

Agenda – Legislation, Justice and Constitution Committee

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| Meeting Venue: | For further information contact: |
| Hybrid – Committee room 4 Tŷ Hywel and video conference via Zoom | P Gareth Williams Committee Clerk |
| Meeting date: 14 November 2022 | 0300 200 6565 |
| Meeting time: 12.45 | SeneddLJC@senedd.wales |

Pre-meeting (12.45 – 13.00)

- 1 Introductions, apologies, substitutions and declarations of interest**
(13.00)

- 2 Historic Environment (Wales) Bill: Ministerial evidence session**
(13.00 – 14.30) (Pages 1 – 43)
Mick Antoniw MS, Counsel General and Minister for the Constitution
Dylan Hughes, First Legislative Counsel and Director of the Office of the
Legislative Counsel, Welsh Government
James George, Senior Legislative Counsel, Welsh Government

[Historic Environment \(Wales\) Bill, as introduced](#)
[Explanatory Memorandum](#)
[Explanatory Memorandum: Annex A – Explanatory Notes](#)
[Explanatory Memorandum: Annex B1 – Table of Origins](#)
[Explanatory Memorandum: Annex B2 – Table of Destinations](#)
[Explanatory Memorandum: Annex C – Explanation of changes made to
existing provisions \(Drafters’ Notes\)](#)
[Explanatory Memorandum: Annex D – Correspondence from the Law
Commission](#)



[Letter to the Counsel General and Minister for the Constitution: Follow-up to evidence session on the Historic Environment \(Wales\) Bill – 19 July 2022](#)

[Letter from the Counsel General and Minister for the Constitution: Follow-up to evidence session on the Historic Environment \(Wales\) Bill – 17 August 2022](#)

[Letter to the Counsel General and Minister for the Constitution: Matters of Interest in the Drafters' Notes – 20 September 2022](#)

[Letter from the Counsel General: Matters of Interest in the Drafters' Notes – 17 October 2022](#)

Attached Documents:

LJC(6)-29-22 – Paper 1 – Briefing

LJC(6)-29-22 – Paper 2 – Letter from the Counsel General and Minister for the Constitution, 28 October 2022

LJC(6)-29-22 – Paper 3 – Letter to the Counsel General and Minister for the Constitution, 7 October 2022

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

(14.30 – 14.35)

(Page 44)

Attached Documents:

LJC(6)-29-22 – Paper 4 – Draft report

Made Negative Resolution Instruments

3.1 SL(6)273 – The Renting Homes (Wales) Act 2016 (Consequential Amendments to Secondary Legislation) (Amendment) Regulations 2022

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

(14.35 – 14.40)

Made Negative Resolution Instruments

4.1 SL(6)274 – The Renting Homes (Rent Determination) (Converted Contracts) (Wales) (Amendment) Regulations 2022

(Pages 45 – 46)

[Regulations](#)

[Explanatory Memorandum](#)

Attached Documents:

LJC(6)-29-22 – Paper 5 – Draft report

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

(14.40 – 14.45)

5.1 SL(6)272 – The Child Minding and Day Care (Disqualification) (Wales) Regulations 2022

(Pages 47 – 57)

Attached Documents:

LJC(6)-29-22 – Paper 6 – Report

LJC(6)-29-22 – Paper 7 – Welsh Government response

5.2 SL(6)276 – The Renting Homes (Fitness for Human Habitation) (Wales) (Amendment) Regulations 2022

(Pages 58 – 60)

Attached Documents:

LJC(6)-29-22 – Paper 8 – Report

LJC(6)-29-22 – Paper 9 – Welsh Government response

6 Statutory Instruments requiring Senedd consent (Statutory Instrument Consent Memorandums)

(14.45 – 14.50)

6.1 SICM(6)1 – The Climate Change (Targeted Greenhouse Gases) Order 2022

(Pages 61 – 69)

[Order](#)

[Explanatory Memorandum](#)

Attached Documents:

LJC(6)-29-22 – Paper 10 – Statutory Instrument Consent Memorandum

LJC(6)-29-22 – Paper 11 – Letter from the Minister for Climate Change, 21 October 2022

LJC(6)-29-22 – Paper 12 – Legal advice note

LJC(6)-29-22 – Paper 13 – Briefing

7 Written Statements under Standing Order 30C

(14.50 – 14.55)

7.1 WS-30C(6)018 – The European University Institute (EU Exit) Regulations 2022

(Pages 70 – 75)

Attached Documents:

LJC(6)-29-22 – Paper 14 – Written Statement by the Minister for Education and Welsh Language, 8 November 2022

LJC(6)-29-22 – Paper 15 – Letter from the Minister for Education and Welsh Language, 9 November 2022

LJC(6)-29-22 – Paper 16 – Commentary

8 Inter-Institutional Relations Agreement

(14.55 – 15.00)

8.1 Written Statement and correspondence from the Minister for Rural Affairs and North Wales, and Trefnydd: The Phytosanitary Conditions (Amendment) (No. 3) Regulations 2022

(Pages 76 – 79)

Attached Documents:

LJC(6)-29-22 – Paper 17 – Written Statement by the Minister for Rural Affairs and North Wales, and Trefnydd, 7 November 2022

LJC(6)-29-22 – Paper 18 – Letter from the Minister for Rural Affairs and North Wales, and Trefnydd, 7 November 2022

8.2 Correspondence from the Minister for Economy: British–Irish Council Ministerial Meeting

(Pages 80 – 82)

Attached Documents:

LJC(6)-29-22 – Paper 19 – Letter from the Minister for Economy, 7 November 2022

8.3 Correspondence from the First Minister: British–Irish Council Summit

(Page 83)

Attached Documents:

LJC(6)-29-22 – Paper 20 – Letter from the First Minister, 9 November 2022

8.4 Correspondence from the First Minister: The Prime Minister and Heads of Devolved Governments Council

(Page 84)

Attached Documents:

LJC(6)-29-22 – Paper 21 – Letter from the First Minister, 10 November 2022

9 Papers to note

(15.00 – 15.10)

9.1 Correspondence from the Counsel General and Minister for the Constitution: The future of Welsh law: A programme for 2021 to 2026: Annual Report 2021–22

(Pages 85 – 100)

Attached Documents:

LJC(6)-29-22 – Paper 22 – Letter from the Counsel General and Minister for the Constitution, 7 November 2022

LJC(6)-29-22 – Paper 23 – Report: The future of Welsh law: A programme for 2021 to 2026: Annual Report 2021-22, November 2022

LJC(6)-29-22 – Paper 24 – Written Statement by the Counsel General and Minister for the Constitution, 7 November 2022

9.2 Correspondence from the Minister for Finance and Local Government: The Non-Domestic Rates (Chargeable Amounts) (Wales) Regulations 2022

(Pages 101 – 102)

Attached Documents:

LJC(6)-29-22 – Paper 25 – Letter from the Minister for Finance and Local Government, 8 November 2022

9.3 Correspondence from the Minister for Climate Change: The Renting Homes (Wales) Act 2016 (Consequential Amendments) Regulations 2022

(Pages 103 – 104)

Attached Documents:

LJC(6)-29-22 – Paper 26 – Letter from the Minister for Climate Change, 8 November 2022

9.4 Correspondence from the Business Committee: Annual Report 2021/22

(Pages 105 – 108)

Attached Documents:

LJC(6)-29-22 – Paper 27 – Letter from the Business Committee, 9 November 2022

LJC(6)-29-22 – Paper 28 – Letter to the Business Committee, 21 October 2022

9.5 Correspondence from the Counsel General and Minister for the Constitution and the Permanent Secretary to the Welsh Government: Follow-up to the meeting of 10 October 2022

(Pages 109 – 123)

Attached Documents:

LJC(6)-29-22 – Paper 29 – Letter from the Counsel General and Minister for the Constitution and the Permanent Secretary to the Welsh Government, 9 November 2022

LJC(6)-29-22 – Paper 30 – Letter to the Counsel General and Minister for the Constitution and the Permanent Secretary to the Welsh Government, 20 October 2022

9.6 Correspondence from the Minister for Climate Change to the Local Government and Housing Committee: Legislative Consent Memorandum on the Levelling-up and Regeneration Bill

(Pages 124 – 127)

Attached Documents:

LJC(6)-29-22 – Paper 31 – Letter from the Minister for Climate Change to the Local Government and Housing Committee, 10 November 2022

LJC(6)-29-22 – Paper 32 – Letter from the Local Government and Housing Committee to the Minister for Climate Change, 1 November 2022

9.7 Correspondence from the Minister for Education and Welsh Language: Legislative Consent Memorandum on the Schools Bill

(Pages 128 – 133)

Attached Documents:

LJC(6)-29-22 – Paper 33 – Letter from the Minister for Education and Welsh Language, 10 November 2022

LJC(6)-29-22 – Paper 34 – Letter from the Legislation, Justice and Constitution Committee to the Minister for Education and Welsh Language, 4 October 2022

LJC(6)-29-22 – Paper 35 – Letter from the Children, Young People and Education Committee to the Minister for Education and Welsh Language, 3 October 2022

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

(15.10)

11 Historic Environment (Wales) Bill: Consideration of evidence

(15.10 – 15.30)

(Pages 134 – 135)

Attached Documents:

LJC(6)-29-22 – Paper 36 – Briefing

12 Supplementary Legislative Consent Memorandum (Memorandum No. 2) on the Online Safety Bill

(15.30 – 15.40)

(Pages 136 – 140)

[Supplementary Legislative Consent Memorandum \(Memorandum No. 2\):
Online Safety Bill](#)

Attached Documents:

LJC(6)-29-22 – Paper 37 – Legal advice note

13 Legislative Consent Memorandum on the Social Housing (Regulation) Bill: Draft report

(15.40 – 15.50)

(Pages 141 – 153)

Attached Documents:

LJC(6)-27-22 – Paper 38 – Draft report

LJC(6)-29-22 – Paper 39 – Letter from the Minister for Climate Change to the Local Government and Housing Committee, 10 November 2022

LJC(6)-29-22 – Paper 40 – Letter from the Local Government and Housing Committee to the Minister for Climate Change, 31 October 2022

14 Social Partnership and Public Procurement (Wales) Bill: Draft report

(15.50 – 16.05)

(Pages 154 – 180)

Attached Documents:

LJC(6)-29-22 – Paper 41 – Draft report

15 Monitoring report

(16.05 – 16.15)

(Pages 181 – 191)

Attached Documents:

LJC(6)-29-22 – Paper 42 – Draft report

**16 Legislative Consent Memorandum on the Retained EU Law
(Revocation and Reform) Bill**

(16.15 – 16.20)

(Pages 192 – 212)

[Legislative Consent Memorandum: Retained EU Law \(Revocation and Reform\)
Bill](#)

Attached Documents:

LJC(6)-29-22 – Paper 43 – Briefing

**17 House of Commons Public Administration and Constitutional
Affairs Committee: The Scrutiny of International Treaties and
other international agreements in the 21st century**

(16.20 – 16.30)

(Pages 213 – 224)

Attached Documents:

LJC(6)-29-22 – Paper 44 – Draft response

**18 The Environmental Protection (Single-use Plastic Products) (Wales)
Bill**

(16.30 – 16.40)

(To Follow)

Attached Documents:

LJC(6)-29-22 – Paper 45 – Draft letter

Document is Restricted



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

28 October 2022

Dear Huw,

HISTORIC ENVIRONMENT (WALES) BILL

Thank you for your letter of 7 October 2022 asking me to review the evidence provided to the Committee by Dr Hayley Roberts on the current exclusion from the Bill of marine historic environment legislation.

Clearly there are no absolute divisions between subject matters in law and there will be connections between matters included in a consolidation Bill and others which are not.

Wrecks are the best-known features of the Welsh marine historic environment, but it also includes submerged landscapes, artefact scatters on the seabed and evidence of centuries of exploitation of the marine environment. A number of statutes currently provide a complex web of protection for the marine historic environment, particularly the:

- Protection of Wrecks Act 1973 (the 1973 Act),
- Ancient Monuments and Archaeological Areas Act 1979 (the 1979 Act),
- Protection of Military Remains Act 1986,
- Merchant Shipping Act 1995,
- Marine and Coastal Access Act 2009.

The main provisions for the protection of the marine historic environment are contained in the 1973 and 1979 Acts.

Section 1 of the 1973 Act provides protection for wrecks designated because of their historical, archaeological or artistic importance, or for any objects contained (or formerly

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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.

contained) within them. Diving at designated wreck sites in Wales is prohibited unless Cadw has issued an appropriate licence.

Section 2 of the 1973 Act provides protection for wrecks that are designated as dangerous because of their contents. The subject-matter of section 2 is a reserved matter under paragraph 120 of Schedule 7A to the Government of Wales Act 2006 so it would not be possible to include it in the Bill.

Dr Roberts raises the question of whether wrecks could be protected through scheduling under the 1979 Act rather than the 1973 Act, and the Bill instead repeal section 1 of the 1973 Act for Wales. It is possible to schedule wrecks and other underwater sites within the 12 nautical mile limit of territorial waters as well as those up to and above high water. The systems of protection offered by the two Acts are, however, different. If a wreck has been scheduled, there is no requirement for a licence to dive on a site; public access is permitted on a 'look but do not touch' basis. There are occasions where scheduling would not be appropriate. For example, a remote wreck site, which is vulnerable to uncontrolled salvage or treasure hunting, or which is particularly fragile, might be better preserved through designation as a protected wreck. This means that the site remains as undisturbed as possible, minimising the risk of damage. Despite the acknowledged shortcomings of the 1973 Act, Cadw would be reluctant to lose the ability to designate a wreck under the 1973 Act if that is deemed the most appropriate protection.

As explained in my letter of 17 August, incorporating section 1 of the 1973 Act in the Bill would require a number of new provisions to make it consistent with modern practices. For example, the Act does not require a formal process of consultation before designation or an opportunity to review decisions to designate or refuse a licence to dive. If the provisions are compared to those, for example, in the Planning (Listed Buildings and Conservation Areas) Act 1990 and the 1979 Act, the lack of detail in the procedures is stark. Filling these gaps would entail introducing more than minor changes to legislation.

Three other statutes also affect the management and protection of the marine historic environment:

- The Marine and Coastal Access Act 2009 (2009 Act) sets out a requirement for a national marine plan for Wales. It also requires marine licences for many types of activity below the level of mean high water spring tides. In considering applications, Natural Resource Wales considers a range of factors, including the impact of any proposed activity on the marine historic environment. The marine historic environment is only one of the many matters treated in the 2009 Act and it would not be appropriate to include it in the Bill.
- The Protection of Military Remains Act 1986 (1986 Act) makes it an offence to interfere with the wreckage of any crashed, sunken or stranded military aircraft or designated vessel without a licence. This is irrespective of loss of life or whether the loss occurred during peacetime or wartime. None of the Secretary of State's functions under the Act have been devolved to the Welsh Ministers. In practice, the Ministry of Defence is responsible for designation as a protected place or as a controlled site. The purposes of the Act are not limited to the historic environment, and it does not apply to the very oldest vessels and sites, so it would not be appropriate for this consolidation.
- Under the Merchant Shipping Act 1995 all wreck material — regardless of age, size or apparent importance or value — recovered from UK territorial waters must be reported to the Receiver of Wreck. Although the 1995 Act puts in place controls that

affect the marine historic environment it's subject matter is a reserved matter under paragraph 120 of Schedule 7A to the Government of Wales Act 2006.

While the accessibility of the law for the marine historic environment is unquestionably an issue, there are good arguments that the 1973 Act's proper association is with legislation for the marine environment, where management and protection could be treated more holistically. This point also came out in the Law Commission's evidence to the Committee.

Yours sincerely,

A handwritten signature in blue ink, reading "Mick Antoniw". The signature is written in a cursive style with a horizontal line underneath the name.

Mick Antoniw AS/MS

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

Mick Antoniw MS
Counsel General and Minister for Constitution

7 October 2022

Dear Mick

Historic Environment (Wales) Bill

At our meeting on 3 October 2022, we considered correspondence we have received from external stakeholders in relation to the Historic Environment (Wales) Bill (see papers 17 to 21). The expert views offered by these organisations and individuals will be raised with you when you attend our meeting on 14 November. However, in advance of that session, we would be grateful if you would review the comments made by Dr Hayley Roberts and others about the exclusion of the marine environment from the Bill. While we acknowledge that this matter has previously been discussed, on 11 July 2022 and in your correspondence to us dated 17 August 2022, we would welcome your views on the specific points raised by Dr Roberts.

I would be grateful to receive your response by 4 November 2022.

Kind regards,

Yours sincerely,



Huw Irranca-Davies
Chair

Agenda Item 3

Statutory Instruments with Clear Reports 14 November 2022

SL(6)273 – [The Renting Homes \(Wales\) Act 2016 \(Consequential Amendments to Secondary Legislation\) \(Amendment\) Regulations 2022](#)

Procedure: Draft Negative

The Renting Homes (Wales) Act 2016 (Consequential Amendments to Secondary Legislation) Regulations 2022 (“the 2022 Regulations”) made amendments to secondary legislation as a consequence of the provisions of the Renting Homes (Wales) Act 2016.

The Legislation, Justice and Constitution Committee considered the 2022 Regulations at their meeting of 26 September 2022 and issued a report containing technical points. These Regulations make amendments to the 2022 Regulations to correct the points raised in that report.

Parent Act: The Renting Homes (Wales) Act 2016

Date Made: 24 October 2022

Date Laid: 25 October 2022

Coming into force date: 30 October 2022



SL(6)274 – The Renting Homes (Rent Determination) (Converted Contracts) (Wales) (Amendment) Regulations 2022

Background and Purpose

The Renting Homes (Rent Determination) (Converted Contracts) (Wales) (Amendment) Regulations 2022 (“the Regulations”) are made by the Welsh Ministers, in exercise of the powers conferred on them by sections 236(3), and 256(1) and (2) of, and paragraph 15(2) of Schedule 12 to, the Renting Homes (Wales) Act 2016.

The Renting Homes (Rent Determination) (Converted Contracts) (Wales) Regulations 2022 (“the Original Regulations”) make provision to enable a contract-holder under a relevant converted contract to apply to a prescribed person for a determination of rent, and make consequential amendments to the Rent Assessment Committees (England and Wales) Regulations 1971.

The Legislation, Justice and Constitution Committee considered the Original Regulations at its meeting of 26 September 2022 and [issued a report containing technical points](#). The Regulations make relevant technical and typographic amendments to both the English and Welsh versions of the Original Regulations in response to that report.

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

The following point is identified for reporting under Standing Order 21.2 in respect of this instrument.

1. Standing Order 21.2(v) – that for any particular reason its form or meaning needs further explanation.

Regulation 3(2) inserts into the Original Regulations a new regulation 2, replacing the existing list of definitions. The defined terms “relevant preceding tenancy or licence” and “relevant tenant or licensee” have been omitted, and the definition of “relevant improvement” has been amended in response to technical reporting point 4 in the Committee’s report on the Original Regulations.



The Committee welcomes the clarification of the definition of “relevant improvement”, but notes that references within that definition to “a relevant preceding tenancy or licence” have been replaced with references to “an assured tenancy or an assured agricultural occupancy”. The Welsh Government is asked to clarify whether “licence” has been replaced with “assured agricultural occupancy” because an assured agricultural occupancy is the only type of licence that is within scope of the provision. If so, the Welsh Government is asked why references to “licence” elsewhere in the Original Regulations, particularly in the prescribed form in the Schedule, have not been similarly amended to make the scope of the law clear to those seeking to exercise their rights under the Original Regulations.

As noted in the Committee’s previous report, neither the Explanatory Note nor the Explanatory Memorandum to the Original Regulations explain whether, and to what extent, licences are within scope of this legislation.

Merits Scrutiny

No points are identified for reporting under Standing Order 21.3 in respect of this instrument.

Welsh Government response

A Welsh Government response is required.

Legal Advisers

Legislation, Justice and Constitution Committee

9 November 2022



Senedd Cymru

Pwyllgor Deddfwriaeth, Cyfiawnder a'r Cyfansoddiad

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Welsh Parliament **Pack Page 46**

Legislation, Justice and Constitution Committee

SL(6)272 – The Child Minding and Day Care (Disqualification) (Wales) Regulations 2022

Background and Purpose

The Child Minding and Day Care (Disqualification)(Wales) Regulations 2022 (the “Regulations”) set out the categories of persons who are disqualified from registration in Wales as a child minder or provider of day care under Part 2 of the Children and Families (Wales) Measure 2010.

Persons disqualified under these Regulations must not act as child minders in Wales, provide day care or be concerned in the management of any provision of day care.

The Regulations revoke similar regulations from 2010 and update the list of offences, orders and determinations which disqualifies a person from working in regulated childcare in Wales.

Schedule 3 to the Regulations includes further additional criminal offences over and above those which currently appear in the equivalent regulations applying in England. These include offences associated with voyeurism and the use of violence, threats or any form of coercion to force another person into marriage.

The Regulations remove provisions which disqualify people from being registered to provide regulated childcare based on the fact that they live with someone who is disqualified or someone who works in their household is disqualified. The Regulations also remove some anomalies in existing regulations to ensure that people who have been subject to a Care or Supervision Order themselves in the past are not automatically disqualified from registration.

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

The following 11 points are identified for reporting under Standing Order 21.2 in respect of this instrument.

1. Standing Order 21.2 (v) – that for any particular reason its form or meaning needs further explanation.

A “guardianship order” constitutes a “relevant order” for the purposes of the Regulations.



A guardianship order is defined in footnote 1 on page 5 by reference to section 30(1) of the Criminal Justice and Court Services Act 2000 (the “2000 Act”).

As explained in the footnote, section 30 of the 2000 Act has been repealed. It is subject to specific savings provisions in SI. 2012/2231, but these do not extend to section 30.

It is therefore unclear whether the term ‘guardianship order’ has been intentionally defined by reference to a repealed provision, or whether it is an error.

A Welsh Government response is requested to clarify.

2. Standing Order 21.2 (vi) – that its drafting appears to be defective or it fails to fulfil statutory requirements

Regulation 12(3) purports to amend and substitute a date in the Child Minding and Day Care (Wales) Regulations 2010. It states:

*[...] in regulation 2(1), **in paragraph (a)** for “2010” insert “2022”. [emphasis added]*

There are four separate paragraphs (a) in regulation 2, therefore, we do not consider that the drafting of this substitution is sufficiently precise.

Regulation 2 is an interpretation provision and is in the form of an unnumbered list.

Paragraph 7.17(1) of [Writing Laws for Wales](#) states that when inserting an entry into an unnumbered list, the most precise way to identify the location of the amendment is usually to specify the existing entry after which the insertion is to be made.

In this regard, we consider the following drafting would more clearly identify the intended location of the substitution:

*[...] in regulation 2(1), **in the definition of “disqualified”**, in paragraph (a) [...]*

3. Standing Order 21.2 (v) – that for any particular reason its form or meaning needs further explanation.

Schedule 1 to the Regulations list a number of orders and determinations which disqualify a person from registering as a child minder in Wales.

In particular, paragraphs 21(b) and (c) of Schedule 1 (the “Relevant Paragraphs”) relate to circumstances which disqualify a person as a consequence of certain determinations under the Care Standards Act 2000 (“CSA 2000”).

For these purposes, the Relevant Paragraphs both refer to section 20(1) of the CSA 2000. This section makes provision about the “urgent procedure for cancellation [in England](#)”. Similar provision is made for Wales in section 20A of the CSA 2000, but this section is not captured by the Relevant Paragraphs.

A Welsh Government response is requested to clarify whether section 20A of the CSA 2000 has been intentionally omitted from the Relevant Paragraphs.



4. Standing Order 21.2 (vii) – that there appears to be inconsistencies between the meaning of its English and Welsh texts

In paragraph 2(e) of Schedule 2 to the Regulations, “gross indecency” has been translated as “anwedduster garw”.

Whilst we note that “anwedduster garw” has previously been used in Welsh statutory instruments; “garw” is not an obvious translation for “gross” in this context.

We note that “gross indecency” is more often translated as “anwedduster difrifol” or “anwedduster dybryd”, which we consider as more appropriate.

In this respect, it would be useful to standardise the translation to ensure the accuracy and consistency of Welsh legislation.

5. Standing Order 21.2 (vii) – that there appears to be inconsistencies between the meaning of its English and Welsh texts

In paragraph 2(j) of Schedule 2, there is a numbering discrepancy between the English and Welsh texts.

The English text refers to section 30 of the Sexual Offences Act 1965. The Welsh text refers to section 29 of the same.

On the basis of the words in brackets in paragraph 2(j), it appears that the English text is accurate.

6. Standing Order 21.2 (vii) – that there appears to be inconsistencies between the meaning of its English and Welsh texts

In paragraph 1(4)(i) of Schedule 3, there is a numbering discrepancy between the English and Welsh texts.

The English text refers to section 63 of the Terrorism Act 2000. The Welsh text refers to section 64 of the same.

On the basis of the words in brackets in paragraph 1(4)(i), it appears that the English text is accurate.

7. Standing Order 21.2 (vi) – that its drafting appears to be defective or it fails to fulfil statutory requirements

The reference to section 23 of the Female Genital Mutilation Act 2003 (the “2003 Act”) in paragraph 1(16)(c) of Schedule 3 to the Regulations should be a reference to section 3 of the 2003 Act.

Section 3 of the 2003 Act relates to the offence of assisting a non-UK person to mutilate overseas a girl’s genitalia, as referenced in the Schedule to the Regulations. The 2003 Act does not contain a section 23.



This error is also in the Welsh text.

8. Standing Order 21.2 (vi) – that its drafting appears to be defective or it fails to fulfil statutory requirements

The reference to section 4 of the Female Genital Mutilation Act 2003 (the “2003 Act”) in paragraph 1(16)(d) of Schedule 3 to the Regulations is incorrect.

Section 4 of the 2003 Act makes provision relating to the extra-territorial nature of offences committed under the 2003 Act.

However, paragraph 1(16)(d) of Schedule 3 refers to the offence of “failing to protect a girl from risk of female genital mutilation”, which is section 3A of the 2003 Act.

9. Standing Order 21.2 (v) – that for any particular reason its form or meaning needs further explanation.

Paragraph 2(6)(c) to Schedule 3 refers to “offences relating to private fostering” within section 15 of the Foster Children (Scotland) Act 1984 (the “1984 Act”).

Section 15 of the 1984 Act is entitled ‘Offences related to foster children’.

Our understanding is that ‘private fostering’ has a distinct meaning, generally referring to fostering arrangements made without the involvement of local authorities.

Section 15 of the Act does not seem to encompass such arrangements, and the inclusion of the word ‘private’ in paragraph 2(6)(c) to the Regulations may cause confusion.

A Welsh Government response is requested to clarify.

10. Standing Order 21.2 (vi) – that its drafting appears to be defective or it fails to fulfil statutory requirements

The statutory reference in paragraph 3(9) of Schedule 3 to the Regulations is incorrect.

The provision cites the Sexual Offences (Northern Ireland) Order 2009. As far as can be ascertained, there is no such order from 2009

The Welsh text refers to the Sexual Offences (Northern Ireland) Order 2008 (SI. 2008/1769), which appears to be the correct reference.

11. Standing Order 21.2 (vi) – that its drafting appears to be defective or it fails to fulfil statutory requirements

The reference to “Jersey Law 1969” in paragraph 4(a) of Schedule 3 to the Regulations is inaccurate and incomplete. It should state the “Children (Jersey) Law 1969”.

Merits Scrutiny

The following 5 points are identified for reporting under Standing Order 21.3 in respect of this instrument.



12. 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 Regulations revoke, replace and update the “2010 Regulations”¹. One key policy change from the 2010 Regulations is in respect of disqualification from regulated childcare by association.

Under the 2010 Regulations, a person can be disqualified from working in childcare in Wales based on their association with someone who lives or works in their household who is disqualified (i.e. who has committed an offence or been made subject of orders or determinations falling within the scope of the 2010 Regulations).

The 2022 Regulations have been drafted to remove the disqualification by association provision in respect of registered persons providing childcare on non-domestic premises (normally a person providing care away from their home, such as in a day care setting).

The effect of this is that a person is not disqualified from providing regulated childcare at a non-domestic premises, notwithstanding that they live with someone who is disqualified. However, the [consultation document](#) for the Regulations states:

“the provision will still apply to the majority of child minders who work from their home”.

A Regulatory Impact Assessment in respect of this policy change (and others) is contained in the Explanatory Memorandum.

It notes that the level of risk to children’s safety arising from the association of a registered person in non-domestic settings “is considerably lower” than the risk posed in domestic settings. It also notes that such change will align policies across England and Wales

13. 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.

A [consultation](#) was undertaken on a draft of the Regulations between 31 March – 23 June 2022. The Committee notes the following paragraphs from the Explanatory Memorandum:

The consultation was drawn to the attention of a wide audience of key stakeholders including all registered childcare and play work providers, local authorities, the Children’s Commissioner for Wales, and third sector organisations representing the childcare and play work organisations. [...]

There was broad agreement to all the proposals in the consultation. No amendments were considered necessary to the Regulations. [...]

14. 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 Committee notes certain concerns about the accessibility of the Regulations

¹ The Child Minding and Day Care (Disqualification)(Wales) Regulations 2010



Users of the Regulations must check the Schedules to ascertain which orders, determinations or offences disqualify them from being involved in regulated childcare in Wales. Generally, the entry listed in the Schedules clearly identify the disqualifying provision. For example:

*"a refusal of P's application for registration **under section 13** of the Care Standards Act 2000" [emphasis added]*

However, a reference to the relevant sections of each legal instrument has not been included for every entry. One example is paragraph 15 of Schedule 1 to the Regulation. This provides that a person is disqualified if they have been subject to:

"A fit person order, a parental rights order or a training school order under the Children and Young Persons Act (Northern Ireland) 1968".

This Act contained 182 sections. By not expressly inserting the relevant section number under which such orders were made, it is challenging for the reader to identify the relevant provisions of the cited Act. In this particular example, the difficulties are compounded as the relevant provisions have subsequently been repealed and may not be accessible without specialist legislative software.

We also note accessibility concerns in respect of citing legal instruments from the Channel Islands and the Isle of Man.

One particular example is in respect of paragraph 23(f) of Schedule 1 which refers to the Children and Young Persons Act 2001. The Regulations state that this is an "Act of Tynwald". The first time this phrase is used, we consider it would be useful to assist the reader by adding a footnote explaining this means an Act passed by the Isle of Man parliament. Further, as the relevant provisions of this Act have been repealed, they are not easily accessible.

15. 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.

Although the Committee notes that they do not form part of these Regulations themselves, over 40 errors have been found in the footnotes to these Regulations which have been notified separately to Welsh Government officials. Footnotes are a useful tool for readers of legislation only insofar as they are accurate and the Committee therefore encourages the Welsh Government to ensure that this is the case.

16. 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.

Although the Committee notes that the Explanatory Note does not form part of these Regulations themselves, it is unclear whether a paragraph outlining regulation 9 is accurate.

Under regulation 9, a person is not disqualified from registering as a child minder or from providing day care if they receive a waiver by way of written consent, and such written consent has not been withdrawn.



The Explanatory Note states:

Regulation 9 does not apply where the disqualification arises from inclusion on List 99 or the list kept under section 1 of the Protection of Children Act 1999, being barred from regulated activity relating to children under the Safeguarding Vulnerable Groups Act 2006 or where a court has ordered that a person must not work in contact with children following a conviction for certain offences against children.

We interpret 'does not apply' in this context to mean that waivers are not permissible where a person has been subject to one of these outcomes.

However, our understanding of regulation 9 is that waivers are permissible in relation to all of these outcomes, except in relation to certain offences against children under the Criminal Justice and Court Services Act 2000 (as set out in regulation 9(2)).

A Welsh Government response is requested to clarify.

Welsh Government response

A Welsh Government response is required in relation to all reporting points, save for points 12 and 13.

Committee Consideration

The Committee considered the instrument at its meeting on 7 November 2022 and reports to the Senedd in line with the reporting points above.



Government Response: The Child Minding and Day Care (Disqualification) (Wales) Regulations 2022

Technical Scrutiny points

The Committee has raised eleven points under Standing Order 21.1 in respect of this instrument.

Individual responses are provided below to each of the points raised. Welsh Government has determined, in light of the number and nature of the issues, to remake the Regulations to address the points raised. A further set of Regulations will be laid which will come into force immediately after this set which will revoke and replace them.

Technical Scrutiny point 1

Response

Section 30(1) of the Criminal Justice and Court Services Act 2000 was used as the reference point to explain the extent of the meaning of “guardianship” in the 2010 regulations although it was already repealed at that time.

The definition of “guardianship order” in section 30(1) of the Criminal Justice and Court Services Act 2000 is a useful reference point notwithstanding its repeal because, as well as including reference to the most commonly understood form of guardianship order under the Mental Health Act 1983, it also includes reference to the much rarer forms of guardianship under the Army Act 1955, the Air Force Act 1955 and the Naval Discipline Act 1957. Even though each of these three Acts has been repealed in its entirety by the Armed Forces Act 2006, the saving is an indicator that there is still potential for orders made under them to be live. Section 30 is an interpretation section so was not itself included in the saving.

Welsh Government acknowledges that it may be more accessible to refer directly to other legislative provisions which are included within the scope of a term’s meaning, even if they are repealed, rather than through a secondary reference which is itself repealed.

Technical Scrutiny point 2

Response

We acknowledge that there are four separate paragraphs (a) in regulation 2(1) of the Child Minding and Day Care (Wales) Regulations 2010. However, as only one paragraph (a) includes the year “2010” (or indeed, any date), it is considered that the reference to be substituted by paragraph 12(2) is unambiguous and does provide legal certainty. Welsh Government respectfully queries whether it is correct to raise this point under standing order 21.2 (vi) which refers to defective drafting or drafting which fails to fulfil statutory requirements.

However, Welsh Government acknowledges that it may provide greater assistance to the reader to identify the particular definition within an unnumbered list to indicate where the amendment is to be made.

Technical Scrutiny point 3

Response

Welsh Government agrees that absence of a reference to an order under section 20A CSA 2000 as a disqualifying order is an omission and will take steps to correct this.

Technical Scrutiny point 4

Response

The Welsh Government acknowledges the recommendation in favour of standardisation of translation of "*gross indecency*".

"*Anwedduster garw*" has been used as the means of translating "*gross indecency*" in the 2010 Regulations and is the suggested translation in separate sources which suggests that this translation is both correct and acceptable. However, Welsh Government notes that "*anwedduster difrifol*" has been used in more recent Regulations in 2019.

We have raised this matter with professional colleagues concerned with legislative translation but in the short space of time between receiving the legal adviser's report and drafting a response colleagues have not been able to give the matter full consideration. Welsh Government is content to feed back to the committee once consideration has been given and a view reached.

Technical Scrutiny point 5

Response

The Welsh Government is grateful to the LJCC for highlighting this reporting point, agrees with the point and will take steps to correct the Welsh text.

Technical Scrutiny point 6

Response

The Welsh Government is grateful to the LJCC for highlighting this reporting point, agrees with the point and will take steps to correct the Welsh text.

Technical Scrutiny point 7

Response

The Welsh Government is grateful to the LJCC for highlighting this reporting point, agrees with the point and will take steps to correct it.

Technical Scrutiny point 8

Response

The Welsh Government agrees with the point and will take steps to correct the reference so that it refers to section 3A Female Genital Mutilation Act 2003 (offence of failing to protect a girl from risk of genital mutilation).

Technical Scrutiny point 9

Response

The legal adviser's comment that "private fostering" generally refers to fostering arrangements made without the involvement of local authorities is correct and it is correct that the section heading for section 15 of the Foster Children (Scotland) Act 1984 ("the 1984 Act") is "Offences related to foster children" without indicating any limitation of the scope of the section to private fostering alone.

However, the drafting of the 1984 Act is done in such a way that all children of school age who are cared for by someone other than a parent or guardian are termed "foster children" (see section 1) and section 2 then exempts nearly all the sorts of foster children other than those who, in England and Wales, would be referred to as children who are "privately fostered". The inclusion of the word "private" will we think assist a reader familiar with the terminology used in England and Wales law to understand that the offences in question are those which relate to "private fostering" as understood in this jurisdiction.

Technical Scrutiny point 10

Response

The Welsh Government is grateful to the LJCC for highlighting this point and will take steps to correct the English text to make reference to Sexual Offences (Northern Ireland) Order 2008.

Technical Scrutiny point 11

Response

The Welsh Government thanks the LJCC for raising this point. Welsh Government will take steps to amend the reference to Children (Jersey) Law 1969.

Merit Scrutiny points

The Committee has raised five points under Standing Order 21.13 in respect of this instrument; three of which require a response.

Merit Scrutiny point 14

Response

Welsh Government acknowledges that it would provide greater assistance to the user of the legislation to identify the particular section numbers under which the orders in question are

made. References to the appropriate section number will be made at the same time that other matters requiring correction are addressed.

The Welsh Government agrees that inserting a footnote to explain that an “Act of Tynwald” means an Act passed by the Isle of Man Parliament would be helpful to the reader.

Merit Scrutiny point 15

Response

Whilst footnotes don't have legal effect, the Welsh Government acknowledges the importance of ensuring that footnotes are accurate to ensure they are of assistance to the reader.

Merit Scrutiny point 16

Response

The exclusion from the waiver procedure under regulation 9(2) applies in relation to persons who have been convicted of offences against children as defined in section 26(1) of the Criminal Justice and Court Services Act 2000 where the offence itself has since been repealed. Certain of those persons would, in addition to any other sentence, have been the subject of a disqualification order imposed by the court.

It is accepted that the explanatory note is not accurate because persons who were the subject of disqualification orders under sections 28(4), 29(4) or 29A(2) would not necessarily be on one or other of the lists kept by the Secretary of State and others who were on those lists would not necessarily have been subject to disqualification orders made by the court.

Agenda Item 5.2

SL(6)276 – The Renting Homes (Fitness for Human Habitation) (Wales) (Amendment) Regulations 2022

Background and Purpose

The Renting Homes (Fitness for Human Habitation) (Wales) Regulations 2022 (“the 2022 Regulations”) prescribe the matters and circumstances to which regard must be had when determining whether a dwelling is fit for human habitation.

These Regulations amend the 2022 Regulations by:

- Extending the period within which the landlord must provide the contract-holder with a copy of the electrical condition report from seven days to 14 days. The time period for providing written confirmation of remedial work to the contract-holder is similarly extended.
- Updating the reference to the Electrical Wiring Regulations BS7671 to reflect the most recent version published in 2022 by the British Standards Institution.

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

The following point is identified for reporting under Standing Order 21.2 in respect of this instrument:

1. Standing Order 21.2(vi) – that its drafting appears to be defective or it fails to fulfil statutory requirements.

In regulation 2(2)(a) there is a reference to “paragraph (a)”. This is incorrect as the reference should be to “*sub-paragraph (a)*” (*emphasis added*) as it is referring to a subdivision within paragraph (3) of regulation 6 of the 2022 Regulations.

Merits Scrutiny

No points are identified for reporting under Standing Order 21.3 in respect of this instrument.

Welsh Government response

A Welsh Government response is required.



Committee Consideration

The Committee considered the instrument at its meeting on 7 November 2022 and reports to the Senedd in line with the reporting point above.



Senedd Cymru

Pwyllgor Deddfwriaeth, Cyfiawnder a'r Cyfansoddiad

—

Welsh Parliament

Legislation, Justice and Constitution Committee

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Government Response: *The Renting Homes (Fitness for Human Habitation) (Amendment) (Wales) Regulations 2022*

Technical Scrutiny point 1: We thank the Committee for bringing this to our attention. The Welsh Government agree with the point raised but remain of the view that the meaning of “*paragraph (a)*” within the context of regulation 2(2)(a) (and regulation 6(3) of the Renting Homes (Fitness for Human Habitation) Regulations 2022) is clear. Consequently, we do not consider the defect to create ambiguity or doubt as to its meaning or intent.

STATUTORY INSTRUMENT CONSENT MEMORANDUM

THE CLIMATE CHANGE (TARGETED GREENHOUSE GASES) ORDER 2022

1. This Statutory Instrument Consent Memorandum is laid under Standing Order (“SO”) 30A.2. SO30A prescribes that a Statutory Instrument Consent Memorandum must be laid and a Statutory Instrument Consent Motion may be tabled before Senedd Cymru if a UK Statutory Instrument makes provision in relation to Wales amending primary legislation within the legislative competence of the Senedd.
2. The Climate Change (Targeted Greenhouse Gases) Order 2022 (“the Order”) is subject to the affirmative procedure and was laid before the UK Parliament on 19 October 2022. A copy of the Order was laid alongside this memorandum on 21 October and can also be found at:

<https://www.legislation.gov.uk/ukdsi/2022/9780348239713/contents>

Summary of the Order and its objective

The Climate Change Act 2008

3. Part 1 of the Climate Change Act 2008 (“the CCA”), requires the Secretary of State to reduce the net UK carbon account for the year 2050 to at least 100% below the level of net UK emissions of the 1990 baseline (i.e. the aggregate amount of net UK emissions of carbon dioxide for that year and the net UK emissions of each of the other targeted greenhouse gases for the year that is the base year for that gas, those base years being specified in section 25 of the CCA).
4. “Targeted greenhouse gas” is defined in section 24 of the CCA. “Net carbon account” is defined in section 27. “Net UK emissions” is defined in section 29.
5. Part 1 of the CCA requires the Secretary of State to set “carbon budgets” representing UK emissions for five-year periods, taking account of any “carbon units” which are credited or debited to the net UK carbon account under a system of “carbon accounting”. It places a duty on the Secretary of State to report UK emissions to the UK Parliament, and to report on the measures the UK Government will take to meet the carbon budgets instituted under Part 1.
6. Section 80 of the CCA also imposes a duty on the Welsh Ministers to lay before the Senedd from time to time a report on the objectives of the Welsh Ministers in relation to greenhouse gas emissions and the impact of climate change in Wales, the action that has been taken by the Welsh Ministers and others to deal with such emissions and that impact, and the

future priorities for the Welsh Ministers and others for dealing with such emissions and that impact.

Summary and objective

7. The Order makes provision in respect of emissions for the purpose of carbon reporting under the CCA. The result is that NF₃ emissions will be included within the scope of emissions recorded for the Annual Statement of Emissions 2021 (published March 2023), the full accounting period for the UK's Third Carbon Budget (2018-2022), and for subsequent UK carbon budgets.

Provision to be made by the Order for which consent is sought

8. Article 2 of the Order designates nitrogen trifluoride ("NF₃") as a targeted greenhouse gas for the purpose of section 24(1)(g) of the CCA.
9. Article 3 of the Order amends the CCA so that-
 - the base year for NF₃ as a targeted greenhouse gas is established as 1995,
 - NF₃ is included within the definition of greenhouse gas.
10. It is the view of the Welsh Government that the provision described in paragraphs 8 and 9 and above, so far as it extends to England and Wales and applies in relation to Wales, amends primary legislation within the legislative competence of the Senedd. It is that provision for which consent is sought.
11. The provision of the CCA affected by the Order is concerned with measures designed to deal with the effect of emissions on climate change. Such provision can be characterised as relating to 'environmental protection' (including 'pollution'), which is not a matter reserved to the UK Parliament by Schedule 7A to the Government of Wales Act 2006.

Financial implications

12. There are no financial implications in Wales in consenting to the provisions in the Order.

Why is it appropriate for the Instrument to make this provision

13. It is my view that the Order represents the most practicable and proportionate legislative vehicle to enable the provision in question to apply in Wales.
14. That provision will bring the CCA into line with the Environment (Wales) Act 2016, which establishes a statutory framework for reducing greenhouse gas emissions in Wales. It already includes NF₃ as a

greenhouse gas (see section 37(1)(g) of the Environment (Wales) Act 2016), with a 1995 baseline year (see section 38(2)(g)).

Julie James MS
Minister for Climate Change
21 October 2022

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



Llywodraeth Cymru
Welsh Government

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

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

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21 October 2022

Dear Huw and Llyr,

This letter is to inform you that I have laid a Statutory Instrument Consent Memorandum in the Senedd in respect of the following UK Statutory Instrument:

The Climate Change (Targeted Greenhouse Gases) Order 2022

as required by Standing Order 30A (SO30A). The link to the Statutory Instrument Consent Memorandum can be found here:

<https://senedd.wales/media/24xj3wkn/sicm-ld15409-reg-e.pdf>

In addition, I wish to inform you that I am not minded to table a motion for a debate in plenary about this Statutory Instrument. I have reached this decision on the basis that with regard to nitrogen trifluoride the Order merely brings the UK statutory framework for greenhouse gas reduction into line with the Welsh framework established under the Environment (Wales) Act 2016. SO30A provides that any Member of the Senedd may table a motion for a debate on this Statutory Instrument. However, I will not be seeking to initiate such a debate.

Yours sincerely,

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

Canolfan Cyswllt Cyntaf / First Point of Contact Centre:
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Correspondence.Julie.James@gov.Wales

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

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

By virtue of paragraph(s) vi of Standing Order 17.42

Document is Restricted

By virtue of paragraph(s) v, vi of Standing Order 17.42

Document is Restricted



WRITTEN STATEMENT BY THE WELSH GOVERNMENT

TITLE **The European University Institute (EU Exit) Regulations 2022**

DATE **8 November 2022**

BY **Jeremy Miles MS, Minister for Education and Welsh Language**

Standing Order 30C and Inter-Institutional Relations Agreement – Notification in Relation to Statutory Instruments made by UK Ministers in devolved areas under the European Union (Withdrawal) Act 2018 not laid before the Senedd

Members of the Senedd will wish to be aware that following consent provided by the previous Education Minister in October 2019 and December 2020 to the above titled Statutory Instrument (SI), the SI was laid before the UK Parliament in draft under the affirmative procedure on 17 October 2022. The SI will be made by the Secretary of State in exercise of powers conferred by section 8(1) of, and paragraphs 21(a) and (b) and 38(1) to (3) of Schedule 7 to, the European Union (Withdrawal) Act 2018 (c. 16).

These Regulations are also made in exercise of the powers conferred on the Treasury by section 90(1)(b) of the Finance Act 2019 (c. 1), in so far as they have the effect of imposing or increasing taxation by removing retained EU law relating to income tax.

Policy Overview of the SI

The European University Institute is an international centre for postgraduate and post-doctoral studies and research. It is not an EU institution. The European Communities (Definition of Treaties) Order 1975 (SI 1975/408) designates the Convention setting up a European University Institute (EUI Convention) as an 'EU Treaty' as defined in section 1 of the European Communities Act 1972. The UK automatically fell out of the EUI Convention upon exit of the EU irrespective of this instrument, as being an EU member state is an essential condition of joining the EUI Convention under the terms of the Convention. The UKG engaged in negotiations with the EUI to explore the possibility of ongoing engagement with the Institute. UKG has stated that it has not been possible to conclude an agreement to define future UK engagement.

The purpose of the SI is to ensure that the statute book reflects the practical reality of the UK no longer being a participant in the EUI Convention.

The purpose of the amendments

The purpose of the amendments is to correct deficiencies in legislation arising from the UK leaving the European Union relating to the UK's membership of the EUI Convention. The SI was submitted to the sifting committees as a 'proposed negative' on 19 February 2019 and it was since recommended that the SI be subject to the affirmative procedure in Parliament and the UK Government has accepted that recommendation.

Currently only EU member states may accede to the EUI Convention. The UK's membership of the EUI ceased as a result of the UK exiting the European Union; the purpose of the SI is therefore to remove redundant legislation from the UK statute book and to provide legal certainty. The SI removes from domestic law any rights, powers, liabilities, obligations, restrictions, remedies and procedures ("rights etc.") which might derive from the UK's membership of the EUI Convention and which otherwise, despite the UK's exit from the EU and that Convention, remain on the statute book as 'retained EU law' by virtue of section 4 of the European Union (Withdrawal) Act 2018. The SI also saves some of the rights etc. in certain cases.

The draft SI and accompanying Explanatory Memorandum, are available here:

[The European University Institute \(EU Exit\) Regulations 2022 \(legislation.gov.uk\)](https://www.legislation.gov.uk/uksi/2022/12/1/1)

Impact the instrument may have on the Senedd's legislative competence and/or the Welsh Ministers' executive competence:

The SI has no impact on the Senedd's legislative competence or the Welsh Ministers' executive competence.

Why consent was given

There is no divergence between the Welsh Government and the UK Government on the policy for the correction. Therefore, making separate SIs in Wales and England would lead to duplication, and unnecessary complication of the statute book. Consenting to a UK-wide SI ensures that there is a single legislative framework across the UK which promotes clarity and accessibility during this period of change. In these exceptional circumstances, the Welsh Government considers it appropriate that the UK Government legislates on our behalf in this instance.



Ein cyf/Our ref MA/JMEWL/1368/22

Huw Irranca-Davies MS
Chair, Legislation, Justice and Constitution Committee
Senedd Cymru
Cardiff Bay
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huw.Irranca-Davies@senedd.wales

9 November 2022

Dear Huw,

I wish to inform the Committee that The European University Institute (EU Exit) Regulations 2022 were laid before the UK Parliament under the affirmative procedure on 17 October 2022. The Statutory Instrument (SI) can be found at: [The European University Institute \(EU Exit\) Regulations 2022 \(legislation.gov.uk\)](https://www.legislation.gov.uk)

The Secretary of State makes these Regulations in exercise of the powers conferred by section 8(1) of, and paragraphs 21(a) and (b) and 38(1) to (3) of Schedule 7 to, the European Union (Withdrawal) Act 2018 and the Treasury makes the following Regulations in exercise of the power conferred by section 90(1)(b) of the Finance Act 2019.

The Regulations make provision in connection with the UK's former membership of the Convention setting up a European University Institute (the EUI Convention). The Regulations remove from domestic law any rights, powers, liabilities, obligations, restrictions, remedies and procedures (rights etc.) which might derive from the UK's membership of the EUI Convention and which would otherwise, despite the UK's exit from the EU and that Convention, remain on the statute book as 'retained EU law' by virtue of section 4 of the European Union (Withdrawal) Act 2018.

The Welsh Government twice previously consented to the EUI Regulations to be laid in the UK Parliament and apply in relation to Wales, following consent being sought in 2019 and 2020. However, the SI, though published, was put on hold pending ongoing negotiations between the UK Government and the European University Institute. Those negotiations have ended as the UK Government has confirmed a partnership agreement between the UK and European University Institute is not possible at this time.

There have been minor tweaks to the original SI where consents were initially provided, however, these are technical and serve to strengthen the SI, therefore, they do not revoke the original consent provided.

Although the Welsh Government's general principle is that the law relating to devolved matters should be made in Wales, consent originally provided for this UK SI to apply to

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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.

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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.

Wales, on the basis that there is no divergence between the Welsh Government and the UK Government on the policy for the correction. Therefore, making separate SIs in Wales and England would lead to duplication, and unnecessary complication of the statute book. Consenting to a UK-wide SI ensures that there is a single legislative framework across the UK which promotes clarity and accessibility during this period of change. In these exceptional circumstances, the Welsh Government considers it appropriate that the UK Government legislates on our behalf in this instance.

A Written Statement has been laid before the Senedd in accordance with Standing Order 30C and the Inter-Institutional Relations Agreement and can be found at:

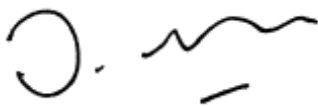
<https://senedd.wales/media/q02p2sda/ws-ld15443-e.pdf>

I also acknowledge that the Written Statement has been laid outside the normal timescales and offer my sincerest apologies. This is due to an administrative error and because written confirmation from UK Government informing me that the SI had been laid was issued after the event.

The Regulations were laid in draft before the UK Parliament on 17 October 2022 under the affirmative procedure. No dates for debates in the Houses of Parliament have been scheduled as yet but we understand that these are expected to take place before Christmas recess.

I have written in similar terms to the Chair of the Children's, Young Persons and Education Committee.

Yours sincerely,

A handwritten signature in black ink, consisting of a circular mark followed by a series of wavy lines and a short horizontal stroke.

Jeremy Miles AS/MS

Gweinidog y Gymraeg ac Addysg
Minister for Education and Welsh Language

UK MINISTERS ACTING IN DEVOLVED AREAS

018 - [The European University Institute \(EU Exit\) Regulations 2022](#)

Laid in the UK Parliament: 17 October 2022

Sifting

| | |
|----------------------------------------------------------------------------------------|-------------------|
| Subject to sifting in UK Parliament? | N/A |
| Procedure: | Draft affirmative |
| Date of consideration by the House of Commons European Statutory Instruments Committee | N/A |
| Date of consideration by the House of Lords Secondary Legislation Scrutiny Committee | N/A |
| Date sifting period ends in UK Parliament | N/A |
| SICM under SO 30A (because amends primary legislation) | Not required |

Scrutiny procedure

| | |
|--------------------------------------------------------------------------------------|-------------------|
| Outcome of sifting | N/A |
| Procedure | Draft affirmative |
| Date of consideration by the Joint Committee on Statutory Instruments | 26 October 2022 |
| Date of consideration by the House of Commons Statutory Instruments Committee | Not known |
| Date of consideration by the House of Lords Secondary Legislation Scrutiny Committee | 1 November 2022 |

Background

These Regulations are proposed to be made by the UK Government under section 8(1) of, and paragraphs 21(a) and (b) and 38(1) to (3) of Schedule 7 to, the European Union (Withdrawal) Act 2018.

They will also be made by the Treasury under section 90(1)(b) of the Finance Act 2019.

Summary

The European University Institute (EUI) is an international centre for post-graduate and post-doctoral studies and research, based in Florence. While it is not an EU institution, the United Kingdom automatically fell out of the EUI Convention when it left the European Union.

The UK Government engaged in negotiations with the EUI to explore the possibility of ongoing engagement. However, the UK Government has

stated that it has not been possible to conclude an agreement around future UK engagement.

These Regulations ensure that domestic law reflects the practical reality of the UK no longer being a participant in the EUI Convention, by revoking redundant retained EU law in this area (subject to some saving provisions that will apply to approximately 35 members of staff employed by the EUI who are affected by the UK legal position, thereby providing those employees with a reasonable adjustment period).

Statement by the Welsh Government

Senedd Legal Advisers agree with the statement laid by the Welsh Government dated 8 November 2022 regarding the effect of these Regulations.

Intergovernmental Agreement on the European Union (Withdrawal) Bill

The above summary and the content of the Explanatory Memorandum to these Regulations confirm their effect and the extent to which these Regulations would enact new policy in devolved areas.

Senedd Legal Advisers do not consider that any significant issues arise under paragraph 8 of the Memorandum on the European Union (Withdrawal) Bill and the Establishment of Common Frameworks in relation to these Regulations.



WRITTEN STATEMENT BY THE WELSH GOVERNMENT

| | |
|--------------|-----------------------------------------------------------------------------------|
| TITLE | The Phytosanitary Conditions (Amendment) (No. 3) Regulations 2022 |
| DATE | 7 November 2022 |
| BY | Lesley Griffiths MS, Minister for Rural Affairs, North Wales, and Trefnydd |

I wish to inform Members of the Senedd will wish to be aware that I have given consent to the Secretary of State for Environment, Food and Rural Affairs exercising a subordinate legislation-making power in a devolved area in relation to Wales.

Agreement was sought by the previous Minister of State for Farming, Fisheries and Food, to make a Statutory Instrument (SI) titled The Phytosanitary Conditions (Amendment) (No. 3) Regulations 2022 (“the Regulations”) to apply in relation to Great Britain.

The above titled SI has been made by the Secretary of State, in exercise of the powers conferred by Articles 5(3), 30(1), 37(5), 41(3), 72(3) and 105(6) of the Plant Health Regulation. Article 2a(2) of the Plant Health Regulations provides that such Regulations can be made by the Secretary of State with the consent of the Welsh Ministers and the Scottish Ministers.

The SI amends EU Legislation and will update import controls across a range of pests and diseases in response to new or revised risk assessments. This is a routine update, reflecting technical conclusions agreed through the UK Plant Health Risk Group, of which the Welsh Government is a core member.

The Regulations were laid before the UK Parliament on 3 November. The commencement dates for the measures are split between urgent measures (Thekopsora minima being classified as a regulated non-quarantine pest) which are scheduled to come into force on 25 November 2022 and all the other measures which are classed as non-urgent which will come into force on 3 May 2023.

Any impact the SI may have on the Senedd's legislative competence and/or the Welsh Ministers' executive competence

Members will wish to note that the Regulations do not transfer any functions to the Secretary of State.

The purpose of the amendments

The purpose of these changes is to protect biosecurity and support trade between Great Britain (GB) and third countries by enhancing protective measures for at-risk plant goods.

This SI amends Regulation (EU) 2019/2072 (The Phytosanitary Conditions Regulation) to:

- Revise GB quarantine and regulated non-quarantine pest lists following updated pest-risk assessments or changes in the status of the pest within Great Britain.
- Extend the obligation concerning plants, plant products and other objects originating in third countries which may only be introduced into Great Britain if special requirements are met, to include EU Member states, Liechtenstein and Switzerland, treating all countries equally.
- To amend requirements to ensure the pest free area is named on the phytosanitary certificates in relation to Emerald Ash Borer and further to clarify that the pest free area or place/site of production (as appropriate) should be named on the phytosanitary certificates in relation to *Xylella fastidiosa*.
- Introduce GB-wide measures to inspect imported Seeds of *Pinus*. (pines) and *Pseudotsuga menziesii* (Douglas fir) which are host plants of the pathogen *Fusarium circinatum* (pitch pine canker).
- Administrative amendments to correct the name of the genus *Chrysanthemum L* on phytosanitary certificates

[The Regulations and accompanying Explanatory Memorandum, setting out the detail of the provenance, purpose and effect of the amendments is available here \(external link\).](#)

Why consent has been given

Consent has been given for the UK Government to make these corrections in relation to, and on behalf of, Wales for reasons of efficiency, expediency and to protect biosecurity by introducing protective measures for at-risk plant goods across the UK. The amendments have been considered fully and there is no divergence in policy.

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

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

Huw.irranca-davies@senedd.wales

7 November 2022

Dear Huw,

I refer to my letter of 25 October. I am today giving my consent to the Secretary of State for Environment, Food and Rural Affairs, to lay The Phytosanitary Conditions (Amendment) (No. 3) Regulations 2022 ("the Regulations") in relation to Wales. In accordance with the Inter-Institutional Relations Agreement, I have today laid a Written Statement before the Senedd which can be found at:

<https://senedd.wales/media/udyob412/ws-ld15437-e.pdf>

The Regulations intersect with devolved policy and will apply to Wales. The provisions could be made by Welsh Ministers in exercise of our own powers. The Regulations extend to England, Scotland and Wales.

The Regulations will be made by the Secretary of State, in exercise of the powers conferred by Articles 5(3), 30(1), 37(5), 41(3), 72(3) and 105(6) of the Plant Health Regulation. Article 2a(2) of the Plant Health Regulations provides that such Regulations can be made by the Secretary of State with the consent of the Welsh Ministers and the Scottish Ministers.

The Statutory Instrument (SI) is subject to the negative procedure and was laid before the UK Parliament on 3 November. The commencement dates for the measures are split between urgent measures (Thekopsora minima being classified as a regulated non-quarantine pest) which are scheduled to come into force on 25 November 2022 and all the other measures which are classed as non-urgent which will come into force on 3 May 2023.

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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.

Although the Welsh Government's general principle is that the law relating to devolved matters should be made and amended in Wales, on this occasion, it is considered appropriate for the substance of the amendments to apply to Wales as there is no policy divergence between the Welsh and UK Government in this matter. This ensures a coherent and consistent statute book with the regulations being accessible in a single Instrument. I consider legislating separately for Wales would be neither the most appropriate way to give effect to the necessary changes nor a prudent use of Welsh Government resources given other important priorities.

I have written similarly to the Chair of the Climate Change, Environment, and Infrastructure Committee, Llyr Gruffydd MS.

Yours sincerely,

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



Llywodraeth Cymru
Welsh Government

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7 November 2022

Inter-Institutional Relations Agreement: British-Irish Council Ministerial Meeting Wales

Further to my letter of 21st September 2022, I wanted to draw your attention to the attached BIC communique, summarising the outcomes of the Ministerial discussion.



British Irish Council -
Social Inclusion Minis'

Vaughan Gething AS/MS
Gweinidog yr Economi
Minister for Economy

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Ministerial Meeting of the BIC Social Inclusion Work Sector

21 October 2022, Wales

COMMUNIQUÉ

Ministers of the British-Irish Council¹ (BIC) Social Inclusion work sector met today, hosted by the Welsh Government in Cardiff.

The meeting was jointly chaired by Vaughan Gething MS, Minister for Economy, Welsh Government; and Tom Arthur MSP Minister for Public Finance, Planning and Community Wealth, Scottish Government.

The Government of Guernsey was represented by Deputy Steve Falla, Vice President, Committee for Economic Development. The Irish Government was represented by Joe O'Brien TD, Minister of State, Department of Rural and Community Development. The Isle of Man Government was represented by Hon Lawrie Hooper MHK, Minister, Department for Enterprise. The Government of Jersey was represented by Deputy Elaine Millar, Minister for Social Security and Deputy Kirsten Morel, Minister for Economic Development, Tourism, Sport and Culture. The UK Government was represented by Lord Syed Kamall, Minister for Civil Society, Heritage, Tourism, and Growth.

Ministers reflected on the recent work undertaken by the work sector exploring the different approaches to supporting Social Enterprises sectors across Member Administrations, and the benefits that have been gained from sharing expertise in this policy area. Ministers took note of the extensive engagement with external stakeholders that had taken place through symposia focused on Youth Social Entrepreneurship, Social Value and Building Linkages within Social Enterprise

¹ The BIC, established under the Agreement reached in the Multi-Party Negotiation in Belfast on Good Friday 1998 is a forum for its eight Member Administrations to exchange information, discuss, consult, and use best endeavours to reach agreement on co-operation on policy areas of mutual interest.

sectors, and reflected on the importance of awareness-raising of the sector and its activities.

Ministers considered a Discussion Paper 'Social Value as a Driver of Social Enterprise', which looked at efforts to embed Social Value within social enterprise ecosystems within each Member Administration. Within that paper, Social Value was defined as "a broad term used to describe the social, environmental and economic impacts of actions taken by communities, organisations, governments and individuals." Ministers observed that it was clear that Social Enterprises were a key part of generating Social Value within the local communities in which they operate and took note of the benefits of including Social Value within public procurement processes, resulting in increased social, environment, cultural and economic impact.

Ministers also noted the Social Inclusion work sector's Forward Work Plan for 2022-2025, focusing on:

- Examining the role of social enterprises in building sustainable communities and resilient local economies.
- Understanding the contribution of social enterprises to the climate change agenda.
- Considering how to raise awareness of the importance and potential of social enterprises to contribute to more inclusive and sustainable societies.

BIC Secretariat
21 October 2022

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

SeneddLJC@senedd.wales

9 November 2022

Dear Huw,

Inter-Institutional Relations Agreement: 38th British-Irish Council Summit

I am writing in accordance with the inter-institutional relations agreement to notify you of the 38th Summit meeting of the British-Irish Council, which will take place this week and is being hosted by the UK Government.

I will be attending the summit virtually. As well as the usual opportunity for a general update on issues, the Summit will focus on sustainable growth and regeneration.

A communiqué will be agreed by the Council at the Summit detailing the discussions held, and I will write to share these with you. I will also update the Senedd with a written statement in due course.

Yours sincerely,



MARK DRAKEFORD

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Llywodraeth Cymru
Welsh Government

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

SeneddLJC@senedd.wales

10 November 2022

Dear Huw,

Inter-Institutional Relations Agreement: The Prime Minister & Heads of Devolved Governments Council

I am writing in accordance with the inter-institutional relations agreement to notify you of the first meeting of the Prime Minister & Heads of Devolved Governments Council, which will take place this week.

The Council will be chaired by Prime Minister Rishi Sunak. I will attend the meeting virtually. The meeting will cover the economy and the cost of living crisis.

I will provide an update after the meeting.

I am also copying this letter to Mick Antoniw MS, the Counsel General and Minister for the Constitution; the Rt Hon Elin Jones MS, the Llywydd; the Equality and social justice committee; the Finance Committee; and the Economy Trade and Rural Affairs Committee.

Yours sincerely,

MARK DRAKEFORD

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

Llywodraeth Cymru
Welsh Government

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

07 November 2022

Dear Huw,

**The future of Welsh law: A programme for 2021 to 2026
Annual Report 2021-22**

I enclose a copy the first Annual Report on the Government's programme to improve the accessibility of Welsh law, which is being laid before Senedd Cymru as required by section 2(7) of the Legislation (Wales) Act 2019.

Yours sincerely,



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

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Llywodraeth Cymru
Welsh Government

The future of Welsh law: A programme for 2021 to 2026

Annual Report 2021-2022



October 2022

Pack Page 86

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

Book of Iorwerth 1240

Purpose of report

1. This annual report has been prepared under section 2(7) of the Legislation (Wales) Act 2019. It sets out the progress made under the Government's programme to improve the accessibility of Welsh law: [The Future of Welsh Law: a programme for 2021 to 2026](#), from the programme's launch on 21 September 2021 to 14 October 2022.

Background to programme

2. Each programme prepared under the Legislation (Wales) Act 2019 must include projects which:
 - a. contribute to an ongoing process of consolidating and codifying Welsh law;
 - b. maintain the form of Welsh law (once codified);
 - c. promote awareness and understanding of Welsh law;
 - d. facilitate use of the Welsh language.
3. The first programme under the 2019 Act was laid before the Senedd on 21 September 2021 and contains a blend of legislative and non-legislative projects designed to achieve this requirement. This report provided an update on these projects by reference to our overarching aims in respect of:
 - a. classification of Welsh law,
 - b. consolidation of Welsh law,
 - c. codification of Welsh law, and
 - d. communication of Welsh law.

Classification of Welsh law

Programme commitments:

During this Senedd term the Government will:

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

Progress during reporting period

Taxonomy for the organisation of Welsh law

4. Further work has been undertaken to test the model taxonomy developed in 2019, by mapping potential subject areas for many of the Welsh Statutory Instruments made to date. This has demonstrated that further user testing will be beneficial, as this work has confirmed our earlier findings that there are no absolute divisions between subjects. This means there is potential for overlap between Codes that should be avoided, as well as inevitable connections between some provisions of different Codes. It is likely that these connections will require signposting and possibly other forms of clarification. Further user testing will be taken forward when The National Archives are able to work with us on better organising Welsh legislation on the legislation.gov.uk website (see below).

Organisation of legislation on legislation.gov.uk by subject

5. The National Archives have prioritised work on improving the functionality of the legislation.gov.uk website to enable amendments to Welsh law in the Welsh language to be displayed in context (see below) – in other words to ensure that legislation that is subsequently amended by later legislation is published in up-to-date form in both languages. However, they have not had capacity to work on the organisation of legislation project with us over the past year.
6. Instead the Government has further developed the functionality requirements we would like to see introduced, in order to better inform The National Archives' development work when they are able to progress it. This includes areas where we consider testing will be important to assess how the functionality may best support users.
7. There are currently just under 6,000 items of legislation that will potentially need updating, so we are assessing the resourcing implications of 'tagging' this legislation with additional information. Tagging would allow users to search Welsh legislation on the site by a range of identifying features, alongside its subject.
8. In August the Counsel General wrote to the King's Printer (who is also the Chief Executive of The National Archives) to, amongst other matters, confirm that this project is the Government's next non-legislative priority to improve the accessibility of the law. The National Archives is a vital partner in aiding the delivery of improved accessibility of the law – both in terms of how legislation is printed and published, and how it is made available in a free to access and use digital form.

Consolidation of Welsh law

Programme commitments:

During this Senedd term the Government will develop:

- a. a consolidation Bill which brings together the law on the historic environment.
- b. a consolidation Bill which simplifies and modernises the law on planning.
- c. a consolidation Bill which repeals or disapplies legislative provisions from across the statute book that are obsolete, spent, or are no longer of practical utility in relation to Wales.

We will also:

- d. review the existing legislation in a number of areas with a view to identifying a further two consolidation projects to be prepared during this Senedd term.
- e. develop the package of subordinate legislation expected to be required to implement the historic environment Bill.
- f. undertake a phased project of consolidating key town and country planning subordinate legislation.
- g. remake and update the rules of the conduct of local government elections in Wales.
- h. prepare the 'Representation of the People Order' bilingually ahead of the general election to the Senedd in 2026.

Progress during reporting period

Historic Environment (Wales) Bill

9. The Counsel General introduced the [Historic Environment \(Wales\) Bill](#) into the Senedd on 4 July 2022. This is currently at Initial Consideration, under Senedd Standing Order 26C, being scrutinised by the Legislation, Justice and Constitution Committee.
10. The Bill brings together legislation currently set out in a number of Acts, mainly:
 - a. The Historic Buildings and Ancient Monuments Act 1953;
 - b. Parts 1 and 3 of the Ancient Monuments and Archaeological Areas Act 1979;
 - c. the Planning (Listed Buildings and Conservation Areas) Act 1990;
 - d. Part 4 of the Historic Environment (Wales) Act 2016.

11. The Bill also restates the following planning legislation:
- a. provisions in Parts 14 and 15 of the Town and Country Planning Act 1990, and
 - b. Part 5 of the Planning and Compulsory Purchase Act 2004, so far as it applies to decisions under the 1990 Listed Buildings Act.
12. In addition to bringing together relevant provisions from the numerous Acts, the Bill also incorporates some provisions of subordinate legislation made under the Acts being consolidated, and some case law and practice which is important in understanding the operation of those Acts. Additionally, the Bill gives effect to a number of recommendations made by the Law Commission in its final report on Planning Law in Wales¹.

Simplification and modernisation of planning law

13. Within Government, planning policy officials and lawyers are working with legislative counsel, translators and jurilinguists, to prepare a Bill to consolidate planning law. This work has benefitted from the experience of preparing the Historic Environment (Wales) Bill, and some of those who worked on that Bill are also working on the planning project. Good progress is being made but this is a very large and time-consuming project that involves producing a Bill that is likely to be around 400 pages long (800 pages in both languages).

Statute Law (Repeals) (Wales) Bill

14. The Counsel General launched a [consultation on a draft Statute Law \(Repeals\) \(Wales\) Bill](#) on 7 October 2022. The proposed repeals and amendments in the Bill have been selected on the basis that they deal with provisions that are –
- a. obsolete, spent or otherwise no longer of practical utility,
 - b. unlikely to be commenced, having remained un-commenced for a period of time over which the original context has changed, or
 - c. otherwise unnecessary (for example, where the end is met by some other means).
15. At the end of the consultation the Government will consider the responses received and issue a summary report of them. The draft Bill will be considered in light of the responses received, with a view to a Bill being introduced into the Senedd at a suitable point in the legislative programme.

¹ Law Commission of England and Wales (2018) Planning Law in Wales (Law Com 383)

16. The Government's programme to improve the accessibility of Welsh law originally envisaged a Bill dealing with repeals of statute law would be introduced into the Senedd under the Senedd's Standing Order 26C. It is now considered more appropriate to introduce the Bill under the Senedd's Standing Order 26, which sets out the procedure for law reform Bills.

Scoping of further subject areas

17. We expect work on scoping projects to be undertaken later in this programme. However, one area of the law was provisionally considered in the past year but was not considered suitable for consolidation at that time because law reform work is being taken forward instead.

Subordinate legislation on local government elections in Wales.

18. This commitment has been delivered through the [Local Elections \(Principal Areas\) \(Wales\) Rules 2021](#), [the Local Elections \(Communities\) Rules 2021](#) and [the Local Elections \(Miscellaneous and Consequential Amendments\) \(Wales\) Regulations 2022](#). The Rules, and subsequent regulations, were used for the conduct of local elections in Wales in May 2022.

The National Assembly for Wales (Representation of the People) Order 2007

19. Work has begun on consolidating and remaking the National Assembly for Wales (Representation of the People) Order 2007, ahead of the Senedd elections in May 2026. A consultation will be held on a draft of the proposed Order, to inform further work.

Codification of Welsh law

Programme commitments:

There were no immediate proposals to codify Welsh law in the programme, but this is being kept under review.

20. As noted above the Historic Environment (Wales) Bill has been introduced into the Senedd. If agreed by the Senedd, the Act, together with subordinate legislation made under it, will form a Code of Welsh law on the Historic Environment. As set out in the Explanatory Memorandum to the Bill:

The significance of this status is twofold. The first is that the Welsh Government intends to publish all enactments that form part of the Code together. The second is that the Government also envisages, subject of course to the Senedd's agreement, a

change to the Senedd's Standing Orders to seek to ensure that future changes to the law that forms part of a Code are made by amending or replacing the enactments rather than making different, "stand-alone", provisions that would again lead to a complex proliferation of laws.

21. In evidence to the Legislation, Justice and Constitution Committee on the Bill, the Counsel General has committed to engage with the Llywydd on possible changes to Standing Orders during the first half of 2023. Further annual reports will set out progress on this.

Communication of Welsh law

Programme commitments:

During this Senedd term the Government will:

- a. work with the team behind the legislation.gov.uk site to ensure that bilingual Acts and Statutory Instruments are available in an up-to-date form in both languages.
- b. significantly expand and improve the content of the Cyfraith Cymru/Law Wales website to achieve a 'one stop shop' for accessing and understanding Welsh law.
- c. explore ways to move from a model of promulgating legislation based on 20th century printed versions to a modern, digital-based system.
- d. develop our approach to preparing bilingual legislation, using linguistic technology to its full potential.
- e. explore the potential for using machine learning and artificial intelligence to make Welsh law more accessible.

Progress during reporting period

[Ensuring Welsh law is available in up-to-date form on \[legislation.gov.uk\]\(http://legislation.gov.uk\)](#)

22. We have worked closely with the editorial team in The National Archives' Legislation Services division who have developed the functionality of the editorial system that supports legislation.gov.uk. The system is now able to apply amendments to the Welsh language texts of Acts, Measures and Statutory Instruments. Testing of the new functionality took place over the summer to enable the new system to go live at the end of October 2022.

23. A small cadre of staff within Welsh Government have received training on the annotation system and have been applying amendments to English language texts in preparation for the new functionality that will enable Welsh language amendments to be incorporated. This has provided valuable experience and helped shape the proposed approach and time estimates for tackling approximately 46,000 outstanding “effects” (changes to the statute book) yet to be applied to the texts of Welsh law on the site.
24. Looking ahead to when legislation is being updated bilingually routinely, we intend to initially prioritise primary legislation, starting with the most recent legislation made and working backwards to 2007. This will be continue to be maintained as further amendments are made by future legislation. Work will then begin on updating and annotating Welsh Statutory Instruments informed by our experience with primary legislation. Future reports will therefore set out progress towards ensuring Welsh legislation is fully updated in both languages.

Expanding and improving Cyfraith Cymru/Law Wales

25. Just prior to the launch of the Government’s programme to improve the accessibility of Welsh law, the Cyfraith Cymru/Law Wales website was moved to a new platform and significantly upgraded. This year we have concentrated on developing new content for the site. This has included:
 - a. updating a major section of the site on housing law,
 - b. adding a new section on the UK’s withdrawal from the EU to replace the existing outdated pages, and
 - c. publishing new articles on various aspects of the law provided free of charge by law firms in Wales.
26. Progress on updating and publishing other sections on the site (relating to education and the environment in particular) has not been possible due to a lack of internal resource to review and validate content prior to publication.
27. Enquiries to the site about a range of aspects on Welsh law have increased steadily throughout the year. These vary enormously in terms of range and complexity, but demonstrate an ongoing interest in content and finding out more about the law in Wales.
28. A range of issues relating to the accessibility of the site have been dealt with. The website is now fully compliant with the Web Content Accessibility Guidelines version 2.1, achieving Level AA standard. We also made further changes to add new functionalities to the website to ensure it remains user friendly and informative.

Identifying opportunities to improve digital accessibility of legislation

29. Some of the commitments in the programme relating to digital accessibility require engagement with the King's Printer and officials at The National Archives. As noted earlier, they have prioritised the annotation of Welsh language texts of Welsh law over the past year. They remain committed to working with us to continue to develop and improve the digital accessibility of legislation. It is anticipated work on these matters will take place during this Senedd term.

Reviewing the Government's approach to preparing bilingual legislation

30. The Welsh Government's Translation Service is in the process of procuring and establishing a new translation memory and terminology management system. The supplier has been selected and discussions are underway regarding the contractual details.
31. It is hoped that the new system will lead to increased efficiency and accuracy in the translation process, as well as enabling more efficient ways of researching, consulting on and standardising terminology to be explored.
32. A project to compare the legislative terms in the Translation Service's online terminology database, TermCymru, with the Drafting Glossary, to ensure complete consistency between both term bases, has been completed. This involved considering and standardising hundreds of legislative terms. Following this one-off project, procedures have been put in place to ensure TermCymru and the Drafting Glossary are updated regularly and remain consistent in future.
33. In addition, the usual terminology standardisation processes linked to Bill projects have continued during the year. These included the Historic Environment (Wales) Bill standardisation process, which will also be valuable for future legislative work in this area, and which resulted in 105 new, amended or confirmed terms in TermCymru.
34. The Translation Service has also held a series of workshops for the Office of the Legislative Counsel and the Legal Services Department focusing on how the translation process can help to improve the bilingual text.
35. Steps are being taken to establish a project to better coordinate Welsh Language infrastructure. This will include raising awareness of the dictionary and terminology resources available to make it easier for people to use them and find answers concerning the Welsh language. This service will eventually help ensure standardised legislative terms are widely available and increase the profile of the work already being done in this area.

36. In addition to this, Canolfan Bedwyr at Bangor University is being funded by the Welsh Government to develop domain-specific machine translation for the law and legislation by April 2023. The intention of this is that users working in this field will be able to access a secure on-line product which produces more specific and accurate results than general-purpose machine translation.

Machine learning / artificial intelligence and legislation

37. A time limited project has been undertaken during the past year to:

- a. establish if and how machine learning and artificial intelligence is being used in the preparation of legislation within Welsh Government;
- b. understand what machine learning technologies are being implemented in other drafting offices;
- c. consider whether artificial intelligence could be used to identify specific features of legislation (for example, whether is it possible to 'read' legislation to see if it relates to the legislative competence of the Senedd);
- d. explore whether natural language programmes could 'read' and answer questions on legislation.

38. None of the legislative drafting offices contacted are using artificial intelligence to assist with their work, although two of the offices consulted are conducting other projects which could be included under the 'digital' umbrella. The project concluded there are limited opportunities for the immediate use of artificial intelligence in this sphere, because:

- a. artificial intelligence is still an emerging technology,
- b. portions of the statute book, particularly Welsh language texts, have not been annotated into a machine-readable format.

39. We also concluded that in its current state, artificial intelligence cannot identify legislative features such as whether items of legislation would be within the legislative competence of the Senedd. The project noted some emerging uses of 'chatbots' but that these rely on resource intensive programming rather than technology to read and answer questions on legislation. Other simpler digital technologies could be used to answer frequently asked questions, however.

40. In June, the Government co-hosted a week-long conference and 'hackathon' with the Legal Innovation Lab Wales, based at Swansea University. This brought together experts in the legal sector and the technology sector to examine issues holding back the legal system, with the goal of creating concept solutions that will improve and accelerate the process of making the law more accessible. The first three days followed a traditional conference format with speakers from a range of backgrounds, from the purely

technical to academics in the field, together with a session led by Welsh Government staff focussing on our ambitions for this programme. The subsequent two-day hackathon saw delegates split into teams and asked to consider an accessibility of the law challenge by proposing innovative technological solutions which could potentially be developed in future. The conference/hackathon format was seen as a useful way of bringing two different disciplines together to understand challenges and opportunities in this area of the law.

41. There is clearly scope for using emerging technology to help make information about the law more accessible and easier to understand in respect of specific issues such as tax liabilities or housing rights. However, as things stand this would require a significant commitment of time and expertise using traditional ways of working. We are currently some way away from being able to use machine learning and other forms of artificial intelligence as a “short cut”.
42. The time limited project has now concluded, but if further resource becomes available future work could focus on aspects of the learning gained through this early research.

Updating guidance and preparing additional guidance

43. In May the Government published the second edition of [Common legislative solutions: a guide to tackling recurring policy issues in legislation](#). This document provides potential solutions to commonly occurring legislative problems to help those who develop, scrutinise, and use legislation understand how best to address them.
44. The *Legislation Handbook on Assembly Bills* is an internal working document that is shared externally in the interests of openness and transparency. It sets out the practical process for developing legislation and for taking legislation through the Senedd. The content is being kept under review, and a revised edition is likely to be published during this Senedd term.
45. *Writing Laws for Wales* sets out the main principles and techniques that the Welsh Government applies to legislative drafting. It remains subject to ongoing review, but it has not been considered necessary to issue a revised version during the past year.
46. Work is ongoing to collect the lessons learned from preparing the first consolidation Bills, which will be used to prepare new guidance later this Senedd term.

Other projects

Programme commitments:

During this Senedd term the Government will continue to work with the Law Commission.

Progress during reporting period

47. The Law Commission of England and Wales has sought views on proposals for its Fourteenth Programme of Law Reform, this will include projects relating to the law in Wales and could include one or more special projects at the request of the Welsh Ministers. The Law Commission is expected to make further announcements on this in the coming months.
48. In addition, the Welsh Ministers will continue to use their powers to refer matters to the Law Commission for the Commission's advice and information. Such references have led to completed projects which are now being taken forward within the Welsh Government, including in relation to [Regulating Coal Tip Safety in Wales; Devolved Tribunals in Wales](#) and [Planning Law in Wales](#). The Welsh Ministers published their [Report on the Implementation of Law Commission Proposals](#) in February 2022.

Revisions to the programme

49. Section 2(6) of the Legislation (Wales) Act 2019 permits the Welsh Ministers and Counsel General to revise the programme. This has not happened over the previous year.
50. The next annual report to the Senedd will also include a review of the Legislation (Wales) Act 2019, in line with commitments given by the (then) Counsel General during the Senedd's scrutiny of the Bill.

Concluding matters

51. The introduction of the Historic Environment (Wales) Bill was a major milestone that marked the beginning of a new endeavour to bring more order to the statute book of Wales, and the introduction of Codes of Welsh law. Although the consolidation and codification of Welsh law will take a generation or more to achieve, we are confident the increased accessibility and simplicity of the law makes this a worthwhile and important undertaking. Consolidation of the law on the historic environment is also a significant step forward for the Welsh language, as a vast area of the law that was previously only

available in English will be available bilingually in future, if the Senedd sees fit to pass the Bill.

52. Another landmark was the recent development and forthcoming introduction of new functionality on legislation.gov.uk allowing us to start annotating Welsh language texts of legislation. This is hugely significant as it brings about overdue parity for both our languages when publishing legislation.
53. Despite this, introducing the first programme to improve the accessibility of Welsh law has not been without its challenges:
 - a. The National Archives is an essential partner in our efforts to improve the digital accessibility of legislation. Nevertheless, we in the Welsh Government must acknowledge that they also serve the whole of the United Kingdom. They have a duty to all four nations and must balance their priorities carefully, especially against the backdrop of the UK Government's proposed cuts to the Civil Service and in light of the ongoing impact of EU withdrawal and the pandemic.
 - b. Internally, a small team within the Office of the Legislative Counsel is supporting delivery of the programme, but it is of course a whole Government endeavour. As more work is done under the programme, involving an ever-increasing circle of contributors, we expect it to become an established aspect of Government life – albeit one that we will have to achieve against a backdrop of competing priorities.
54. We conclude that the programme is currently on track and are pleased to report the good progress made.



Llywodraeth Cymru
Welsh Government

WRITTEN STATEMENT BY THE WELSH GOVERNMENT

TITLE Keeping Welsh legislation up to date

DATE 7 November 2022

BY Mick Antoniw MS, Counsel General and Minister for the Constitution

When I laid *The Future of Welsh Law* programme before the Senedd last year, I made clear that one of the key projects to improve the accessibility of Welsh law was to ensure users can access our laws in up-to-date form in both languages on legislation.gov.uk.

Before this month there have been technological and other barriers to that happening. But I am pleased to announce that these have been overcome, and I am very grateful to The National Archives for their work to develop new functionality on their editorial system. This will enable the Welsh Government to take over much of the process to update the text of our laws bilingually.

Since 1999, 74 Acts and Measures have been enacted and nearly 6,000 Statutory Instruments have been made. These statutes have been amended and changed over time both by our own legislation and that of the UK Parliament. Despite the work of legislation.gov.uk to reflect these changes, there are currently about 46,000 outstanding effects and annotations to be recorded and published on legislation.gov.uk to enable our laws to be accessed in their up-to-date form.

We will now be starting the work to tackle that backlog, initially focusing on Acts and Measures passed by the Senedd, before moving on to Welsh Statutory Instruments. I will keep Members updated on our progress.

This is a major step towards ensuring that in future, all Welsh legislation will be available, fully updated in both languages, soon after it is amended.

Ein cyf/Our ref: SL-1325

Llywodraeth Cymru
Welsh Government

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

8 November 2022

Dear Huw,

THE NON-DOMESTIC RATING (CHARGEABLE AMOUNTS) REGULATIONS 2022

I am writing to notify you of the potential need for the above Regulations which it may be necessary to present to the Committee with limited time available for scrutiny.

As part of non-domestic rates revaluations, consideration is given to the impact on ratepayers of changes in their local tax liabilities. The Welsh Ministers have powers to introduce transitional relief, under sections 58, 143(1) and 146(6) of the Local Government Finance Act 1988. Under these powers, any regulations must follow the draft affirmative procedure and must be in force prior to 1 January of the year of a revaluation. The next revaluation is scheduled to take place on 1 April 2023 and, as such, any regulations under these powers must commence by 31 December 2022 at the latest.

Unfortunately, I am not in possession of the relevant details to inform a balanced decision on this matter, due to the timing of the UK Government's Autumn Statement scheduled for 17 November. Following the Autumn Statement, I will make a policy decision as soon as possible, considering the financial position of the Welsh Government. Given the potential costs of any scheme, the pressures on the budgets and the current uncertainty as to the resources available to the Welsh Government for 2023-24, it would be irresponsible for me to do so before all of the relevant information is available.

Should I decide that relief is necessary, draft Regulations will be developed at pace, with the intention of their being debated on 13 December.

The 13 December Plenary slot is necessary to meet the 1 January 2023 deadline. Unfortunately, the draft Regulations may not be available to be laid until 6 December. I acknowledge that this provides a much compressed timetable for the consideration of the draft Regulations and I am therefore giving you as much notice as possible of the potential time-scales and seeking the Committee's assistance in expediting the scrutiny of the draft Regulations, if needed.

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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.

I trust the Committee will appreciate the circumstances that necessitate this condensed timetable for scrutiny and will be able to provide its views within a shortened timeframe.

I am copying this letter to the Llywydd, Elin Jones MS, and the Chair of the Local Government and Housing Committee, John Griffiths MS, for their information.

Yours sincerely,

A handwritten signature in black ink that reads "Rebecca Evans." The signature is written in a cursive style with a large initial 'R'.

Rebecca Evans AS/MS

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

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

Ein cyf/Our ref: MA/JJ/3299/22

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

8 November 2022

Dear Huw,

I am writing in relation to the timescales for the making of subordinate legislation in connection with the implementation of the Renting Homes (Wales) Act 2016 (*the 2016 Act*) on 1 December.

The Renting Homes (Wales) Act 2016 (Consequential Amendments) Regulations 2022 are due to be debated in Plenary on 8 November. If these Regulations receive the Senedd's approval, I anticipate that this will allow a connected set of the regulations, to be known as the Renting Homes (Wales) Act 2016 (Saving and Transitional Provisions) Regulations 2022 (*the Saving and Transitional Regulations*), to be made using the negative procedure.

However, there is another set of draft regulations, which connect to and are likely to be dependent on the Saving and Transitional Regulations that I anticipate laying once the Saving and Transitional Regulations have been made. These Regulations, which I anticipate will be called Renting Homes (Wales) Act 2016 (Amendment of Schedule 12 and Consequential Amendment) Regulations 2022 (*the Amendment of Schedule 12 and Consequential Amendment Regulations*), would be subject to the affirmative procedure and would be debated by the Senedd on 29 November so that, if they are approved, they could come into force in time for the implementation of the 2016 Act on 1 December.

The necessary sequencing of these events means that would not be possible to lay the Amendment of Schedule 12 and Consequential Amendment Regulations a full 20 days in advance of them being debated on 29 November. My expectation is that they would be laid on 10 November. In the light of this, I should be very grateful if the Committee would

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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.

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consider expediting their scrutiny of the revised regulations to enable the Plenary debate to take place at the end of November.

The Committee's assistance in this matter would be greatly appreciated.

Your sincerely

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

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

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

9 November 2022

LJC Committee: Annual Report 2021 /22

Dear Huw,

Thank you for your letter of 21 October 2022 drawing the Business Committee's attention to relevant paragraphs in your report regarding comments made by the Welsh Government in relation to the Senedd timetable and the use of UK Government Bills to legislate in devolved areas.

Business Committee considered the letter on 25 October and concurred with your conclusion that assessments of the time available for the Senedd to consider legislation are a matter for Business Committee under Standing Order 26, and that it is not appropriate for the Welsh Government to use arguments relating to the Senedd's timetable for scrutiny to justify using a UK Government Bill to legislate in a devolved area.

I welcome your continued monitoring of these important issues and would be grateful if you could continue to draw relevant matters to Business Committee's attention, as necessary.

I will enclose a copy of this letter to the Counsel General and Minister for the Constitution and the Minister for Rural Affairs and North Wales, and Trefnydd.

Kind regards,

Elin Jones

The Rt Hon. Elin Jones MS

Y Llywydd and Chair of the Business Committee

Croesewir gohebiaeth yn Gymraeg neu Saesneg.

We welcome correspondence in Welsh or English.



Rt Hon Elin Jones MS
Llywydd
Chair, Business Committee

21 October 2022

Dear Llywydd

LJC Committee: Annual Report 2021/22

Last week we published our [annual report](#) for 2021/22, which provides an analysis of the work we have undertaken in the first year of the Sixth Senedd across the breadth of our wide remit.

My purpose in writing is to draw your attention to paragraphs 54 and 55 of our report which concern a view often stated by the Welsh Government in seeking to explain why it is using UK Bills to legislate in devolved areas. These paragraphs state:

"54. We have also noted that the Welsh Government has sometimes suggested that the reason for using a UK Government Bill is because the UK Government will have been able to introduce legislation to the UK Parliament far sooner than the Senedd's timetable would allow. In our report on the Welsh Government's Legislative Consent Memorandum on the Leasehold Reform (Ground Rent) Bill, we said:

"Decisions regarding when to introduce legislation for scrutiny in the Senedd are a matter for the Welsh Government and once a Bill is introduced, a timetable for scrutiny will be set by the Business Committee in accordance with Standing Order 26. We consider it inappropriate for the Welsh Government to use arguments relating to the Senedd's timetable for scrutiny to justify using a UK Government Bill to legislate in a devolved area."

55. We reiterate that view and will be drawing it to the attention of the Business Committee."

On 10 October 2022, we took evidence from the Counsel General and Minister for the Constitution and Permanent Secretary to the Welsh Government on the Welsh Government's capacity to legislate. Our session covered comments made by the Counsel General about using a UK Bill to make legislative provision in devolved areas if "there is no time to bring forward similar in the Senedd". The exchanges can be viewed from paragraph 90 onwards.

We will continue to monitor the arguments put forward by the Welsh Government regarding its use of UK Bills to legislate in devolved areas.

We intend to draw relevant matters to Business Committee's attention should the Welsh Government persist with arguments relating to the Senedd's capacity for scrutiny to justify pursuing and/or agreeing to the inclusion of provisions in devolved areas in UK Bills.

Yours sincerely,

A handwritten signature in black ink that reads "Huw Irranca-Davies". The signature is written in a cursive style and is underlined with a single horizontal stroke.

Huw Irranca-Davies

Chair



Mick Antoniw AS/MS

Agenda Item 9.5

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

Dr Andrew Goodall CBE

Ysgrifennydd Parhaol i Lywodraeth Cymru
Permanent Secretary to the Welsh Government




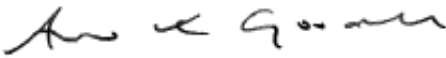
Llywodraeth Cymru
Welsh Government

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

09 November 2022

Dear Huw,

Thank you for your letter of the 20 October in relation to my appearance at Legislation, Justice and Constitution Committee on 10 October. I welcomed the opportunity to give evidence on matters relating to the Welsh Government's legislative programme and capacity to legislate. I have provided a detailed response to your further questions in an Annex to this letter.

| | |
|------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------|
|  |  |
| Mick Antoniw AS/MS Y Cwnsler Cyffredinol a Gweinidog y Cyfansoddiad Counsel General and Minister for the Constitution | Dr Andrew Goodall CBE Ysgrifennydd Parhaol i Lywodraeth Cymru Permanent Secretary to the Welsh Government |

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ANNEX

Welsh Government legislative programme and its capacity to legislate

1. Why do you consider it to be the case that the number of pieces of primary legislation passed in the Senedd has remained relatively static since 2007? Does the Welsh Government have a plan or ambition to increase the volume of primary legislation it brings forward to the Senedd?

The numbers of Bills alone do not tell the complete story. Since 2007 the government has used both primary and secondary legislation to deliver its legislative agenda. The amount of legislation passed annually, by reference to the total number of pages of legislation, has not been static.

In comparison to the period between 2007 and 2011, there was a very significant increase in the amount of primary legislation passed between 2011 and 2016.

In the last Senedd this reduced slightly as the clear impact, first all of EU Withdrawal and later of the pandemic, was felt. Notably, however, both of these extraordinary events led to a substantial increase in the amount of subordinate legislation that has been made.

We also continued to take forward some significant and large-scale legislative reforms alongside the huge volume of covid and Brexit-related subordinate legislation during this period.

We remain committed to bring forward a substantial legislative programme during the Senedd term, as outlined by the First Minister on 5 July 2022 in his most recent legislative statement. We have already introduced the first six Bills of this Senedd term.

It may also be worth mentioning that the capacity of the Senedd has not changed in that time, which also has a bearing on the amount of legislation that can be scrutinised.

2. Do you have any concerns about the effect of the growing amount of Welsh law being made in UK Parliamentary bills on the WG's programme to increase the accessibility of law in Wales?

Our principles reflect the importance of balancing our fundamental position that devolved legislation should be made in Wales, whilst responding to UK Government's legislative programme in a manner that does not prevent potentially advantageous provisions being made in a way that is convenient to us.

I accept that this is not optimal in so far as the accessibility of Welsh law is concerned. But the fact of the matter, unfortunately, is that the law across the whole of the UK is already difficult to find and understand. This is the unavoidable context for the kind of compromises that we sometimes have to make. The reality is that until we make more progress consolidating and codifying the law within devolved areas, Welsh law will continue to be inaccessible. So, although it is obviously preferable to

always legislate by way of Senedd Acts, in an imperfect world it is sometimes the better option in order for reform to be instigated more quickly.

3. Can you explain why disagreements on legislation have continued despite a new intergovernmental relations process being in place? For example, on the UK Infrastructure Bank Bill?

Given the instability of the UK Government over recent years and frequent UK Ministerial changes, progress and momentum in implementing the new ways of working and Inter-Governmental Relations mechanisms agreed by all 4 Nations as part of the Review have been slower than anticipated. Nonetheless, it has proved useful at times. For example, there have been two Inter-Ministerial Standing Committee Meetings where concerns with UK Parliament Bills to legislate in devolved areas have been discussed.

We hope that the more formal machinery agreed as part of the Intergovernmental Relations Review will not need to be used routinely. However, the option to escalate disagreements remains open to us.

Discussions with the UK Government on the UK Infrastructure Bank Bill are ongoing and have been constructive.

4. Does the Welsh Government accept that using UK Bills to legislate in devolved areas limits the opportunity for the Senedd to properly fulfil its scrutiny role?

As noted in my letter to you on 4 August 2022, it is inevitable that Senedd scrutiny of UK Bills will not be as detailed as that for legislation made in the Senedd. For this reason we are committed to ensuring as much scrutiny as possible through the LCM process, and also to limiting our involvement with UK Bills where practical.

As previously noted, we continue to seek to work with the UK Government and the other devolved governments to strengthen ways of working and improve UK Government engagement on its legislative programme, including respect for the Sewel convention.

5. Do you consider there to be an opportunity for the Senedd to play a greater role in deciding when the Welsh Government will seek provisions in UK Parliamentary Bills?

As noted in my letter of 4 August 2022, I confirm that, wherever possible, we will lay a written statement before the Senedd and notify relevant Committees where we have sought provision in a UK Bill, before the commencement of the legislative consent process. Again, the extent to which this is possible will be affected by the nature of the engagement from the UK Government on any such Bill, and any temporary confidentiality requirements related to inter-governmental discussions on it.

6. The Welsh Government has seconded staff to Cabinet Office to work on the UK Procurement Bill. Is this common practice or likely to be so? Was any assessment made of the resources needed to develop a Welsh Bill instead?

Two members of the Welsh Government Procurement Reform team were seconded to the UK Cabinet Office for three days a week for approximately seven months. The staff contributed to the development of policy, and this successfully ensured maximum alignment of policy between the administrations. The arrangement also contributed to the establishment of effective two-way communication lines, with staff regularly reporting back and being actively involved in all engagements.

We are not aware of this arrangement happening before in respect of UK procurement legislation.

Whether we second staff to the UK Cabinet Office in the future on other legislation projects is something that will be considered on a case-by-case basis. This would need to take into account the business impact and longer term benefits for Welsh Government.

More generally, as a Civil Service organisation, the Welsh Government facilitates inter-government loans and wider public sector secondments regularly. We often make opportunities available to attract specific skills or experience into the organisation on a temporary basis, and similarly our own staff are able to apply for loans or secondments elsewhere, often for development and progression. The Welsh Government have a relatively small number of staff working in other parts of the public sector on a loan or secondment basis, and the intention in those cases is that as well as benefiting the individual, the individual returns with skills, experience and knowledge that grows our own capability.

Resourcing and capacity was not a consideration in the decision to move forward with the UK Government Procurement Bill instead of a Welsh Procurement Bill. It was taken following our engagement with stakeholders, both on the buyer and supplier side, who had a strong preference for consistent legislation across England, Wales and Northern Ireland.

Retained EU Law (Revocation and Reform) Bill

7. You told us that your approach to the EU Law (Revocation and Reform) Bill will be determined by what format the Bill might take (ROP [118]). Can you expand on this.

The Welsh Government is engaged in ongoing official level negotiations to seek changes to the Bill. I have outlined previously and described in my letter to the Secretary of State, shared as part of a press release on 23 September, the aspects of the Bill we are trying to influence. We will need to re-evaluate the position once the UK Government's position is clear, something that may be influenced by the most recent change in leadership.

8. Has the process of reviewing retained EU legislation (REUL) begun

The Welsh Government is considering how it will respond to the situation imposed by the UK Government. In general, our position is that the EU Withdrawal Act regularised the position effectively and we are not aware of any significant problems with retained EU law. While acknowledging that amendments to it would be required from time to time, we had no intention to repeal, revoke or amend the law in a wholesale manner on ideological grounds.

9. How many pieces of REUL have been made by the Welsh Ministers, which are not included in the UK Government's estimated 2,400 pieces?

As I have outlined previously, the Welsh Government is still considering its approach to REUL and in the first instance we are working to influence changes in the Bill.

The Welsh Government is considering the information being shared by UK Government departments as we develop our own approach to managing the enormous workload presented by the Bill. We are also liaising with The National Archives, who have been developing data searching tools to better identify the law in question.

10. You said in Plenary on Wednesday 5 October that you will do everything you can to protect standards that are important to Wales. Which REUL are you treated as a priority? What reassurances can you give stakeholders, businesses and people of Wales who are concerned about the Bill?

The review of REUL is an ideological exercise of the UK Government and the Bill imposes unnecessary activity and arbitrary deadlines. The Welsh Government is considering its approach to REUL and this will develop in the coming weeks and months. Our starting point is that we intend to protect all standards. The Welsh Government has no plans to change the body of REUL in a way which departs from the safe and good standards the people of Wales have come to expect.

11. You told us that you “want to get the constitutional principles right about the Bill” and to guarantee your position (RoP [118]). Can you expand on this.

As I indicated in my letter to the Secretary of State, attached to my press release on 23 September, “any powers to amend retained EU law (REUL) in areas of devolved competence should reside with the Welsh Ministers, with any powers held concurrently in such areas to be drafted to include a requirement for Ministers of the Crown to obtain the consent of the Welsh Ministers before they are exercised.” My position has not changed, and I continue to press that the UK Government makes amendments to the Bill on that basis.

12. You suggested that your current strategy is to prioritise intergovernmental engagement, via talks with UK Ministers and individual UK Government departments (RoP [118]). Can you set out what changes you are pursuing to the Bill in these discussions.

Please see the letter attached to my press release on 23 September. This outlines the main concerns with the Bill, which form the substance of my continued ask of the UK Government for amendments to the Bill.

13. You said “at the moment, there are a number of areas where [the Bill] gives powers to UK Government to legislate in devolved areas. The discussions I've had with the relevant Minister have been to say that that has to change” (RoP [118]). Can you confirm whether the Welsh Government is seeking amendments to the Bill to remove these powers?

As I indicated above, we have stated that any powers in areas of devolved competence should in the first instance be solely exercisable by a Minister of a devolved government. Where powers are held concurrently, that should be drafted to include a requirement of Ministers of the Crown to obtain the consent of the Welsh Ministers before they are exercised.

14. You explained that you have received “positive assurances” from the UK Government on the matter of powers in the Bill for UK Ministers to act in devolved areas (RoP [118]). Can you confirm if this means that the UK Government is open to removing these powers?

In my meeting with the then Secretary of State for Wales on 28 September he gave assurances that he would respect the devolution settlement and the Sewel convention. I expect the UK Government to follow through on this commitment.

15. You also said “the proof of the pudding will be when we actually see the detail—that is, that the UK Government won't legislate, and certainly won't legislate unless we consented to that legislation” (RoP [118]). Not legislating in devolved areas and not legislating in devolved areas without the consent of Welsh Ministers are very different actions. Which of the two outcomes are you negotiating to achieve?

I have made clear that it will not be acceptable for Ministers of the Crown to legislate to change REUL within the scope of the Senedd without as a minimum the explicit consent of Welsh Ministers. I continue to seek changes to the Bill to reflect this.

16. You said in Plenary that you are careful considering using powers in Bill to restate legislation en bloc. What consideration has been given to using the power in clause 1(2) to avoid the initial sunset buy simply listing all instruments that are devolved REUL, without individually analysing each instrument?

The Welsh Government continues to assess the implications of the Bill and it is too early to specify a strategy on how we will address REUL.

17. To what extent could the Senedd amend the Bill if it becomes an Act? For example could the Senedd change the December 2023 sunset clause insofar as it relates to devolved retained EU law?

The Welsh Government continues to work with the UK Government to seek changes to aspects of the Bill that present fundamental problems for Wales. I have drawn attention to these in my recent press release. We have made no decisions about what we may propose if the Bill is not satisfactory.

18. How will you meet the capacity and resource challenge you outlined in Plenary on 5 October?

The Welsh Government continues to consider the potential implications and what this will mean in terms of resource. There could be a very significant drain on resources, which comes at a time when the Government is focused on far more important issues, such as the cost-of-living crisis.

19. What impact might the need to preserve retained EU law have on your ability to bring forward Welsh Bills? Do you expect to see a further increase in the use of UK Bills to deliver your policy and legislative objectives as a result?

It is too early to understand the full impact this Bill will have on the Welsh legislative programme. We can be certain, however, that if the UK Government persists with this Bill it will have some impact. I recently referred to the impact of the Retained EU Law Bill in my address to the Legal Wales Conference in Llandudno. At least 2,400 laws to review, in less than fifteen months. It will gum up UK Parliamentary time and occupy the time of thousands of civil servants, at a time when there is so much else that needs their attention.

20. Does it remain the Welsh Government's intention to bring forward a consolidation Bill on planning to the original planned timetable, given the impact that the Bill is likely to have on the Welsh Government's capacity?

Our commitment to simplifying and modernising planning law in Wales is undulled. Drafters, lawyers and planning policy officials are working on the significant programme of work that it will take to deliver a bilingual consolidation of planning law in Wales.

This Committee has seen the quality of the work the consolidation projects will achieve. The Law Commission described the Historic Environment Bill in fullest terms, and the Commission's Chair declared it to be an "impressive [and] high quality piece of work".

However, like all of our legislative programmes and many other aspects of the Welsh Government's work, it is going to come under pressure if the UK Government persists. We will have to keep this under close review.

21. When will the Welsh Government engage with the Business Committee about the likely impact on Senedd business, including this Committee?

The Welsh Government will engage once the implications of the Bill are better understood. As the Bill was introduced only on 22 September we are still trying to comprehend fully what the impacts will be.

To the Permanent Secretary

22. Have you considered the recommendations of Audit Wales' report on the Welsh Government's workforce planning and management in relation to developing legislation?

The Welsh Government has established a formal organisational development programme to focus our effort on making the changes to ensure we are fit for purpose. The organisation has been engaged in shaping the programme - Welsh Government 2025 - over the summer with the formal oversight and governance, WG2025 Implementation Board chaired by our new Chief Operating Officer, Tim Moss now in place to drive action planning, implementation, and evaluation. As part of Welsh Government 2025, we are developing a new workforce strategy that reflects the challenges facing the organisation now and, in the years, ahead.

The outcomes we need to achieve through our workforce strategy and the steps that will get us there will be developed over the next few months. The workforce strategy and initial action plan will be published later this year. The Welsh Government will continue to prioritise the alignment of our workforce to priorities set out by the First Minister in the programme for government and ensure the organisation is able to fulfil its statutory duties. The new workforce strategy will set out the capability priorities and a development plan for our workforce including how we further embed the principles of the Well-Being of Future Generations Act.

Alongside the workforce strategy, we will deliver improvements in workforce planning through the implementation of the Workforce Delegation and Accountability Framework. This will delegate workforce planning and staff budgets, as well as accountability for decision-making, to Senior Civil Servants and support more flexible and responsive resourcing arrangements. This will provide a route for identifying alternative delivery mechanisms for specific delivery priorities and managing the impact on our workforce. As part of this, we will continue to grow our capability and create a talent pipeline for the technical capability needed to deliver the legislative priorities.

23. You told us that the Welsh Government has made some decisions over recent months to expand the number of lawyers within the organisation "in order to give some additional headroom" (RoP, [28] to [45]). You agreed to provide us with figures confirming the number of lawyers working in Welsh Government on legislative matters and how many of these are additional recruits from the recent expansion exercise.

The Legal Services Department lawyer cohort will be increased by the addition of 20 extra lawyers (see also my answer below in relation to Question 24 about recent steps taken to bolster lawyer numbers in the Legal Services Department over the last year or so) which are currently being recruited. The majority of those additional

20 lawyers will be involved in supporting legislative workload. 4 of that number (2 Grade 7 lawyers and 2 para-legal lawyers) will be allocated to a new central litigation team which is being introduced to ensure further efficiencies and also release further lawyers to support the Legislative Programme going forward.

The Legal Services Department is currently in the process of a restructure, to be implemented in December, to align it even more closely to Ministerial portfolios and ensure sufficient support for Ministers where in particular there are heavy legislative pressures on Ministerial portfolios such as the Minister for Climate Changes' portfolio. The new departmental structure will also allow more easy flex of legal resources to support the Legislative Programme with groups of lawyers coalesced together around Ministerial portfolios.

Going forward the Legal Services Department will have approximately 90+ lawyers allocated to directly supporting the Legislative Programme in terms of the preparation and passage of Bills (plus drafting lawyers in the Office of Legislative Counsel). Further Legal Services lawyers will also be engaged with legislative implementation work on an ongoing basis. The number of lawyers drafting secondary legislation will fluctuate over time, as they do now, depending on the demands of that implementation work and associated timescales but numbers will be in excess of 100+ lawyers at any one time working on legislation in the widest sense i.e. Legislative Programme and implementation work.

24. You said that you had put a plan in place that has been an opportunity to address some of the capacity concerns (RoP [81]). We would be grateful to receive further details about the plan, including broadly how it addresses capacity issues and what the Welsh Government is aiming to achieve through it. For example, is it to deliver more legislation or to fill vacancies to maintain current capacity?

The plan for the delivery of the legislative programme includes the high-level objectives of increasing capacity, improving capability, improving processes and improving governance. It focuses on actions to help deliver the current legislative programme; however, this should also contribute to increasing the capacity and capability in the longer-term.

One of the specific actions relating to increasing capacity was to create a central pool of Bill Managers to support the development of Bills and their subsequent passage through the Senedd. The aim of this pool is to build up capacity and capability across the legislative programme and help maximise resilience and efficiency. It will also help to create and maintain a central cohort of skilled and experienced Bill Teams and will increase the Welsh Government's ability to flexibly and quickly deploy resource to take forward Bills, thereby ensuring greater resilience, contingency and succession planning. Since the establishment of the pool an additional 9 Bill Managers and Deputy Bill Managers have joined this team to project manage Bills in the legislative programme, complementing the range of existing policy and legal staff already engaged in Bills.

An additional action in the plan is further prioritisation resources to the legislative programme. Wherever possible we have sought to prioritise movement of internal capacity to legislative roles by offering a range of development opportunities to grow an internal pipeline through managed moves, lateral adverts and temporary development opportunities.

There was also action to increase the capacity of Legal Services. Ongoing recruitment of lawyers has continued to be undertaken as a standing feature to seek to minimise risk that vacancies have the potential to cause. Additional lawyers have been added to the departmental structure in recognition of increased workloads.

Legal Services has also sought secondees and lawyers on fixed terms contracts to expand its resources to support delivery and is also looking to expand the Welsh Government's cohort of trainee solicitors to provide opportunities for training as well as increasing this flexible resource.

25. As regards your plan, it would also be useful to know when it was introduced, what objectives or milestones it sets and to what timeframes, and the outcome of any reviews, evaluation or assessments undertaken to date? This information would also be welcome for any equivalent predecessor plans or strategies in place from 2007 onwards.

The plan was a focused and time-limited plan that was in place from April to July 2022. Progress on actions contained in the plan were reported at the Legislative Programme Board, chaired by the Permanent Secretary, following its introduction in April. The Board continues to receive regular progress updates on longer-term actions to progress the key objectives in the plan referred to in the previous question.

26. We asked how long does it take to train somebody to be a parliamentary counsel if they're already a solicitor and a barrister (RoP, [83] to [87]). You agreed to provide us with detail and clarity on this point.

As a rule of thumb, the UK Parliamentary Counsel's Office position for many years has been that it takes at least 5 years to train a parliamentary counsel to a level that would enable them to lead on a medium-sized bill. This will often take longer depending on the individual and the extent to which they had relevant background experience. This is consistent with practices elsewhere.

Although this has proved difficult over the years within the Welsh Government (as we have essentially had to establish a legislative drafting office from scratch), the Office of the Legislative Counsel now operates a similar system under which less experienced drafters are trained by working closely with senior counsel who oversee the process.

Mick Antoniw MS
Counsel General and Minister for Constitution

Dr Andrew Goodall CBE,
Permanent Secretary to the Welsh Government

20 October 2022

Dear Mick and Andrew

Follow-up to the meeting of 10 October 2022

Thank you for appearing before the Committee on 10 October and giving evidence on matters relating to the Welsh Government's legislative programme and capacity to legislate.

There are a number of issues which we were not able to raise with you during the meeting. There are also matters we would like to pursue further. The Permanent Secretary also agreed to provide us with further information; details are included at the end of the Annex.

I would therefore be grateful to receive your responses to the questions listed in the Annex by 3 November 2022 (references to the Record of Proceedings (RoP) for the evidence session are provided where necessary).

Yours sincerely,



Huw Irranca-Davies
Chair

Welsh Government's legislative programme and capacity to legislate

1. Why do you consider it to be the case that the number of pieces of primary legislation passed in the Senedd has remained relatively static since 2007? Does the Welsh Government have a plan or ambition to increase the volume of primary legislation it brings forward to the Senedd?
2. Do you have any concerns about the effect of the growing amount of Welsh law being made through UK Parliament Bills on the Welsh Government's programme to improve the accessibility of the law in Wales?
3. Can you explain why disagreements on legislation have continued despite a new intergovernmental relations process being in place? For example, on the UK Infrastructure Bank Bill.
4. Does the Welsh Government accept that using UK Bills to legislate in devolved areas limits the opportunity for the Senedd to properly fulfil its scrutiny role?
5. Do you consider there to be an opportunity for the Senedd to play a greater role in deciding when the Welsh Government will seek provisions in UK Parliament Bills?
6. The Welsh Government has seconded staff to the Cabinet Office to work on the UK Procurement Bill. Is this a common practice or likely to be so? Was any assessment made of the resources needed to develop a Welsh Bill instead?

Retained EU Law (Revocation and Reform) Bill

7. You told us that your approach to the Retained EU Law (Revocation and Reform) Bill will be determined by what format the Bill might take (RoP [118]). Can you expand on this.
8. Has the process of reviewing retained EU legislation (REUL) begun?
9. How many pieces of REUL have been made by the Welsh Ministers, which are not included in the UK Government's estimated 2,400 pieces?
10. You said in Plenary on 5 October that you will do everything you can to protect standards that are important to Wales. Which REUL are you treating as priority? What reassurances can you give stakeholders, businesses and people in Wales who are concerned by the Bill?
11. You told us that you "want to get the constitutional principles right about the Bill" and to guarantee your position (RoP [118]). Can you expand on this.
12. You suggested that your current strategy is to prioritise intergovernmental engagement, via talks with UK Ministers and individual UK Government departments (RoP [118]). Can you set out what changes you are pursuing to the Bill in these discussions.
13. You said "at the moment, there are a number of areas where [the Bill] gives powers to UK Government to legislate in devolved areas. The discussions I've had with the relevant Minister have been to say that that has to change" (RoP [118]). Can you confirm whether the Welsh Government is seeking amendments to the Bill to remove these powers?

14. You explained that you have received “positive assurances” from the UK Government on the matter of powers in the Bill for UK Ministers to act in devolved areas (RoP [118]). Can you confirm if this means that the UK Government is open to removing these powers?
15. You also said “the proof of the pudding will be when we actually see the detail—that is, that the UK Government won't legislate, and certainly won't legislate unless we consented to that legislation” (RoP [118]). Not legislating in devolved areas and not legislating in devolved areas without the consent of Welsh Ministers are very different actions. Which of the two outcomes are you negotiating to achieve?
16. You **said** in Plenary on 5 October that you are carefully considering using powers in the Bill to restate legislation en bloc. What consideration has been given to using the power in clause 1(2) to avoid the initial sunset by simply listing all instruments that are devolved REUL, without individually analysing each instrument?
17. To what extent could the Senedd amend the Bill if it becomes an Act? For example could the Senedd change the December 2023 sunset clause insofar as it applies to devolved retained EU law?
18. How will you meet the capacity and resource challenge you **outlined** in Plenary on 5 October?
19. What impact might the need to preserve retained EU law have on your ability to bring forward Welsh Bills? Do you expect to see a further increase in the use of UK Bills to deliver your policy and legislative objectives as a result?
20. Does it remain the Welsh Government’s intention to bring forward a consolidation Bill on planning to the original planned timetable, given the impact that the Bill is likely to have on the Welsh Government’s capacity?
21. When will the Welsh Government engage with the Business Committee about the likely impact on Senedd business, including this Committee?

To the Permanent Secretary

22. Have you considered the recommendations of Audit Wales’ **report** on the Welsh Government’s workforce planning and management in relation to developing legislation?
23. You told us that the Welsh Government has made some decisions over recent months to expand the number of lawyers within the organisation “in order to give some additional headroom” (RoP, [28] to [45]). You agreed to provide us with figures confirming the number of lawyers working in Welsh Government on legislative matters and how many of these are additional recruits from the recent expansion exercise.
24. You said that you had put a plan in place that has been an opportunity to address some of the capacity concerns (RoP [81]). We would be grateful to receive further details about the plan, including broadly how it addresses capacity issues and what the Welsh Government is aiming to achieve through it. For example, is it to deliver more legislation or to fill vacancies to maintain current capacity?

25. As regards your plan, it would also be useful to know when it was introduced, what objectives or milestones it sets and to what timeframes, and the outcome of any reviews, evaluation or assessments undertaken to date? This information would also be welcome for any equivalent predecessor plans or strategies in place from 2007 onwards.
26. We asked how long does it take to train somebody to be a parliamentary counsel if they're already a solicitor and a barrister (RoP, [83] to [87]). You agreed to provide us with detail and clarity on this point.

Agenda Item 9.6

Julie James MS
Y Gweinidog Newid Hinsawdd
Minister for Climate Change



Llywodraeth Cymru
Welsh Government

John Griffiths MS
Chair, Local Government and Housing Committee
Senedd Cymru
SeneddHousing@senedd.wales

10 November 2022

Dear John

Thank you for your letter of 1 November regarding the Legislative Consent Memorandum (LCM) on the Levelling-up and Regeneration Bill (“the Bill”). I have provided a response to your questions below.

Clause 187 (Vagrancy and begging)

My officials have been proactively and regularly liaising with their counterparts in the UK Government to understand the UK Government’s intentions for this clause of the Bill. Unfortunately, a decision has not yet been made and we are therefore unable to provide you with any clarity on the possible changes the UK Government may make at this stage. We will continue to engage with the UK Government on this element of the Bill and update the Committee once we have clarification.

Financial Implications

Clause 1 - 6 (Levelling up missions)

The effect of the provisions is to place a duty on the UK Government to set, and report annually on progress towards achieving, levelling up missions to reduce geographical disparities across the United Kingdom. The requirement to report on the delivery of levelling up missions, and the parliamentary scrutiny of progress against these missions is a cost to the UK Government and will have no effect on Wales. The effect of the levelling up actions undertaken by the UK Government to deliver these missions is outside of the scope of the Bill.

Placeholder clauses: Clause 96 (Street votes) and Clause 187 (Vagrancy and begging)

Where provisions are placeholder provisions the clause does not contain the necessary detail for me to identify whether there will be any financial implications on Wales.

Part 3 (Planning)

The changes to the planning system under part 3 will all have familiarisation costs associated with the change. This one-off cost will be experienced by local authorities, businesses (including small and medium sized enterprises), and third sector where they engage in the system.

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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.

Clause 75,76,77,79,80,81 (Planning data)

The changes to the provision, processing and requirements of planning data will have financial costs for local authorities and those engaged in specific parts of the planning system in Wales. The provision as currently drafted only has effect in Wales on two limited areas. Firstly, in relation to the Secretary of State acting in non-devolved areas, for example for Nationally Significant Infrastructure Projects (NSIP). Secondly, the provisions currently apply in respect of the Secretary of State's functions under Part 5 of the Bill (Environmental Outcome Reports).

Therefore, where a NSIP, or Environmental Outcome Report is triggered they will be subject to the requirements. In other areas the standards do not apply. This will create a potential dual system of planning data in Wales that will create inconsistency, increasing costs for users of the planning system. It would therefore not fully realise the benefits identified in the Bill through a transition to digital planning system as it will not apply to the whole system in Wales.

Clause 112 (Regulations and Orders under the Planning Acts)

This clause concerns technical legal amendments to the general powers to make statutory instruments contained in The Town and Country Planning Act 1990, The Planning (Listed Buildings and Conservation Areas) Act 1990 and The Planning (Hazardous Substances) Act 1990. The amendment is a minor technical legal amendment aimed at making the legal position clear. There are no financial consequences as a result of the change.

Clause 116-130 (Environment outcomes report)

The provisions in the Bill currently provide for one overarching power to make provisions in respect of environmental outcome reports to accompany both strategic plans, and relevant project consents. The new system of environmental outcomes reporting has potential for efficiency savings through the simplification of consenting.

Clause 186 (Review of governance etc of Royal Institution of Chartered Surveyors (RICS))

This clause will enable the Secretary of State to commission periodic reviews of RICS that will give government information about the governance and performance of RICS, in order to satisfy itself that RICS performs in the public interest. There are no costs to Wales.

I intend to lay a revised LCM which includes this additional information about the financial impact, as well as addressing points raised by the Legislation, Justice and Constitution Committee, as soon as possible.

I am copying this letter to the Chair of the Climate Change, Environment and Infrastructure Committee, Llyr Gruffydd MS, the Chair of the Economy, Trade and Rural Affairs Committee, Paul Davies MS, and the Chair of the Legislation, Justice and Constitution Committee, Huw Irranca-Davis MS.

Yours sincerely



Julie James AS/MS

Y Gweinidog Newid Hinsawdd
Minister for Climate Change

Julie James MS
Minister for Climate Change
Welsh Government

1 November 2022

Dear Julie

Legislative Consent Memorandum (LCM) on the Levelling-up and Regeneration Bill

At our meeting on 27 October we considered the LCM on the Levelling-up and Regeneration Bill. In order to enable us to make an informed decision on whether or not to recommend consent, we would be grateful for more information in two areas in particular.

Firstly, we note that clause 187 (vagrancy and begging) is a placeholder provision therefore it is not yet clear whether or not it is a relevant provision for the purposes of Standing Order 29. The LCM notes that clarity is being sought in relation to clause 187 as the application table in the Annex to the Explanatory Notes states it does not apply to Wales, however, as currently drafted the Secretary of State's powers to make regulations are not limited to England only. As I'm sure you can appreciate, we will not be in a position to make a decision on legislative consent until clause 187 is replaced by a substantive provision and clarity can be given on its application. We would therefore be grateful if you could provide an update as to any discussions that have taken place with the UK Government regarding clause 187.

Secondly, we note that the LCM states:

The UK Government identify the overall Bill will have financial implications for the public sector, including local government, central government and the Planning Inspectorate. The UK Government identifies these costs will all be balanced by efficiency savings.

However the LCM makes no reference to the Welsh Government's views on the financial implications of this Bill. We would therefore be grateful if you could outline your views on the financial implications of the Bill for Wales.

We would be grateful for a response by 10 November so that it can be considered when we next discuss the LCM at our meeting on 16 November.

I am copying this letter to the Chair of the Legislation, Justice and Constitution Committee; the Chair of the Climate Change, Environment and Infrastructure Committee; and the Chair of the Economy, Trade and Rural Affairs Committee.

Yours sincerely



John Griffiths MS

Chair, Local Government and Housing Committee

Croesewir gohebiaeth yn Gymraeg neu Saesneg.

We welcome correspondence in Welsh or English.

Agenda Item 9/7s

Gweinidog y Gymraeg ac Addysg
Minister for Education and Welsh Language



Llywodraeth Cymru
Welsh Government

Ein cyf/Our ref MA/JMEWL/3042/22

Jayne Bryant MS
Chair
Children, Young People and Education Committee
Senedd Cymru
SeneddChildren@senedd.wales

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

10 November 2022

Dear Jayne and Huw,

Thank you both for your letters of 3 and 4 October 2022 respectively regarding both the Legislative Consent Memorandum I laid on the Schools Bill (the Bill) on 7 July and my letter to the Llywydd of 19 July. As you will be aware, whilst House of Lords Report Stage concluded on 18 July, the Bill is yet to proceed to Lords Third Reading. My officials are seeking clarification as to whether the Bill will be progressing given the appointment of the new Prime Minister. I will write to you as soon as there is some more information. In the meantime, I will respond to your queries seeking clarity on the following issues:

Legislative Competence Analysis

I can assure you that we have assessed the Bill as amended at Lords Report stage and published on 18 July and conclude that there are no changes which require a further LCM to be laid.

Clause 52 (2) - *The transitional, saving and consequential Provisions*

I am confident that the provision is narrowly framed (in consequence of the Bill) and will not, in my view, enable UK Government Ministers to make any substantive changes to devolved legislation.

UK Education Ministers Council meeting

Jayne, you specifically asked about when this meeting will take place. It is anticipated that the next UK Education Ministers council meeting will take place on 9 December 2022 and will be hosted by the Welsh Government. At this stage, I do not foresee the need to raise the Bill, but I await clarification on whether the Bill will be progressing through Parliament.

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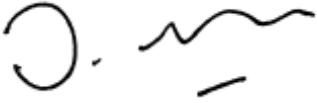
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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

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.

Yours sincerely,

A handwritten signature in black ink, consisting of a large 'J' followed by a series of wavy lines and a short horizontal stroke at the end.

Jeremy Miles AS/MS

Gweinidog y Gymraeg ac Addysg

Minister for Education and Welsh Language

Jeremy Miles MS
Minister for Education and Welsh Language

4 October 2022

Dear Jeremy

Legislative Consent Memorandum on the Schools Bill

At our meeting of 26 September we considered the [Legislation Consent Memorandum](#) you laid on 7 July in respect of the Schools Bill, and the [letter you sent to the Llywydd](#) on 19 July in respect of the Memorandum.

We would be grateful if you could clarify two matters which arose during our consideration.

1. In your letter, you referred to the legislative competence analysis the Welsh Government is undertaking in relation to the Bill as it progresses through the UK Parliament. Could you confirm if this analysis has been completed in relation to the to the Bill as amended? If so, what was the outcome of this analysis?
2. Clause 52(2) of the Bill provides the Secretary of State with a regulation-making power to make provision that is consequential on the Bill. This power could be used to amend law that applies in Wales, and there is no requirement in the Bill for the UK Government to consult or obtain the consent of the Welsh Government or the Senedd before making such amendments. Do you have any concerns regarding this clause? If so, what steps do you intend to take to resolve those concerns?

I would be grateful to receive your response to these questions by 3 November 2022.



Yours sincerely,

Huw Irranca-Davies

Huw Irranca-Davies

Chair

Jeremy Miles MS
Minister for Education and Welsh Language

3 October 2022

Schools Bill

Dear Jeremy,

The Business Committee referred the Legislative Consent Motion (LCM) on the Schools Bill to the Children, Young People and Education Committee and the Legislation, Justice and Constitution Committee. We considered the LCM during our meeting on 21 September.

I would be grateful if you could provide us with some more information about the School Bill to inform our discussions:

1. In your [letter to the Llywydd dated 19 July 2022](#), you stated that you were in the process of carrying out a legislative competence analysis in relation to the Bill as it progresses. Please could you provide us with any updates on your findings?
2. Clause 52(2) of the Bill contains a power for the UK Government to make regulations containing amendments that are consequential on the provisions of the Bill. This power could be used to make regulations containing consequential provisions that apply in Wales and there is nothing in the Bill which would require the UK Government to consult or obtain the consent of the Welsh Government or the Senedd before exercising this power. Do you have any concerns about clause 52(2), and if so what steps do you intend to take to mitigate your concerns?

We also understand that the next meeting of the UK Education Ministers Council will be hosted by the Welsh Government. Please can you set out when that meeting is scheduled to be held, and whether you intend to raise the Schools Bill - including any concerns that you have about the impact of the Bill on devolved Welsh powers – during that meeting?

Our reporting deadline for the Schools Bill LCM is currently 1 December. I would therefore appreciate your response no later than 10 November to enable us to consider your response at our meeting on 17 November and draft our report on the LCM before the reporting deadline.

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

Yours sincerely,

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

Jayne Bryant MS

Chair

Croesewir gohebiaeth yn Gymraeg neu Saesneg.

We welcome correspondence in Welsh or English.

Agenda Item 11

By virtue of paragraph(s) vi of Standing Order 17.42

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Agenda Item 12

By virtue of paragraph(s) vi of Standing Order 17.42

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



Llywodraeth Cymru
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John Griffiths MS
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10 November 2022

Dear John,

Thank you for your letter of 31 October in relation to the Legislative Consent Memorandum (LCM), and supplementary Legislative Consent Memorandum on the UK Social Housing (Regulation) Bill ("the Bill").

The latest data from the Social Housing Regulator in England confirms there are 18 Registered Providers who own and manage approximately 530 homes/units in Wales which will be subject to the changes proposed in the Bill. These are, in the main, special needs provision with some general needs and shared ownership. The Social Housing Regulator advises it does not hold information on the locations of the homes/units.

By way of additional information, which the Committee may find useful, the 2021 Financial Statements of Welsh Housing Associations confirms that Welsh Registered Social Landlords own and manage 169,337 homes in Wales. Additionally, two Welsh RSLs own/manage approximately 116 bedspaces/homes (as at Dec 2021) in England, again these are primarily specialist provision such as supported housing.

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

Yours sincerely

Julie James AS/MS
Y Gweinidog Newid Hinsawdd
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.

Julie James MS
Minister for Climate Change
Welsh Government

31 October 2022

Dear Julie

Legislative Consent Memorandum (LCM) and Supplementary LCM on the Social Housing (Regulation) Bill

You will be aware that the LCM and SLCM(2) on the Social Housing (Regulation) Bill have been remitted to our Committee for scrutiny; we considered these at our meeting on 27 October.

We note that the SLCM states:

“there are relatively few properties in Wales which are owned and/or managed by an English RP, who will be subject to the changes in regulatory environment described by the Bill.”

It would assist our consideration of the LCM and SLCM if you could provide further details on the number of properties in Wales which fall into this category and, if possible, their location. We would be grateful for a response by 10 November to enable us to give further consideration to this at our meeting the following week.

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

Yours sincerely



John Griffiths MS

Chair, Local Government and Housing Committee

Croesewir gohebiaeth yn Gymraeg neu Saesneg.

We welcome correspondence in Welsh or English.

Agenda Item 14

By virtue of paragraph(s) vi of Standing Order 17.42

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Agenda Item 16

By virtue of paragraph(s) vi of Standing Order 17.42

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