

Agenda – Legislation, Justice and Constitution Committee

Meeting Venue:	For further information contact:
Virtual – Video conference via Zoom	P Gareth Williams
Meeting date: 9 October 2023	Committee Clerk
Meeting time: 13.30	0300 200 6565
	SeneddLJC@senedd.wales

1 Introductions, apologies, substitutions and declarations of interest

(13.30)

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

(13.30 – 13.35)

3 Inter–Institutional Relations Agreement

(13.35 – 13.40)

3.1 Correspondence from the Minister for Climate Change: Inter–Ministerial Group for Net Zero, Energy and Climate Change

(Page 1)

Attached Documents:

LJC(6)–27–23 – Paper 1 – Letter from the Minister for Climate Change, 2 October 2023

3.2 Correspondence with the Minister for Rural Affairs and North Wales, and Trefnydd: The Plant Protection Products (Miscellaneous Amendments) Regulations 2023

(Pages 2 – 5)



Attached Documents:

LJC(6)-27-23 – Paper 2 – Letter from the Minister for Rural Affairs and North Wales, and Trefnydd, 3 October 2023

LJC(6)-27-23 – Paper 3 – Letter to the Minister for Rural Affairs and North Wales, and Trefnydd, 22 September 2023

4 Papers to note

(13.40 – 13.45)

4.1 Correspondence to the Minister for Climate Change: Legislative Consent Motion on the Energy Bill

(Pages 6 – 8)

Attached Documents:

LJC(6)-27-23 – Paper 4 – Letter to the Minister for Climate Change, 29 September 2023

4.2 Correspondence from the Minister for Health and Social Services to Committee Chairs: The Health Service Procurement (Wales) Bill

(Pages 9 – 11)

Attached Documents:

LJC(6)-27-23 – Paper 5 – Letter from the Minister for Health and Social Services to Committee Chairs, 2 October 2023

5 Motion to elect a temporary Chair under Standing Order 17.22 for the Committee meeting on 16 October 2023

(13.45)

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

(13.50)

7 Welsh Government draft budget 2024–25

(13.50 – 14.00)

(Pages 12 – 13)

Attached Documents:

LJC(6)-27-23 – Paper 6 – Draft letter

8 UK – EU Governance Inquiry

(14.00 – 14.20)

(Pages 14 – 40)

Attached Documents:

LJC(6)-27-23 – Paper 7 – Key themes arising discussion paper

LJC(6)-27-23 – Paper 8 – Brussels visit briefing

9 Enhancing Stakeholder Understanding of the United Kingdom

Internal Market Act 2020 and its Impact on Welsh Law:

Background briefing

(14.20 – 14.30)

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

Ein cyf/Our ref: JJ/PO/320/2023

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

Llŷr Gruffydd MS
Chair
Climate Change, Environment and Infrastructure Committee

Welsh Parliament
Cardiff Bay
Cardiff
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2 October 2023

Dear Huw, Llŷr,

I am writing in accordance with the inter-institutional relations agreement, to report on the latest meeting of the Net Zero, Energy and Climate Change Inter-Ministerial Group, held on 14 September 2023. The Deputy Minister for Climate Change attended the meeting on my behalf. The meeting focused on the comments from Chris Stark, Chief Executive of the Climate Change Committee and Heat Decarbonisation.

The meeting also was attended by Mairi McAllan MSP, Cabinet Secretary for Net Zero and Just Transition; Graham Stuart MP, Minister of State Energy Security and Net Zero; and Katrina Godfrey, Permanent Secretary at the Northern Ireland Department of Agriculture, Environment, and Rural Affairs.

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

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



Llywodraeth Cymru
Welsh Government

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

SeneddLJC@senedd.wales

3rd October 2023

Dear Huw,

The Plant Protection Products (Miscellaneous Amendments) Regulations 2023

Thank you for your letter of the 22 September 2023 seeking a response to questions raised by the Legislative Justice and Constitutional Committee (LJCC) at its meeting on the 18 September 2023.

I will address your questions in the order in which they have been presented in your letter.

1. The Plant Protection Products (Miscellaneous Amendments) Regulations (“the Regulations”) are being made using powers in the Retained EU Law (Revocation and Reform) Act 2023 (“the REUL Act”). Whilst there is no statutory consent procedure contained in section 14 of the REUL Act, the UK Minister for Environmental Quality and Resilience, Rebecca Pow, wrote to me asking for my consent to the Regulations. This is in line with the Welsh Government’s position that subordinate legislation made by the UK Government in relation to Wales with regard to devolved matters should only be made with the consent of the Welsh Ministers. As the legislation is in a devolved area, the Explanatory Memorandum to the legislation reflects that Defra officials have worked collaboratively with Scottish and Welsh Devolved Governments to develop the instrument, and the policy has been agreed across all three nations.
2. In accordance with the provisional Common Framework for Chemicals and Pesticides, Defra officials have engaged with Welsh Government officials to develop the Regulations collaboratively and I have been consulted on the terms of the Regulations throughout.

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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.

3. Prior to my decision to give consent, Welsh Government officials undertook an assessment of the specific power in the REUL Act being used to make these Regulations. Officials confirmed that they considered section 14(2) of the REUL to be the correct and appropriate provision for making these Regulations. Section 14(2) is a concurrent power which is being exercised here by UK Government on behalf of the Welsh Ministers on matters within a devolved area. Whilst there is not a legal requirement to seek consent, the UK Government have sought the Welsh Ministers consent in accordance with the convention on legislating in devolved areas.
4. Prior to my decision to give consent, Welsh Government officials considered Schedule 5 of the REUL Act as to the regulation making procedure and considered the UK Government's choice of scrutiny procedure. Welsh Government officials were satisfied that the relevant processes would be followed in respect of making this secondary legislation.
5. Officials in UK Government have undertaken a Regulatory Impact Assessment (RIA) which has been shared with Welsh Government officials in draft form. The RIA includes consideration of both regulatory and non-regulatory options, costs and benefits. The preferred option is to maintain the status quo by extending existing, or recently lapsed, transitional provisions, so the proposed legislation does not increase any regulatory burden.

Yours sincerely,

A handwritten signature in cursive script that reads "Lesley Griffiths". The signature is written in a light grey or blue ink on a white background.

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

Lesley Griffiths MS

Minister for Rural Affairs and North Wales, and Trefnydd

22 September 2023

Dear Lesley,

The Plant Protection Products (Miscellaneous Amendment) Regulations 2023

Thank you for your letter of 13 September 2023 in respect of your intention to consent to the UK Government laying before the UK Parliament The Plant Protection Products (Miscellaneous Amendment) Regulations 2023. We note that the UK Government's intention is to lay the draft regulations before the UK Parliament on 16 October 2023, and they will have a commencement date of 31 December 2023.

At our meeting of 18 September 2023, we considered your letter and detail contained therein. There are a number of matters which we would like to pursue with you further.

I would be grateful if you could provide a response to our questions, which are included in the annex to this letter, by 5 October 2023.

Yours sincerely,



Huw Irranca-Davies

Chair

Annex

1. You state that you received a letter from Rebecca Pow MP, Minister for Environmental Quality and Resilience, asking for your “formal consent” to the Regulations. The Regulations are being made using powers in the *Retained EU Law (Revocation and Reform) Act 2023* (the REUL Act). You will be aware that the REUL Act does not contain a provision requiring the consent of the Welsh Ministers to be sought before a UK Minister exercises a delegated power in a devolved area under that Act. Please would you confirm and provide details of the consent process which has been followed in respect of the Regulations.
2. Please would you confirm that the Welsh Ministers were consulted on the terms of the Regulations as part of the relevant common framework structures.
3. Before making a decision to consent to the Regulations, did the Welsh Government undertake any assessment of the specific power in the REUL Act being used to make the Regulations?
4. Before making a decision to consent to the Regulations, did the Welsh Government undertake any assessment of the choice of scrutiny procedure being followed by the UK Government?
5. You will be aware that the powers in section 14 of the REUL Act are constrained to revocation or replacement of the law that a relevant national authority considers does not increase the regulatory burden in a particular subject area. Before making a decision to consent to the Regulations, did the Welsh Government’s consideration of the Regulations include an assessment of how they comply with this constraint and if there is any potential increase to the regulatory burden? If so, would you share it with the Committee?

**Legislation, Justice and
Constitution Committee**

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Julie James MS
Minister for Climate Change

29 September 2023

Dear Julie

Legislative Consent Motion on the Energy Bill

I am writing in relation to comments you made in Plenary on 12 September 2023 during the debate on a legislative consent motion for the Energy Bill. You stated:

"Now, we could have put an LCM in at the beginning of September, but at that time we were having a correspondence with your committee and others about the fact that we kept putting multiple LCMs up on the same Bill. So, I do feel we're a little bit stuck between a rock and a hard place there. So, in trying to comply with the 'don't put 14 LCMs up on a single Bill', we've now fallen into the 'we didn't put one up fast enough' on the draft Bill. So, hands up, we didn't. But I do think, in fairness, we were actually trying to put an LCM that encapsulated the Bill as we thought it would be presented rather than a sequential set of LCMs."

We do not consider that your remarks present an accurate picture of the position the Committee has adopted in relation to the scrutiny of legislative consent memoranda for UK Bills. Moreover, two matters are unclear to us: first, why the first memorandum was delayed by 49 weeks when you indicated you could have laid one in September 2022 and secondly, which correspondence you are referring to when you say "we were having a correspondence with your committee...".

Indeed, in our report on the Welsh Government's legislative consent memoranda on the Energy Bill we stated the following:

"We would also have liked to consider the Minister's comments on laying multiple legislative consent memoranda on the same Bill. We have said previously that from the perspective of this Committee, which looks at legislative consent memoranda

on all UK Bills, delays in laying such memoranda reduces the amount of time we have to scrutinise and understand the Welsh Government's approach to a Bill."

When making this point, we cited our 2021 report on the Legislative Consent Memorandum on the Leasehold Reform (Ground Rent) Bill, which included commentary on delays to the laying of the Memorandum at paragraphs 26 to 35. In particular paragraph 30 of that 2021 report states:

"We have already dealt with multiple Welsh Government Legislative Consent Memoranda in respect of individual UK Government Bills and, having adapted successfully to the challenges this brings, have not found this approach to be incoherent or confusing."

The 2021 report also drew attention to our letter to Business Committee in October 2021 which, amongst other things, highlighted our concerns at the impact delays in laying legislative consent memoranda can have on scrutiny of the Welsh Government.

We would also emphasise the importance of legislative consent memoranda being laid within or as close to the two week period as prescribed by Standing Orders. We are all aware of the challenges that the Senedd faces in having the time to scrutinise these memoranda effectively. This is why the Standing Orders prescribe the target of two weeks so that any such challenges are ameliorated and the Senedd has the time to assess, possibly take evidence and have a more informed debate. By delaying the formal laying of memoranda the role of the Senedd is undermined in the consent process.

Moreover, it would not be sensible to consider a legislative consent memorandum that covers a Bill and all amendments towards the end of the UK parliamentary process. Not only would it be outside the requirements of Standing Orders, it would leave virtually no time for any detailed scrutiny by the Senedd, or its committees, of law to be made in devolved areas that ordinarily the Senedd would itself expect to make. Such an approach would in effect relegate an already flawed way of law being made in devolved areas to a largely superfluous exercise, which would not be acceptable.

We have commented on the number of legislative consent memoranda being laid by the Welsh Government for some UK Bills. However, we have done so only to highlight the profound inadequacies of a different Parliament legislating for Wales on devolved matters.

Yours sincerely,

Huw Irranca-Davies

Huw Irranca-Davies
Chair

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

Agenda Item 4.2


Llywodraeth Cymru
Welsh Government

Russell George MS
Chair, Health and Social Care Committee

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

Peredur Owen Griffiths MS
Chair, Finance Committee

2 October 2023

Dear Russell, Huw & Peredur,

The Health Service Procurement (Wales) Bill – Stage 3 Government Amendments

Today I have tabled 6 Government Amendments for Stage 3 of the Health Service Procurement (Wales) Bill. The Purpose and Effect table (copy attached at **Annex A**) provides an explanation of the amendments.

I would like to take the opportunity again to reiterate my thanks to all three Committees for scrutinising the Bill and its supporting documentation.

Yours sincerely,



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

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ANNEX A

THE HEALTH SERVICE PROCUREMENT (WALES) BILL – STAGE 3 GOVERNMENT AMENDMENTS

This table provides information about the amendments tabled in the name of Eluned Morgan MS on 29 September 2023.

No.	GOVERNMENT AMENDMENT	GWELLIANT Y LLYWODRAETH	PURPOSE AND EFFECT
7.	Section 2, page 1, line 15, leave out '116' and insert '120'.	Adran 2, tudalen 1, llinell 16, hepgorer '116' a mewnosoder '120'.	<p>This is a technical amendment to update; following numerical changes to the UK Government's Procurement Bill during its scrutiny process; the numbering of the section within the Procurement Bill which contains the power for a Minister of the Crown to disapply provisions within that Bill in relation to regulated health procurement. This is the equivalent power to that for the Welsh Ministers by virtue of section 2(2) of the Health Service Procurement (Wales) Bill.</p> <p>The effect of this amendment is to ensure the new section (120A, as amended) being inserted by virtue of section 2(2) of the Health Service Procurement (Wales) Bill, which contains the power for the Welsh Ministers to disapply provisions in the Procurement Bill in relation to regulated health service procurement in Wales, will directly follow the equivalent power for a Minister of the Crown. This will ensure clarity for readers of both the Health Service Procurement (Wales) Bill and the Procurement Bill.</p>

No.	GOVERNMENT AMENDMENT	GWELLIANT Y LLYWODRAETH	PURPOSE AND EFFECT
8.	Section 2, page 1, line 16, leave out '116A' and insert '120A'.	Adran 2, tudalen 1, llinell 17, hepgorer '116A' a mewnosoder '120A'.	Consequential to amendment 7.
9.	Section 2, page 1, line 28, leave out '118(10) and insert '122(10)'.	Adran 2, tudalen 1, llinell 29, hepgorer '118(10)' a mewnosoder '122(10)'.	<p>This is a technical amendment to update the numbering of a new paragraph being inserted into the UK Government's Procurement Bill by virtue of section 2(3) of the Health Service Procurement (Wales) Bill, following numerical changes to the Procurement Bill during its scrutiny process.</p> <p>The effect of this amendment is to ensure any regulations made by the Welsh Ministers using the power in the Procurement Bill (by virtue of section 120A, as amended), are subject to the affirmative procedure and as such may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, Senedd Cymru.</p>
10.	Section 2, page 1, line 28, leave out '(l)' and insert '(o)'.	Adran 2, tudalen 1, llinell 29, hepgorer '(l)' a mewnosoder '(o)'.	Consequential to amendment 9.
11.	Section 2, page 1, line 29, leave out '(la)' and insert '(oa)'.	Adran 2, tudalen 1, llinell 30, hepgorer '(la)' a mewnosoder '(oa)'.	Consequential to amendment 9.
12.	Section 2, page 1, line 29, leave out '116A' and insert '120A'.	Adran 2, tudalen 1, llinell 30, hepgorer '116A' a mewnosoder '120A'.	Consequential to amendment 7.

Agenda Item 7

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

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Agenda Item 8

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

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