proposals for a Food Data and Transparency Partnership, discussions relating to the practice of using fish in fish feed for salmon in aquaculture, and Scottish Ministers raised concerns regarding Deposit Return Scheme tax issues. I also extended an invitation to members to the Royal Welsh Show in July.

A communique will be published on the UK Government website at <https://www.gov.uk/government/publications/communique-from-the-inter-ministerial-group-for-environment-food-and-rural-affairs>

I am copying this letter to the Climate Change, Environment, and Infrastructure Committee and to the Economy, Trade and Rural Affairs Committee.

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



Llywodraeth Cymru
Welsh Government

Regards,

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

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

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Agenda Item 6.4

Rebecca Evans AS/MS

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



Llywodraeth Cymru
Welsh Government

Ein cyf/Our ref: MA/RE/1163/22

Huw Irranca-Davies MS
Chair
Legislation, Justice and Constitution Committee
Senedd Cymru
Cardiff Bay
CF99 1SN

11 May 2022

WELSH TAX ACTS etc. (POWER TO MODIFY) BILL

Dear Huw

Thank you once again for your consideration of the Welsh Tax Acts etc. (Power to Modify) Bill during Stage 1. I am pleased that the general principles of the Bill have been agreed, and I thank your Committee for their recommendations in this regard.

During the General Principles debate on the Bill on 26 April, I confirmed that I would provide a detailed response to your Committee's Stage 1 report and its 18 recommendations. I have set out below my response to the recommendations, including details of where I agree there is need to put forward amendments to the Bill. I have already tabled one Government amendment and will table further amendments before the closure of the tabling period.

I am copying this letter to the Chair of the Finance Committee.

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

CC: Chair of the Finance Committee

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Annex A

Welsh Tax Acts etc. (Power to Modify) Bill – Stage 1

LJC Committee Recommendations

Recommendation 1. The Minister should table an amendment to the Bill to require a statutory review of the regulation-making power in the Bill within two years of Royal Assent. The review should include an assessment of the extent to which the power provided to the Welsh Ministers to make regulations has been used

I am pleased to accept in principle the recommendation of both Committees to require the Welsh Ministers to carry out a review on the operation and effect of the Act.

However, I consider the most appropriate timing for such a review to report to be in the first year of the next Senedd term in 2026. This will help to inform the decisions of the next Senedd as to the most appropriate next steps. The aim of the review is to consider the effectiveness of this Bill. If Committees wish to undertake their own review of the Bill at any point before that, it is, of course, open to them.

Recommendation 2. The Minister should table an amendment to the Bill to include an appropriate sunset provision such that no new regulations may be made under the power in section 1 after July 2027. This will provide the Welsh Government with sufficient time to develop more appropriate approaches to legislating in respect of devolved taxation involving the use of primary legislation.

I accept in principle the recommendation of the Committee to include a sunset provision. I intend to bring forward a Government amendment that no new regulations may be made using this regulation making power after five years from the date that the Bill receives Royal Assent.

However, I do consider it important to provide the next Senedd with the opportunity to extend the life of the Act by up to a maximum of 5 years if that Senedd considers that the power should remain in force for that extended period. This will be achieved by members voting to approve an Order made by the Welsh Ministers.

These actions are intended to ensure that we are ready to take the agreed next steps in our devolution journey at a specified point in the future. This could include the continued operation of the Act for a limited period, the removal of the power to make further regulations, or agreement on any new arrangements.

Recommendation 3. The Minister should provide in advance of the Stage 1 debate, examples of circumstances in which the Minister would be prevented from using the power proposed in section 1 of the Bill as a result of the “appropriate” test.

I have provided information on this in my response to you in advance of the General Principles debate.

Recommendation 4. The Minister should table an amendment to remove the “necessary or appropriate” test from section 1 of the Bill.

The aim of including the “necessary or appropriate” thresholds in section 1(1) of the Bill is to indicate the kind of provision that can be made using the power. The “appropriate” threshold

is intended to provide a degree of flexibility for the Welsh Ministers to ensure the response is right for our citizens and taxpayers.

I recognise that the “necessary or appropriate” test is a subjective one and that this presents challenges for Members in deciding whether to support the power, because it is not easy to envisage what Welsh Ministers might consider necessary or appropriate in the future. I hope that my letter dated 22 April in response to your Recommendation 3 has helped Committee Members.

There are valid and important reasons to keep the test. Removing the test means that we will be left with a power that is at least as wide as the power that is already in the Bill, but we will lose the indications given by the test about what the power can be used for. The Welsh Ministers will be able to make regulations “for or in connection with” any of the four purposes - full stop. There will be no statutory requirement for Ministers to believe that the regulations are either necessary or appropriate. They will of course have to reach a rational conclusion and follow public law rules in deciding on how to use the power and so they will likely end up in the same place - that is, making regulations that they consider suitable for one or more of the four purposes.

Moreover, removing the test will mean that the only grounds available to challenge its use in the courts will be the generic public law grounds - there will be no chance to challenge its use on stand-alone grounds that the provision made was not “necessary” or that it was not “appropriate”

Ultimately all decisions to use the power, and all judgments about whether the use is necessary or appropriate, would require approval by the Senedd. And, of course, all those decisions would be open to challenge in the courts.

Taking this into consideration, I believe that retaining the “necessary or appropriate” test is the more useful and transparent approach and so removing that test is not something I can support.

Recommendation 5. The Minister should table an amendment to the Bill to limit the meaning of “tax avoidance” in section 1(1)(b) by reference to the general anti-avoidance provisions set out in Part 3A of the Tax Collection and Management (Wales) Act 2016.

As I have set out previously to the Committees, whilst I recognise a precise definition of what constitutes avoidance activity may be attractive, it is not possible to provide that degree of certainty. If defined in this way, there is a risk that Welsh Ministers might find the purpose is too narrow. Those seeking to bend the rules may also structure transactions in a way that fell just outside a narrower definition but would still achieve a tax result which was contrary to the intentions of the legislation.

The Welsh Ministers want to be able to, potentially, address the broadest meaning of tax avoidance, and so it is appropriate not to define this term and instead to allow the phrase “tax avoidance” to take its ordinary meaning.

I am therefore unable to accept this recommendation.

Recommendation 6. Subject to Recommendation 8, the Minister should table an amendment to the Bill to exclude the general anti-avoidance provisions in Part 3A of the Tax

Collection and Management (Wales) Act 2016 from the scope of the regulation-making power in the Bill.

I believe I have set out clearly in my response to the Chair of the Finance Committee prior to the General Principles debate that there may be future scenarios where it may be necessary to use this power to make changes to the general anti-avoidance rule provisions in Part 3A of the TCMA. I am therefore unable to accept this recommendation.

Recommendation 7. Given the potential extent to which the regulation-making power may be exercised in connection with the purpose set out in section 1(1)(d) of the Bill, the absence of a satisfactory explanation for how the power will be used for that purpose and the acknowledgement that a need for the power in such circumstances has not yet arisen, the Minister should table an amendment to remove section 1(1)(d) from the Bill.

As with Recommendation 6, I set out in my previous response to the Chair of the Finance Committee future scenarios where it may be necessary to use this power to make changes in relation to responding to the court and tribunal decisions. I am therefore unable to accept this recommendation.

Recommendation 8. Given that the scope of the regulation-making power proposed in the Bill would enable the Minister, or any future Minister, to modify any of Parts 1 and 3 to 10 of the Tax Collection and Management (Wales) Act 2016 and in the absence of any justification or examples to explain what the power would or could be used for, the Minister should table an amendment to the Bill such that regulations under section 1 may not amend any provision contained in the 2016 Act.

I have set out clearly in my response to the Chair of the Finance Committee prior to the General Principles debate future scenarios where it may be necessary to use this power to make changes in relation to the Tax Collection and Management (Wales) Act 2016. I trust that this provides the justification requested by Committee members and I am therefore not minded to accept this recommendation.

Recommendation 9. The Minister should, in advance of the Stage 1 debate, set out likely scenarios in which regulations to be made in respect of each of the purposes listed in paragraphs (a) to (d) of section 1(1) of the Bill could:

- impose landfill disposals tax or land transaction tax by virtue of section 2(1) (a);
- impose or extend a liability to a penalty by virtue of section 2(1) (b).

I have provided the required information in my response to the Chair of the Finance Committee. That response sets out a number of examples in respect of the three Welsh Tax Acts for each of the four purpose tests and how they may impact the amount of landfill disposals tax or land transaction tax payable.

In relation to the imposing of a penalty, that will in all likelihood be triggered primarily by a response to a court case (section 1(1)(d)) or, to protect against tax avoidance. For example, perhaps the introduction of a new penalty targeted at a particular avoidance activity or behaviour by taxpayers, their advisers or the promoters of avoidance schemes.

Penalties do not impact the amount paid into the Consolidated Fund (section 1(1) (c)), and are unlikely to be impacted by international obligations (section 1(1) (a)).

Recommendation 10. The Minister should table amendments to the Bill such that the exercise of the regulation-making power in accordance with section 2(1) (c) is constrained:

- as regard the purpose under section 1(1)(b) relating to tax avoidance, such that it cannot take effect earlier than the date on which the Welsh Government announced in the Senedd by statement its intention to legislate;
- as regards the purpose under section 1(1)(c) in relation to changes to a predecessor tax, such that it cannot take effect earlier than the date that the relevant change is made by the UK Parliament (or the UK Government, should that be the case);
- as regards the purpose under section 1(1)(d) relating to the decision of a court or tribunal, such that it cannot take effect earlier than the date on which the Welsh Government announced by statement that it will change the law in the light of the relevant court or tribunal decision (subject to Recommendation 7).

I accept in principle this recommendation and have tabled a Government amendment to restrict the ability to legislate retrospectively back only as far as the date of a Welsh Government announcement, in cases where a change may impact negatively (tax becomes payable or an increased amount of tax becomes payable) on taxpayers.

Recommendation 11. The Minister should table an amendment to the Bill to provide that regulations made under section 1 may not amend existing regulation-making powers (or/and their associated approval procedures) in the Welsh Tax Acts.

I accept in part this recommendation and will bring forward an amendment at Stage 2 to restrict the use of the power to prohibit any changes to the approval procedures for existing regulation-making powers in the Welsh Tax Acts.

I consider that a restriction on amending the existing regulation making powers will be overly restrictive. For example, using the power in the Bill to amend Schedule 5 to the LTТА (higher residential rates) could also result in widening the existing scope of the associated regulation making power to encompass those changes made to Schedule 5).

Similarly, if the power in the Bill was used to create a new obligation for taxpayers to make a return, then it would be right to amend section 52(2) of the LTТА¹ so that the new provision would be included in the list of those provisions that could be amended by regulations, to alter the existing filing time limits. Again, such a change could be considered to amount to amending the regulation making powers.

I do not consider that the level of restriction this would impose, if the recommendation was fully accepted, is appropriate. I trust that the proposed restriction on changing the procedure, together with, in particular the limited circumstances in which the power in the Bill can be used (the four purpose tests) and the sunset clause will reassure the committee that sufficient safeguards will exist.

¹ [Land Transaction Tax and Anti-avoidance of Devolved Taxes \(Wales\) Act 2017 \(legislation.gov.uk\)](https://legislation.gov.uk)

Recommendation 12. In the event that Recommendation 10 is not accepted, the Minister should table amendments to the Bill:

- to provide that the policy statement for regulations to be made under section 1 that have retrospective effect (and any future revisions to the statement) must be laid before, and approved by, the Senedd in addition to being published;
- to provide that the power in section 1 may only be exercised retrospectively in accordance with a policy statement approved by the Senedd

This recommendation is an alternative to Recommendation 10 which I have accepted in principle. I am therefore unable to accept this recommendation.

Recommendation 13. The Minister should, in advance of the Stage 1 debate, explain why a super affirmative procedure was not included in the Bill to enable Senedd Committees to have enough time to take evidence when scrutinising regulations that may be made under section 1 of the Bill.

Recommendation 14. The Minister should, in advance of the Stage 1 debate, clarify what would constitute “by reason of urgency” when choosing to use the made affirmative procedure under section 4 of the Bill.

I provided written responses to Recommendations 13 and 14 in advance of the General Principles debate. I trust that this provided clarification.

Recommendation 15. Explanatory Memoranda accompanying regulations subject to the made affirmative procedure must set out full justification for the need to act urgently.

I am pleased to accept this recommendation that future Explanatory Memorandums must set out the full justification for the need to act urgently if the made affirmative procedure is used in relation to this Bill.

Recommendation 16. The Minister should table an amendment to the Bill to introduce a minimum period of 28 days within the 60 day period referred to in section 4(5) of the Bill to provide Senedd Committees with time to scrutinise regulations subject to the made affirmative procedure before a vote on such regulations can take place.

I accept this Recommendation and will table an amendment at Stage 2 to introduce a minimum period of 28 days within the maximum 60 day period referred to in section 4(5) of the Bill to ensure the made affirmative procedure regulations cannot be voted on before that 28-day period has passed.

Recommendation 17. If the Bill is enacted, the Senedd’s Standing Orders should be amended to require a minimum period of 28 days after the making of regulations subject to the made affirmative procedure before a vote on such regulations can take place.

As you will be aware, the Senedd’s Standing Orders are a matter for the Senedd, not the Welsh Government and any Recommendations should be put forward to the Business Committee for consideration.

Recommendation 18. The Minister should table an amendment to the Bill such that regulations to be made in accordance with section 1(1)(b) or section 1(1)(d) which have retrospective effect should be subject to the draft affirmative procedure only (subject to Recommendation 7).

In order for regulations to proceed under the made affirmative procedure Welsh Ministers have to be satisfied that it is urgently necessary to do so. The threshold to be applied in deciding to bypass the usual draft affirmative procedure is a narrow one - it is a stringent test of both urgency *and* necessity. As such I believe that in cases where Welsh Ministers, acting in accordance with public law principles, believe it is urgent and necessary to bring the legislation into force in advance of scrutiny, debate and vote in the Senedd then I believe that it is correct to do so, and I do not consider the draft affirmative procedure to be suitable for the circumstances that may need to be addressed.

There will inevitably be times when tax law will need to be changed urgently in response to external factors and this Bill is intended as a pragmatic step to take now while we work towards an architecture for making tax changes that is right for us here in Wales.

In addition, I have accepted that the power in the Bill will be restricted to the date of an announcement of the changes, in so far as it may impact on taxpayers negatively in terms of tax payable,. I also set out in my previous response to the Chair of the Finance Committee future scenarios where it may be necessary to use this power to make changes in relation to section 1(1)(b) and section 1(1)(d) and this includes scenarios where we may wish to respond at pace using the made affirmative procedure. I consider these measures negate the need for an additional restriction limiting regulations for tackling avoidance and addressing court decisions to only be made through draft affirmative procedure regulations. I am therefore unable to accept this recommendation.

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



Llywodraeth Cymru
Welsh Government

Ein cyf/Our ref: MA/RE/1163/22

Peredur Owen Griffiths, MS
Chair
Finance Committee
Senedd Cymru
Cardiff Bay
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11 May 2022

WELSH TAX ACTS etc. (POWER TO MODIFY) BILL

Dear Peredur

Thank you once again for your consideration of the Welsh Tax Acts etc. (Power to Modify) Bill during Stage 1. I am pleased that the general principles of the Bill have been agreed, and I thank your Committee for their recommendations in this regard.

During the General Principles debate on 26 April, I confirmed I would provide a detailed response to your Committee's Stage 1 report and its 11 recommendations. I have set out below my response to the recommendations, including details of where I agree there is a need to put forward amendments to the Bill. I have already tabled one Government amendment and will table further amendments before the closure of the tabling period.

I hope that the attached information helps to inform your further scrutiny as the Bill progresses through Stage 2. I look forward to continuing to work with Committee members on the details of the legislation in the future.

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

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

CC: Chair of the LJC Committee

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Annex A

Welsh Tax Acts etc. (Power to Modify) Bill – Stage 1

Finance Committee Recommendations

Recommendation 1. The Committee recommends that the Senedd, taking into account the recommendations in this report, agrees the general principles of the Welsh Tax Acts etc. (Power to Modify) Bill. Peter Fox MS does not support this recommendation.

I am grateful for all the input from the Finance and Legislation, Justice and Constitution Committees who have contributed to the robust scrutiny of the Bill, and am pleased that overall they have been able to recommend to the Senedd that the general principles are agreed.

Recommendation 2. The Committee recommends that, prior to the debate on the general principles of the Bill, the Welsh Government provides examples of the specific circumstances in which it envisages the regulation-making power in section 1(1) being used to amend each part of the Tax Collection and Management (Wales) Act 2016 (other than Part 2), the Land Transaction Tax and Anti-Avoidance of Devolved Taxes (Wales) Act 2017 and the Landfill Disposals Tax (Wales) Act 2017.

I have provided examples to the Committee in my response dated 22 April 2022 of how each Part of the three Welsh Tax Acts may need to be amended using the regulation making power in this Bill in relation to each of the four purpose tests.

Recommendation 3. The Committee recommends that the Welsh Government reviews the wording of section 1(1), to ensure that the limitations placed on Welsh Ministers that any modifications are ‘necessary or appropriate’ is meaningful, and that examples are provided to illustrate how this condition limits the delegated power in practice.

I have attached a copy of my response to the Chair of the LJC Committee which I provided in advance of the Stage 1 debate (Recommendation 3). This sets out circumstances in which the Minister would be prevented from using the power proposed in section 1 of the Bill as a result of the “appropriate” test.

Recommendation 4. The Committee recommends that the Welsh Government commits to including details of any consultation, or sets out detailed reasoning for not doing so, in the Explanatory Memorandum accompanying any future regulations made under section 1(1) of the Bill.

I accept this recommendation. I will ensure any Explanatory Memorandum accompanying future regulations made under section 1(1) of the Bill sets out the detail of any consultation, or the detailed reasoning for not doing so.

Recommendation 5. The Committee recommends that the Bill be amended so that the effect of section 2(1)(c), in respect of regulations made for the purpose set out in section 1(1)(c), is limited to no earlier than the effective date of the change to the UK predecessor tax.

Recommendation 6. The Committee recommends that the Bill be amended:

- so that the effect of section 2(1)(c), in respect of regulations made for any of the purposes set out in section 1(1)(b) and (d), is limited to no earlier than the date of an announcement;
- to specify that the date of that announcement is the date Welsh Ministers lays a written statement before the Senedd;
- to require Welsh Ministers to bring forward an oral statement at the first plenary session after an announcement is made.

I accept in principle Recommendations 5 and 6 and have already tabled a Government amendment to restrict the ability to legislate retrospectively back only as far as the date of a Welsh Government announcement in cases where a change may impact negatively (tax becomes payable or an increased amount of tax becomes payable) on taxpayers.

Recommendation 7. The Committee recommends that the Bill be amended to require the policy statement on the use of the power to make regulations with retrospective effect in section 3 to be laid before and approved by the Senedd, including any subsequent changes. The motion to approve the policy statement (and any subsequent changes) should not be moved until a responsible committee has reported.

The Statement is a *policy* statement on how the Welsh Ministers will use the power to make retrospective legislation that is proposed by the Bill, and the Bill itself sets the limitations on the use of that power. The Statement is intended to inform the public and the Senedd how the power to make regulations with retrospective effect will be used. The Welsh Government will however gather views on the changes from relevant stakeholders before the publication of an amended Statement, which will obviously, and primarily, include this Committee. I therefore do not see a statutory role for the Senedd in approving and amending this statement.

My officials will continue working with external stakeholders to ensure that the Statement is clear and meets the intention to provide clarity on when and how the Welsh Ministers will use the power with retrospective effect. I will also share the Statement with the Committee before it is published so as to gather your views as well.

In addition, I hope that the amendment I have now tabled to restrict the ability to legislate retrospectively back only as far as the date of a Welsh Government announcement in cases where a change creates or increases a tax liability provides appropriate reassurance to the Committee.

Recommendation 8. The Committee recommends that the Minister considers amending the Bill to include a minimum time period for scrutiny by the Senedd of regulations made under section 1(1).

I accept this recommendation. I will bring forward an amendment at Stage 2 to introduce a minimum period of 28 days within the maximum period of 60 days referred to in section 4(5) of the Bill, to ensure the made affirmative procedure regulations made under this Bill cannot be voted on before that 28-day period has passed.

Recommendation 9. The Committee recommends that the Bill be amended to place a duty on the Welsh Government to undertake a review of the operation and effect of the Act:

- two years after receiving Royal Assent, and
- on every fifth anniversary of receiving Royal Assent, with the findings of those reviews to be laid before the Senedd

Recommendation 10. The Committee recommends that the Bill be amended to stipulate that the statutory review of the operation of the Act by the Welsh Government includes an assessment of the following:

- the nature and effectiveness of any regulations made under section 1(1) of the Act ;
- the Act's impact on taxpayers and devolved Welsh taxes;
- the continuing appropriateness of the regulation-making powers conferred on Welsh Ministers by the Act and the Welsh Tax Acts; and
- alternative legislative mechanisms for making changes to the Welsh Tax Acts and regulations made under them

I am pleased to accept in principle Recommendations 9 and 10 requiring the Welsh Ministers to carry out a review of the operation and effect of the Act.

I consider that the most appropriate timing for such a review to report will be at the start of the next Senedd term. This will help to inform the decisions of the next Senedd as to the most appropriate next steps. I do not consider a rolling review is necessary as I also intend to bring forward a sunset clause provision for this Bill, which will prevent any further regulations being made under the Bill, 5 years after Royal Assent. If Committees wish to undertake their own review of the Bill at any point before that, it is, of course, open to them.

I do not anticipate that the scope of this review would include the consideration of alternative legislative mechanisms for making changes to the Welsh Tax Acts – this will be taken forward separately. The aim of the review is to consider the effectiveness of this Bill.

Recommendation 11. The Committee recommends that the Welsh Government commits to providing full and robust Regulatory Impact assessments for any future regulations made under the power proposed in the bill.

I accept this recommendation. I will ensure that full and robust Regulatory Impact Assessments are provided for future regulations made using the power in this Bill.

Lee Waters AS/MS
Y Dirprwy Weinidog Newid Hinsawdd
Deputy Minister for Climate Change

Agenda Item 6.5


Llywodraeth Cymru
Welsh Government

Huw Irranca-Davies
Chair
Legislation, Justice and Constitution Committee

SeneddLJC@senedd.wales

11 May 2022

Dear Huw,

Thank you for your letter of 23 March to the First Minister regarding the International Organization for Marine Aids to Navigation (IOMAN). I am responding due to my portfolio responsibilities.

The Welsh Government was not consulted by the UK Government in the drafting of the convention for the establishment of the new intergovernmental organisation, IOMAN.

We are disappointed that a UK-wide decision such as the establishment of this new intergovernmental organisation has been made without engagement with the Welsh Government. This affects all parts of the UK and Welsh interests need to be part of the decision-making process.

We welcome the strengthening of international co-operation to ensure that seafarers are provided with effective and harmonised marine aids to navigation. The IOMAN, will serve to enhance the safety of global marine navigation.

More broadly, we take the issue of workplace health and safety very seriously, whilst recognising this is a reserved matter. We nevertheless use the levers and influence we have, working in social partnership, to help keep Wales safe at work. This was very well illustrated during the coronavirus pandemic, where we proactively established the Wales Health and Safety Forum to provide a way for trade unions, the main employer representatives and the enforcement agencies to discuss and share their collective experience.

Yours sincerely,



Lee Waters AS/MS
Y Dirprwy Weinidog Newid Hinsawdd
Deputy Minister for Climate Change

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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.

Rt Hon Mark Drakeford MS
First Minister of Wales

23 March 2022

Dear Mark

Convention on the International Organization for Marine Aids to Navigation

At our meeting of 14 March 2022 we considered the international agreement regarding the Convention on the International Organization for Marine Aids to Navigation (IOMAN).

As you will be aware, this agreement will establish a new intergovernmental organisation, known as IOMAN, to ensure that seafarers are provided with effective and harmonised marine aids to navigation to assist in the safe navigation of shipping.

During our consideration of the agreement we agreed to write to you to seek an outline of the Welsh Government's involvement in the consultation process in drafting the Convention and whether the Welsh Government is satisfied that its views were adequately taken into account. We would also be grateful if you could confirm that the Welsh Government is content with the agreement, as stated in its Explanatory Memorandum.

We would be grateful to receive your response by 20 April 2022.

Yours sincerely,



Huw Irranca-Davies
Chair

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