

# Agenda – Legislation, Justice and Constitution Committee

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Meeting Venue:	For further information contact:
Committee Room 2, Senedd	P Gareth Williams
Meeting date: 13 January 2025	Committee Clerk
Meeting time: 13.30	0300 200 6565
	<a href="mailto:SeneddLJC@senedd.wales">SeneddLJC@senedd.wales</a>

## Hybrid

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### Public meeting

(13.30 – 15.00)

**1 Introduction, apologies, substitutions and declarations of interest**  
(13.30)

**2 Evidence session with the Counsel General and Minister for  
Delivery on the Legislation (Procedure, Publication and Repeals)  
(Wales) Bill**

(13.30 – 14.30)

(Pages 1 – 13)

[Legislation \(Procedure, Publication and Repeals\) \(Wales\) Bill, as introduced](#)  
[Explanatory Memorandum](#)  
[Responses to the Committee’s consultation on the Bill](#)

Julie James MS, Counsel General and Minister for Delivery

Dylan Hughes, First Legislative Counsel, Welsh Government

Claire Fife, Policy Advisor to the Counsel General and Head of the Legislative  
Codes Office, Welsh Government

Attached Documents:

LJC(6)-02-25 – Paper 1 – Letter from the Counsel General and Minister for  
Delivery, 29 November 2024



LJC(6)-02-25 – Paper 2 – Letter to the Counsel General and Minister for Delivery, 15 November 2024

LJC(6)-02-25 – Paper 3 – Briefing paper

LJC(6)-02-25 – Paper 4 – Legal Advice Note

## **Break**

(14.30 – 14.35)

### **3 Instruments that raise no issues to be reported to the Senedd under Standing Order 21.7**

(14.35 – 14.40)

(Page 14)

Attached Documents:

LJC(6)-02-25 – Paper 5 – Draft report

#### **3.1 SL(6)560 – The Security And Emergency Measures (Water And Sewerage Undertakers And Water Supply Licensees) (Amendment And Revocation) Direction 2024**

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

(14.40 – 14.45)

**Affirmative Resolution Instruments**

#### **4.1 SL(6)561 – The Council Tax Reduction Schemes (Prescribed Requirements and Default Scheme) (Miscellaneous Amendments) (Wales) Regulations 2025**

(Pages 15 – 17)

Attached Documents:

LJC(6)-02-25 – Paper 6 – Draft report

LJC(6)-02-25 – Paper 7 – Written Statement by the Cabinet Secretary for Finance and Welsh Language, 10 December 2024

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

(14.45 – 14.50)

### **5.1 SL(6)538 – The Nutrition and Health Claims (Wales) (Amendment) Regulations 2024**

(Pages 18 – 20)

Attached Documents:

LJC(6)-02-25 – Paper 8 – Letter from the Minister for Mental Health and Wellbeing, 6 January 2025

LJC(6)-02-25 – Paper 9 – Letter to the Minister for Mental Health and Wellbeing, 28 November 2024

### **5.2 SL(6)557 – The Building (Registered Building Control Approvers etc.) (Wales) Regulations 2024**

(Pages 21 – 24)

Attached Documents:

LJC(6)-02-25 – Paper 10 – Report

LJC(6)-02-25 – Paper 11 – Welsh Government response

### **5.3 SL(6)565 – The Local Health Boards, NHS Trusts and Special Health Authorities (Constitution, Membership and Procedures) (Miscellaneous Amendments) (Wales) Regulations 2024**

(Pages 25 – 27)

Attached Documents:

LJC(6)-02-25 – Paper 12 – Report

LJC(6)-02-25 – Paper 13 – Welsh Government response

## **6 Inter-Institutional Relations Agreement**

(14.50 – 14.55)

**6.1 Correspondence from the Deputy First Minister and Cabinet Secretary for Climate Change and Rural Affairs: The Retained EU Law (Revocation and Reform) Act 2023 (Consequential Amendments) Regulations 2025**

(Page 28)

Attached Documents:

LJC(6)-02-25 – Paper 14 – Letter from the Deputy First Minister and Cabinet Secretary for Climate Change and Rural Affairs, 6 January 2025

**6.2 Correspondence from the Welsh Government: Meetings of inter-ministerial groups**

(Pages 29 – 32)

Attached Documents:

LJC(6)-02-25 – Paper 15 – Letter from the Cabinet Secretary for Social Justice, Trefnydd and Chief Whip: Safety, Security and Migration Interministerial Group, 7 January 2025

LJC(6)-02-25 – Paper 16 – Letter from the Cabinet Secretary for Social Justice, Trefnydd and Chief Whip: The Four Nations Group on the UK Government Child Poverty Strategy, 9 January 2025

**6.3 Correspondence from the Deputy First Minister and Cabinet Secretary for Climate Change and Rural Affairs: The Common Organisation of the Markets in Agricultural Products (Marketing Standards and Organic Products) (Transitional Provisions) (Amendment) Regulations 2025**

(Pages 33 – 34)

Attached Documents:

LJC(6)-02-25 – Paper 17 – Letter from the Deputy First Minister and Cabinet Secretary for Climate Change and Rural Affairs, 7 January 2025

**7 Papers to note**

(14.55 – 15.00)

**7.1 Correspondence from the Equality and Social Justice Committee: Joint-ministerial scrutiny session on criminal justice**

(Page 35)

Attached Documents:

LJC(6)-02-25 – Paper 18 – Letter from the Equality and Social Justice Committee, 6 January 2025

**7.2 Correspondence from the Llywydd: Representation on inter-parliamentary bodies**

(Pages 36 – 37)

Attached Documents:

LJC(6)-02-25 – Paper 19 – Letter from the Llywydd, 7 January 2025

**7.3 Correspondence with the Counsel General and Minister for Delivery: The Welsh Government's Principles on UK Legislation in devolved areas**

(Pages 38 – 45)

Attached Documents:

LJC(6)-02-25 – Paper 20 – Letter from the Counsel General and Minister for Delivery, 9 January 2025

LJC(6)-02-25 – Paper 21 – Letter to the Counsel General and Minister for Delivery, 17 December 2024

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

(15.00)

**Private meeting**

(15.00 – 17.00)

**9 Evidence session with the Counsel General and Minister for Delivery on the Legislation (Procedure, Publication and Repeals) (Wales) Bill: Consideration of evidence**

(15.00 – 15.15)

## **10 International agreements: Draft report**

(15.15 – 15.25)

(Pages 46 – 58)

Attached Documents:

LJC(6)-02-25 – Paper 22 – Draft report

## **11 Supplementary Legislative Consent Memoranda on the Water (Special Measures) Bill: Consideration of draft report**

(15.25 – 15.55)

(To Follow)

Attached Documents:

LJC(6)-02-25 – Paper 23 – Draft report

## **12 Legislative Consent Memorandum on the Tobacco and Vapes Bill**

(15.55 – 16.10)

(Pages 59 – 87)

Attached Documents:

LJC(6)-02-25 – Paper 24 – Legal Advice Note

## **13 Subordinate legislation laid in English only**

(16.10 – 16.20)

(To Follow)

Attached Documents:

LJC(6)-02-25 – Paper 25 – Paper

## **14 Monitoring report**

(16.20 – 16.30)

(Pages 88 – 111)

Attached Documents:

LJC(6)-02-25 – Paper 26 – Monitoring report

## **15 Statutory instruments previously considered**

(16.30 – 16.40)

(Pages 112 – 149)

Attached Documents:

LJC(6)-02-25 – Paper 27 – Paper

## **16 Legislative Consent Memorandum on the Data (Use and Access) Bill**

(16.40 – 16.50)

(Pages 150 – 151)

[The Welsh Government's Legislative Consent Memorandum on the Data \(Use and Access\) Bill](#)

Attached Documents:

LJC(6)-02-25 – Paper 28 – Letter from the Cabinet Secretary for Economy, Energy and Planning to the Llywydd, 30 October 2024

## **17 Welsh Government Draft Budget 2025–26: Consideration of written evidence**

(16.50 – 17.00)

(Pages 152 – 161)

[Responses to the Finance Committee's consultation on the Welsh Government Draft Budget 2025–26](#)

Attached Documents:

LJC(6)-02-25 – Paper 29 – Letter from the Deputy First Minister and Cabinet Secretary for Climate and Climate Change, and the Counsel General and Minister for Delivery, 8 January 2025

LJC(6)-02-25 – Paper 30 – Letter to the Deputy First Minister and Cabinet Secretary for Climate and Climate Change, and the Counsel General and Minister for Delivery, 14 November 2024

Ein cyf/Our ref: CG/PO/359/2024

Llywodraeth Cymru  
Welsh Government

Mike Hedges MS, Chair  
Legislation, Justice and Constitution Committee  
Cardiff Bay  
Cardiff  
CF99 1SN

29 November 2024

Dear Mike

### **Legislation (Procedure, Publication and Repeals) (Wales) Bill**

Thank you for your letter of 15 November regarding the Bill. My response follows.

#### **The marshalled list for legislation**

We briefly discussed the marshalled list during my evidence to the Committee.

Amendments to Bills are numbered in the order in which they are tabled, but the consideration of amendments is determined, usually, in the order in which they affect the Bill. Once all the amendments have been tabled they are then assembled and arranged (in other words 'marshalled') into the order in which they will be considered and voted upon. A "marshalled list" showing this order is then produced.

I agree with the sentiments expressed by Members of the Committee that both the marshalled list and voting on amendments as they affect the Bill rather as they are debated, can be confusing for those outside the immediate proceedings. We need to consider how to encourage fuller engagement in the legislative process and the way we amend Bills is an important part of that.

As my officials mentioned in evidence to you, the marshalled list and our current system of considering amendments is based on a paper-based print orientated world. This is a world we should have moved on from in other circumstances. We need to consider how technology that already exists could enable amendments to be viewed and voted upon in a more accessible and understandable way. I am keen for the Senedd and the Government to consider the opportunities that may be available to improve the current process.

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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.

## **Borrowing powers of the Welsh Development Agency**

The Welsh Development Agency (WDA) was established under the Welsh Development Agency Act 1975 (“the 1975 Act”). The WDA was abolished in 2006 and its functions were transferred initially to the National Assembly as constituted in 1999 and then in turn (by virtue of the Government of Wales Act 2006) to the Welsh Ministers.

Although the Welsh Development Agency (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (S.I. 2005/3226) abolished the WDA and transferred its functions, property, rights and liabilities, the 1975 Act was retained albeit in amended form. A borrowing power that the WDA had under Schedule 3 to the 1975 Act was also transferred to the Welsh Ministers. However, this had become only a theoretical power by the time it was transferred. This was because under (UK) Treasury rules, if the Welsh Ministers (or indeed the former WDA) had exercised the power, the money would have been treated as a receipt, passing directly to the Welsh Consolidated Fund, producing no additional net resources for Wales. In other words, the sum borrowed would have been deducted from the moneys allocated to the Welsh Consolidated Fund by the Treasury – meaning, in practice, it was a power that could not be used.

The Wales Act 2014, which enabled the Welsh Ministers to borrow in limited circumstances (without that restriction), eventually repealed the power in the 1975 Act.

## **Response to questions in the Annex to the Committee’s letter**

**Question 1: With regard to your responsibility for overseeing the timetable for, and delivery of, the Legislative Programme, please outline why the decision was made to attach a higher priority for the introduction of this Bill over the potential introduction of a Senedd Bill including provisions which currently appear within UK Government legislation, such as within the Renters’ Rights Bill.**

During my evidence on 4 November I explained that this Bill has been developed by our Legislative Counsel, who have worked on it as and when time has allowed. It has not been prioritised above other legislation, it is merely the case that it is now ready and a slot was available for introduction.

I do not view this Bill today as being more important than another one. Instead it is just part of the work we have been doing for some time: quietly and persistently working to improve the accessibility of Welsh law.

The Cabinet Secretary for Housing and Local Government has already provided evidence to the Committee on the Renters’ Rights Bill, which I note amends Welsh housing legislation.

**Question 2: The Explanatory Memorandum (EM) does not reference the Bill’s impact on human rights. Please indicate:**

- **whether the Welsh Government has undertaken an assessment of the human rights implications of the Bill’s provisions; and**
- **in particular, whether the Welsh Government believes that section 2 of the Bill will have any impact on human rights.**

The Government has undertaken an assessment of the human rights implications of the Bill, and I am satisfied that its provisions are compatible with the Convention rights. Furthermore, I consider that the Bill has a positive impact on both human rights and the rule of law, because it puts the arrangements for the scrutiny and publication of legislation on a clearer legal basis and removes unnecessary clutter from the law of Wales.

The Government does not consider that section 2 gives rise to any issues about compatibility with the Convention rights. In any case where a road traffic order engages Convention rights, the Welsh Ministers will be required to act compatibly with those rights in making and enforcing the order. There are also statutory procedures for making and publicising road traffic orders, for example in SI 1990/1656 and SI 1992/1251 made under the Road Traffic Regulation Act 1984; and new section 37Z of the 2019 Act (inserted by section 3 of the Bill) will require the Welsh Ministers to publish all Welsh subordinate instruments they make that are not required to be made by Welsh statutory instrument.

**Question 3: The EM, at paragraph 82, states that there is “no immediate intention” to use the powers in new section 37F(2)(c) and Schedule 1A, paragraph 6(3)(c), of the Legislation (Wales) Act 2019 (the 2019 Act), as inserted by section 1 of the Bill. The EM goes on to state that it is however “prudent to ensure there is an appropriate mechanism available to enable specific enactments to be listed if the Senedd or the Welsh Ministers consider particular instruments need not be laid before the Senedd.”**

**Please provide:**

- **further justification for the inclusion of these powers, in the apparent absence of an intention to use them; and**
- **an explanation of why it was decided to confer these powers on the Welsh Ministers, rather than leave it for the Senedd to decide in each enactment.**

As I outlined to the Committee in my evidence, the intention with new Parts 2A and 2B is to codify and modernise existing legislative arrangements to reflect both the realities of devolution and of current practice. Section 37F captures both existing arrangements and practices, as well as improving on the current position.

At present if an enactment does not provide that a statutory instrument must be laid before the Senedd (either as part of the procedure for its making or otherwise), then the instrument would not be laid. New section 37F provides a ‘default’ such that Welsh statutory instruments not subject to a procedure under section 37C, 37D or 37F, must be laid. This will mainly affect commencement orders and certain other orders

However, there are some exemptions from the default requirement: “local” instruments that are not currently required to be laid, and those subject to the special Senedd procedure (and which would therefore be laid under that procedure). Officials have undertaken an exercise to identify any other enactments where there is not currently a requirement to lay an instrument before the Senedd, the effect of which should be maintained. To date that work has not identified any relevant enactments, however we cannot be sure that such an existing enactment would not be uncovered at a future point. The powers at section 37F(2)(c) and paragraph 6(3)(c) of Schedule 1A therefore provide a mechanism for adding such enactments to the list of exemptions from the default requirement.

I trust the Committee will therefore understand that I do not agree with your characterisation of the Government’s intentions in your correspondence. As set out in the Explanatory Memorandum there is no “immediate intention”, which is not the same as no intention ever.

It remains open to the Senedd to decide that powers in a future Bill to make subordinate legislation as a Welsh statutory instrument need not be exercised subject to a procedure. And in those cases, it is also open to the Senedd to set out that section 37F would not apply. The Bill does not constrain the powers of the Senedd in this regard.

**Question 4: Please outline in more detail how new section 37Z(2) of the 2019 Act, which requires the Welsh Ministers to prepare and publish a determination about the numbering and classification of Welsh subordinate instruments, will operate in practice.**

In developing new Part 2B we sought to ensure that where certain aspects of publication affected both Acts and Welsh statutory instruments, we made comparable provision. For example, section 37J deals with the numbering of Acts and section 37P makes analogous arrangements for instruments. Similarly, we have sought to ensure like for like arrangements exist for publication and preservation.

Because subordinate legislation made by the Welsh Ministers other than as a Welsh statutory instrument is not published by or on behalf of the King's Printer, we have not included the detailed arrangements for publication of this legislation in the Bill/Part 2B. Instead, as noted by your Committee, new section 37Z(2) requires the Welsh Ministers to prepare and publish a determination on such matters.

I expect the determination to set out the detailed requirements that officials will follow when arranging publication. As such it will need to outline the approach to be taken on numbering - for example, a new series to start each calendar year, where the number is to be located on different types of subordinate legislation, etc. It will also set out how such subordinate legislation is to be classified. For example, by subject and if so, whether a subject heading is recorded on the subordinate legislation or whether this forms part of a register of subordinate legislation.

The overall intention is that all subordinate legislation will be published when it is made. Where legislation has been superseded (for example, a Code of Practice has been updated), the current working assumption is that if the earlier version is replaced and is not on the Government's website a reference to it will be shown and it will be available on request. To support these publication ambitions it is necessary that a full record is made, and individual legislation is capable of identification (through numbering and classification).

The determination will serve as a clear point of reference to strengthen our approach to publishing subordinate legislation.

**Question 5: Please outline why it is necessary to include the provision in paragraph 7 of Schedule 1A, which provides the Welsh Ministers with delegated powers to amend any enactment to reflect the effect of, or make provision consequential upon, the Schedule.**

Please see Table 3 of the Explanatory Memorandum and paragraph 59 of the Explanatory Notes.

**Question 6: Please can you indicate whether there are any provisions in the Bill that would enable the Welsh Ministers to change the procedure attached to an existing power delegated to the Welsh Ministers?**

The only circumstances in the Bill under which the Welsh Ministers may change the procedure attached to an existing power, is set out in new section 37G. This is however a restatement of existing section 40 of the 2019 Act (and section 40 is omitted by virtue of paragraph 14 of Schedule 3 to the Bill).

There is no general power to change the procedure attached to existing powers.

**Question 7: During the evidence session, your official referred to the Bill's creation of a new obligation on the King's Printer of Acts of Parliament to publish Welsh legislation in an up-to-date form. Your official also noted that other "certain gaps" in relation to the King's Printer will be filled by the Bill. Please provide an outline of these gaps and how the Bill seeks to address them.**

In relation to Acts of Senedd Cymru, the Bill provides:

- an express obligation upon the King's Printer for Wales to publish the certified copy of the official print of the Act (see section 37M). The obligation to do so is only implied in section 115 of the Government of Wales Act 2006.
- a requirement to publish associated documents (section 37M) and a power to print these (section 37Y). This is not currently provided for in legislation, but in practice the King's Printer publishes the Explanatory Notes to Acts of Senedd Cymru. For consolidation Acts, the King's Printer also publishes tables of origins and destinations, and copies of the drafters' notes. In future this could also include impact assessment or other materials.
- a requirement to publish a table of the effect of the Act upon other enactments (if applicable) (section 37U).
- the requirement to publish means publishing online, something that is not currently expressly provided for.

In relation to Welsh statutory instruments,

- new sections 37N(2)(c), 37P(2)(b) and 37Q(2)(c) make provision regarding the subject headings found on statutory instruments.
- new section 37P(3) make clear that subsidiary numbers may be used in relation to instruments (see also paragraph 93 of the Explanatory Notes).
- new sections 37N(2)(b) and 37Q(2)(d) and (e) fully reflect the way that commencement information is both provided and included on instruments (see also paragraph 95 of the Explanatory Notes).
- there is a new requirement to publish associated documents (section 37Q(3)) and a power to print these (section 37Y).
- new section 37R is designed to reflect how an instrument subject to (what is referred to today as) the 'made affirmative' procedure is re-published. In making provision on this we have included an obligation on the King's Printer to include a statement that an instrument has ceased to have effect where the Senedd has not confirmed it under section 37D. The current practice is that in those circumstances such instruments are not republished with that information, which could cause a reader not to appreciate the subordinate legislation has ceased to have effect.
- there is a current requirement upon the Secretary of State to arrange for the King's Printer to publish tables of the effects on other enactments of statutory instruments that are published in something called the "annual edition". The Bill requires tables of effects to be published, but this is now online and they must be published in a much more timely manner than current legislative provision.
- as with Acts, requirements to publish means publishing online, something that is not currently expressly provided for.

These matters are either not dealt with, or not as comprehensively dealt with, in the Statutory Instruments Act 1946 or the associated 1947 Regulations.

The duties and powers of the King's Printer to print and sell Acts, instruments, draft instruments and certain documents (section 37Y) takes account of existing legislative provision, albeit this is not expressed as clearly, and also reflects the current arrangements in practice.

In preparing new section 37Z2 account has been taken of the Statutory Instruments (Production and Sale) Act 1996, but again has been designed to ensure there is express provision regarding delegation of functions.

The requirement upon the King's Printer to maintain and publish a record of Welsh legislation (section 37W) is new.

For completeness, it is worth noting two additional matters:

- the 1946 Act and associated 1947 Regulations make provision regarding statutory instruments made under “any Act” and by virtue of section 11A of the 1946 Act this includes Acts of Senedd Cymru and Measures. But the definition of “responsible authority” in regulation 1 of the 1947 Regulations does not encompass persons other than the Minister who makes an instrument or the Minister responsible for the preparation of an Order in Council. So in relation to Wales this includes the Welsh Ministers but does not expressly include any devolved Welsh authority that makes such an instrument. A statutory instrument may be made by the Welsh Ministers or another devolved Welsh authority, and as such the definition of Welsh statutory instrument now expressly provides for this (see section 37A). The Bill then goes on to ensure that the requirements within Part 2B fully reflect the relevant responsibilities of all parties. This will also avoid future Bills having to expressly apply the 1946 Act to devolved Welsh authorities if the Senedd is giving them powers to make subordinate legislation by way of statutory instrument (as is currently required).
- new section 37O fills a separate gap in the current legislative arrangements and reflects existing operational practices between the Welsh Government and the National Library of Wales.

**Question 8: The EM, at paragraphs 70 to 72, outlines consultation relevant to the Bill’s repeal of the Domestic Fire Safety (Wales) Measure 2011. Specifically, it refers to a consultation on the inclusion of sprinkler systems in care homes for children; however – as the EM also states – the Measure was intended to apply to “all new and converted residences”. Please provide:**

- **an outline of any further consultation that has been undertaken in respect of this proposed repeal;**

The requirements for installing fire suppression systems are set out in and, importantly, enforced through, the Building Regulations. This was not the case when the Measure was introduced. The most recent consultation regarding sprinklers in care homes was the last step in ensuring the Building Regulations reflect all aspects the Measure could have covered.

The Government did not consider it necessary therefore to undertake a separate consultation to establish whether any aspect of the Measure needed to remain, and it is now included in the Bill for repeal.

- **your assessment of the impacts of moving sprinkler system requirements from primary legislation to secondary legislation;**

The requirements for fire suppression systems are already in the Building Regulations, this Bill is not changing that position. When the Government included the requirements in those Regulations in 2013, this was seen as an important step forward. The Building Regulations help ensure that new buildings, conversions, renovation and extensions are safe, healthy and high-performing. They also provide arrangements for compliance and enforcement. They are supported by a suite of Approved Documents. Those involved in the construction and renovation of buildings are therefore looking in one place for the requirements that will apply. They do not need to go and find another piece of legislation to cover one discrete aspect. It is the same principle we are using for codification more generally.

Given that the sprinkler system requirements are already addressed by the Building Regulations, and it is the Regulations that are operative in practice, I do not consider there

are any adverse impacts from now repealing the Measure. The repeal is removing primary legislation that is no longer of practical utility or benefit.

- **confirmation as to whether current Building Regulations provide the same level of requirements for sprinklers systems as was included within the Measure.**

Given the limited extent to which the Measure was commenced, and the recent amendment in relation to care homes for children, the Building Regulations now cover the same matters that, in practice, the Measure covered. As such no gaps will be created in practice by the repeal of the Measure.

**Question 9: The EM, at paragraphs 60 and 61, states that the Bill no longer includes repeal of sections 53 to 56 of the Countryside and Rights of Way Act 2000, following their commencement in England, despite it remaining the Welsh Government’s policy not to commence these provisions. Please provide:**

- **further information in relation to the Welsh Government’s decision not to include these provisions within the Bill;**
- **an explanation as to whether, in place of repealing the sections, it could not have added “in England” to the end of the relevant provisions, which would appear to be in accordance with the other repeals in the Bill;**

The Government’s position has been set out on sections 53 to 56 of the 2000 Act and it remains the case that we do not consider these sections should be commenced in relation to Wales.

However, the test we have used for including a repeal in the Bill is that the matter is suitable for inclusion because the provisions are no longer of practical utility or benefit. Something could fall into this category if it is:

- (a) obsolete, spent or superseded;
- (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).

So although sections 53 to 56 of the 2000 Act provisions have not been commenced, the opportunity to commence and bring in a cut-off date remains. There is therefore a policy choice about whether or not they are commenced. We consulted on the draft Bill on that basis.

The UK Government’s decision means the provisions now appear to have some practical utility in relation to England. Further, for the time being at least, that they could not be repealed by a Repeals Bill operating in relation to England.

I reiterate the Welsh Government’s position is that these sections should not be commenced in relation to Wales. But in the terms of the test we set ourselves for including matters in the Bill, there is no longer a strong argument that the provisions are obsolete, unlikely to be commenced as the original context is unchanged, or otherwise unnecessary.

Given our intention to maintain an ongoing programme of repeal Bills, and the nature of the consultation already undertaken on this matter, we felt it was important to stay within the parameters that we have set for ourselves. It is worth highlighting that these are the

parameters that have governed the numerous repeals bills (prepared by the Law Commission) that have been taken through the UK Parliament in the past.

Adding “in England” is one method (used elsewhere in the Bill, as you say) to, in effect, “repeal” provisions in relation to Wales; it is used when the provisions in question need to be left in place in relation to England and therefore cannot be repealed by means of simply omitting them from the Act that contains them, or by repealing the entire Act. The reasons why we have not done this here are as set out above.

- **an outline of the possible implications of any future decisions made by the UK Government to commence other provisions that the Bill proposes to repeal.**

In relation to the repeal through the Bill of provisions that have not been commenced, the UK Government does not hold equivalent powers.

**Question 10: Please outline whether there are any implications of the references to Scotland in provisions in the Industry Act 1979 and Industry Act 1980 which are proposed for repeal.**

There are no implications relating to the references to Scotland in the provisions in the Industry Act 1979 and Industry Act 1980 that are proposed for repeal. Any lingering references in those provisions to the Scottish Development Agency or the Scottish Development Agency Act 1975 have been redundant for some time, or have already been effectively repealed, by virtue of Schedule 5 to the Enterprise and New Towns (Scotland) Act 1990.

**Question 11: Please indicate whether the Welsh Government has plans for a future programme of law repeals, and if so, when a Bill including such provisions is expected to be introduced.**

We are already on record as saying that decluttering the statute book through repealing provisions that are no longer of practical utility or benefit, helps to bring clarity about the law is relevant to Wales. It helps avoid unnecessary time being spent and people being misled by obsolete laws. This is why the Government has previously set out that it would anticipate future accessibility of law programmes including such Bills.

The process is managed within the Office of the Legislative Counsel who, following this current Bill, will collect and maintain lists of suggested matters for inclusion in future Bills. The timing of the next Bill will be a matter for the next Government.

I mentioned in my evidence that we need to consider how certain types of Bills are considered, and I would be keen to see a repeals Bill procedure developed. There are a number of examples from around the Commonwealth we could consider, and certainly I think there could be an efficient and effective method put in place for such Bills to be dealt with.

**Question 12: Please indicate whether consideration been given to any requirement to modify the long title of the 2019 Act as a result of the Bill.**

At present we do not propose modifying the long title of the 2019 Act.

**Question 13: When in a position to do so, please provide an update on the Welsh Government’s discussions with the UK Government in respect of the Minister of the Crown consents necessary to ensure that the Bill is within the Senedd’s legislative competence.**

At the time of writing I am not in a position to provide an update, but will do so when further information is available.

Yours sincerely,

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

**Julie James AS/MS**

Y Cwnsler Cyffredinol a'r Gweinidog Cyflawni  
Counsel General and Minister for Delivery

Julie James MS

Counsel General and Minister for Delivery

15 November 2024

Dear Julie,

**Legislation (Procedure, Publication and Repeals) (Wales) Bill**

Thank you for appearing before the Committee on 5 November 2024 to inform its consideration of the Legislation (Procedure, Publication and Repeals) (Wales) Bill.

The Committee is grateful for your commitment to issue a written response in respect of your views on the marshalled list for legislation, and in relation to the borrowing powers of the Welsh Development Agency.

As I stated at the end of the meeting, I would also be grateful if your response could include further information in respect of other matters, which are set out in the Annex.

Please could you respond by Thursday 5 December 2024.

Yours sincerely,



Mike Hedges

Chair

## Annex

1. With regard to your responsibility for overseeing the timetable for, and delivery of, the Legislative Programme, please outline why the decision was made to attach a higher priority for the introduction of this Bill over the potential introduction of a Senedd Bill including provisions which currently appear within UK Government legislation, such as within the Renters' Rights Bill.
2. The Explanatory Memorandum (EM) does not reference the Bill's impact on human rights. Please indicate:
  - whether the Welsh Government has undertaken an assessment of the human rights implications of the Bill's provisions; and
  - in particular, whether the Welsh Government believes that section 2 of the Bill will have any impact on human rights.
3. The EM, at paragraph 82, states that there is "no immediate intention" to use the powers in new section 37F(2)(c) and Schedule 1A, paragraph 6(3)(c), of the *Legislation (Wales) Act 2019* (the 2019 Act), as inserted by section 1 of the Bill. The EM goes on to state that it is however "prudent to ensure there is an appropriate mechanism available to enable specific enactments to be listed if the Senedd or the Welsh Ministers consider particular instruments need not be laid before the Senedd." Please provide:
  - further justification for the inclusion of these powers, in the apparent absence of an intention to use them; and
  - an explanation of why it was decided to confer these powers on the Welsh Ministers, rather than leave it for the Senedd to decide in each enactment.
4. Please outline in more detail how new section 37Z(2) of the 2019 Act, which requires the Welsh Ministers to prepare and publish a determination about the numbering and classification of Welsh subordinate instruments, will operate in practice.
5. Please outline why it is necessary to include the provision in paragraph 7 of Schedule 1A, which provides the Welsh Ministers with delegated powers to amend any enactment to reflect the effect of, or make provision consequential upon, the Schedule.
6. Please can you indicate whether there are any provisions in the Bill that would enable the Welsh Ministers to change the procedure attached to an existing power delegated to the Welsh Ministers?
7. During the evidence session, your official referred to the Bill's creation of a new obligation on the King's Printer of Acts of Parliament to publish Welsh legislation in an up-to-date form. Your official also noted that other "certain gaps" in relation to the King's Printer will be filled by the Bill. Please provide an outline of these gaps and how the Bill seeks to address them.

**8.** The EM, at paragraphs 70 to 72, outlines consultation relevant to the Bill's repeal of the Domestic Fire Safety (Wales) Measure 2011. Specifically, it refers to a consultation on the inclusion of sprinkler systems in care homes for children; however – as the EM also states – the Measure was intended to apply to “all new and converted residences”. Please provide:

- an outline of any further consultation that has been undertaken in respect of this proposed repeal;
- your assessment of the impacts of moving sprinkler system requirements from primary legislation to secondary legislation; and
- confirmation as to whether current Building Regulations provide the same level of requirements for sprinklers systems as was included within the Measure.

**9.** The EM, at paragraphs 60 and 61, states that the Bill no longer includes repeal of sections 53 to 56 of the *Countryside and Rights of Way Act 2000*, following their commencement in England, despite it remaining the Welsh Government's policy not to commence these provisions. Please provide:

- further information in relation to the Welsh Government's decision not to include these provisions within the Bill;
- an explanation as to whether, in place of repealing the sections, it could not have added “in England” to the end of the relevant provisions, which would appear to be in accordance with the other repeals in the Bill; and
- an outline of the possible implications of any future decisions made by the UK Government to commence other provisions that the Bill proposes to repeal.

**10.** Please outline whether there are any implications of the references to Scotland in provisions in the *Industry Act 1979* and *Industry Act 1980* which are proposed for repeal.

**11.** Please indicate whether the Welsh Government has plans for a future programme of law repeals, and if so, when a Bill including such provisions is expected to be introduced.

**12.** Please indicate whether consideration been given to any requirement to modify the long title of the 2019 Act as a result of the Bill.

**13.** When in a position to do so, please provide an update on the Welsh Government's discussions with the UK Government in respect of the Minister of the Crown consents necessary to ensure that the Bill is within the Senedd's legislative competence.

# Agenda Item 3

## Statutory Instruments with Clear Reports 13 January 2025

### **SL(6)560 – The Security And Emergency Measures (Water And Sewerage Undertakers And Water Supply Licensees) (Amendment And Revocation) Direction 2024**

#### **Procedure: No Procedure**

It appears to the Secretary of State in relation to English water undertakers and sewerage undertakers and English water supply licensees that it is requisite and expedient in the interest of national security and for the purpose of mitigating the effects of any civil emergency to give them directions, in exercise of the powers conferred by section 208(1) and (2) of the Water Industry Act 1991.

It appears to the Welsh Ministers in relation to Welsh water undertakers and sewerage undertakers and Welsh water supply licensees that it is requisite and expedient in the interest of national security and for the purpose of mitigating the effects of any civil emergency to give them directions, in exercise of the powers conferred by section 208(1) and (2) of the Water Industry Act 1991.

The Secretary of State has consulted the water undertakers and sewerage undertakers appointed by him and English water supply licensees, and the Welsh Ministers have consulted the water undertakers and sewerage undertakers appointed by them, and Welsh water supply licensees.

The Secretary of State directs English water undertakers and sewerage undertakers and English water supply licensees and the Welsh Ministers directs Welsh water undertakers and sewerage undertakers and Welsh water supply licensees.

**Parent Act:** Water Industry Act 1991

**Date Made:** 04 December 2024

**Date Laid:**

**Coming into force date:**



## **SL(6)561 – The Council Tax Reduction Schemes (Prescribed Requirements and Default Scheme) (Miscellaneous Amendments) (Wales) Regulations 2025**

### **Background and Purpose**

Council Tax Reduction Schemes (CTRS) are the mechanism by which local authorities in Wales provide support to low-income households in meeting their council tax liability.

These Regulations make amendments to the Council Tax Reduction Schemes and Prescribed Requirements (Wales) Regulations 2013 and the Council Tax Reduction Schemes (Default Scheme) (Wales) Regulations 2013 (referred to collectively as “the 2013 CTRS Regulations”). It updates certain figures used to calculate an applicant’s entitlement to a reduction under a CTRS, and the subsequent level of reduction.

In addition to updating the financial figures, these Regulations make technical and consequential amendments to:

- Provide that where a person is in receipt of Universal Credit, and where relevant information has been shared with a local authority, then that authority may treat that as an intention to apply for CTRS and to process that application in accordance with the 2013 CTRS Regulations.
- Allow displaced persons from Sudan, Israel, Palestine and Lebanon access to the CTRS in Wales.
- Ensure that “no CTRS applicant living in Wales is negatively impacted because they have received a payment made under the Victims of Overseas Terrorism Compensation Scheme”, as explained in the Explanatory Memorandum to these Regulations.
- Mirror changes made in England to omit references to the “Lower Profits Threshold” for National Insurance Contributions, to reflect the fact that from 6 April 2024, self-employed people with profits above £12,570 (the lower profits threshold) are no longer liable to pay Class 2 NICs and instead are treated as having paid Class 2 NICs.
- Reflect the updated title of the Migrant Victims of Domestic Abuse Concession.

The Cabinet Secretary for Finance and Welsh Language, Mark Drakeford MS, issued a [Written Statement](#) in relation to these Regulations on 10 December 2024.

### **Procedure**

Draft Affirmative.

The Welsh Ministers have laid a draft of the Regulations before the Senedd. The Welsh Ministers cannot make the Regulations unless the Senedd approves the draft Regulations.



## 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 regulations 5(e)(ii), 8(e)(ii) and 17(b) of these Regulations, textual amendments are made to omit the phrase “or the amount specified in **section 11(4)(a)** of that Act (**lower profits threshold** in relation to Class 2 contributions)” from various provisions in the 2013 CTRS Regulations. However, the reference to “**section 11(4)(a)**” and the words “**lower profits threshold**” in that phrase were only introduced to the English language text by previous amendments made by regulation 5 of the Social Security (Class 2 National Insurance Contributions Increase of Threshold) Regulations 2022, which is a UK statutory instrument.

As a result, the existing Welsh language text of those various provisions does not appear to have been amended to include that reference and those words at any time. Therefore, in the Welsh text, the amendments made by regulations 5(e)(ii), 8(e)(ii) and 17(b) of these Regulations are incorrect when identifying the existing text to be omitted as including the reference “**section 11(4)(a)**” and the words “**lower profits threshold**” as they do not appear to have been inserted in the existing Welsh language text of the 2013 CTRS 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.

### Legal Advisers

Legislation, Justice and Constitution Committee

23 December 2024



Senedd Cymru

Pwyllgor Deddfwriaeth, Cyfiawnder a'r Cyfansoddiad

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Welsh Parliament Pack Page 16

Legislation, Justice and Constitution Committee



Llywodraeth Cymru  
Welsh Government

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## **WRITTEN STATEMENT BY THE WELSH GOVERNMENT**

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<b>TITLE</b>	<b>The Laying of the Council Tax Reduction Schemes (Prescribed Requirements and Default Scheme) (Miscellaneous Amendments) (Wales) Regulations 2025</b>
<b>DATE</b>	<b>10 December 2024</b>
<b>BY</b>	<b>Mark Drakeford MS, Cabinet Secretary for Finance and Welsh Language</b>

Today, I have laid the draft Council Tax Reduction Schemes (Prescribed Requirements and Default Scheme) (Miscellaneous Amendments) (Wales) Regulations 2025 before the Senedd.

Subject to the approval of the Senedd, these Regulations will uprate the financial figures in the Council Tax Reduction Schemes and Prescribed Requirements (Wales) Regulations 2013 and the Council Tax Reduction Schemes (Default Scheme) (Wales) Regulations 2013. This will ensure that the scheme is in place for the 2025-26 financial year and is up-rated to reflect changes in the cost of living, maintaining entitlements for almost 260,000 low-income households across Wales who rely on this support.

In addition, to make the scheme easier to access and simpler to administer this year, we have ensured it is made clear in the Regulations that a person in receipt of Universal Credit, may be recognised by a local authority as having made an application for a council tax reduction.

Further amendments ensure displaced persons from Sudan, Israel, Palestine or Lebanon are eligible to apply for a council tax reduction.

Finally, the Regulations ensure no applicant living in Wales is negatively impacted because they have received a payment made under the Victims of Overseas Terrorism Compensation Scheme.

I look forward to the debate on the Regulations early next year.

# Agenda Item 5.1

Sarah Murphy AS/MS  
Y Gweinidog Iechyd Meddwl a Llesiant  
Minister for Mental Health and Wellbeing



Llywodraeth Cymru  
Welsh Government

Mike Hedges MS  
Chair of the Legislation, Justice and Constitution Committee  
Senedd Cymru

SeneddLJC@senedd.wales

6 January 2025

Dear Mike,

Further to your letter of 28 November 2024 regarding the Welsh Government's response to the Legislation, Justice and Constitution Committee's report on the Nutrition and Health Claims (Wales) (Amendment) Regulations 2024, I can confirm that following discussions with the SI Registrar that the correction to Technical Point 3 would be correctable via a correction slip as it is a typographical cross-referencing error, whilst it was felt that the corrections required for technical points 2 and 6 were not sufficiently obvious to be considered to be correctable via a correction slip.

To rectify the errors, the Welsh Government will now prepare further amending regulations to be laid early in the new year to correct all three points within one Statutory Instrument to aid in the accessibility of the law.

Yours sincerely,

**Sarah Murphy AS/MS**  
Y Gweinidog Iechyd Meddwl a Llesiant  
Minister for Mental Health and Wellbeing

Canolfan Cyswllt Cyntaf / First Point of Contact Centre:  
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[Correspondence.Sarah.Murphy@gov.wales](mailto:Correspondence.Sarah.Murphy@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.

Sarah Murphy MS  
Minister for Mental Health and Wellbeing

28 November 2024

Dear Sarah

### The Nutrition and Health Claims (Wales) (Amendment) Regulations 2024

You will be aware that the Legislation, Justice and Constitution Committee has recently reported to the Senedd on The Nutrition and Health Claims (Wales) (Amendment) Regulations 2024.

At the Committee's meeting on 25 November 2024, we considered the Welsh Government response to the points raised in our report. There is one matter on which we would welcome further information.

The second technical point raised in the Committee's report highlights issues relating to defined terms. We asked the Welsh Government to confirm why certain terms had not been inserted as new definitions in the modified text of the *Food Safety Act 1990*. In response, the Committee has been told:

*"The Welsh Government agrees that the term "specified provision of the Regulation" in the modified text of the 1990 Act has not been given a meaning. We are investigating with the SI Registrar the possibility of making the change by correction slip."*

In our view, inserting defined terms into the modified text is potentially a substantive change. As such, we would welcome confirmation of the outcome of the Welsh Government's discussions with the SI Registrar, and whether all three matters we raise in reporting point two have been accepted for a correction slip.

I would be grateful to receive a response by 2 January 2025.

I would also like to take the opportunity to thank you for laying before the Senedd a revised Explanatory Memorandum in line with your commitment given in response to point seven in the Committee's report.

Yours sincerely,

A handwritten signature in black ink that reads "Mike Hedges". The signature is written in a cursive style and is underlined with a single horizontal line.

Mike Hedges  
Chair

## **SL(6)557 – The Building (Registered Building Control Approvers etc.) (Wales) Regulations 2024**

### **Background and Purpose**

These Regulations replace the Building (Approved Inspectors etc.) Regulations 2010 (“the AI Regulations”) which govern private-sector building control bodies. The purpose of this change is to bring secondary legislation in-line with changes made to the Building Act 1984 by the Building Safety Act 2022.

These Regulations:

- (i) revoke the majority of the provisions of the Building (Approved Inspectors etc.) Regulations 2010 (“2010 Regulations”);
- (ii) replace and update provisions in the 2010 Regulations to bring them up-to-date for the new building control regulation regime in Wales; and
- (iii) make consequential amendments to other regulations.

### **Procedure**

Negative.

These 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 points are 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 the English text of the Regulations, there is an issue with the formatting in the penultimate line on page 8 after “52(1)...” which has resulted in provisions that should follow immediately after section 52(1) not appearing in the correct place. Rather than listing the relevant subsections of section 52 sequentially after 52(1), the provisions appear in the first line on page 9 listed as subsections to section 53B (as that is the last section that appears at the end of page 8). The effect of this is that all of the references listed in the first line on page 9 are incorrect.

Additionally, the enabling powers relied on in section 52A are also omitted, which the Welsh text correctly identifies as being section 52A(1), (2) and (4).



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

In Schedule 1, Form 1(W) and Form 4(W) both contain a paragraph (2) that refers to the identification of the registered building control approver. However, in both instances the footnote to that paragraph (numbered footnote (3)) provides that the information required is the contact details of the person intending to carry out the work. As such, it appears that the footnote references are incorrect in both instances.

Similarly, in Forms 1(W) and 4(W) respectively the footnote numbered (6) (which defines “professional or financial interest”) is erroneously used where footnote (5) (which provides that the name of the registered building control approver is required) should occur.

These errors could cause confusion for the reader, potentially leading to incorrect information being entered on the relevant form.

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

The opening words of regulation 5(12) refer specifically to regulation 7A(3) of the Energy Performance of Buildings (England and Wales) Regulations 2012.

However, it appears that the opening words should instead refer to regulation 7A more generally. Regulation 5(12)(a) makes provision as to how the term “local authority” should be interpreted, but that term only appears in regulation 7A(2)(b) - it does not appear in paragraph (3).

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

In paragraph 9 of Schedule 3 to the Regulations, from the context of the provision it appears the word “*apelydd*” (i.e. appellant) in the fourth line should be “*cymeradwywr*” to correspond with the word “*approver*” in the English text.

## **Merits Scrutiny**

The following point is identified for reporting under Standing Order 21.3 in respect of this instrument:

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

The phrase ‘higher-risk building work’ (“HRBW”) is used multiple times across the suite of forms in the Schedules to the Regulations. The person completing the relevant form is asked to confirm in various places, inter alia, that none of the work to which the relevant notice pertains constitutes HRBW.



To improve the accessibility of the instrument, the Welsh Government may wish to consider whether each form containing the term HRBW should include a footnote referencing the relevant legal definition as it applies in Wales.

### **Welsh Government response**

A Welsh Government response is required.

### **Committee Consideration**

The Committee considered the instrument at its meeting on 6 January 2025 and reports to the Senedd in line with the reporting points above.



## **Government Response: The Building (Registered Building Control Approvers etc.) (Wales) Regulations 2024**

Technical Scrutiny point 1: The Government acknowledges the error to the preamble of the English version of the Regulations.

The Government agrees that a formatting error has affected the preamble references but does not consider the error alters the effect of the instrument, which remains *intra vires*. The Government relies upon the principles set out in *Inco Europe Ltd v First Choice Distribution* [2000] 1 WLR 586 in support of their view. It is noted that the footnotes in both language versions of the Regulations direct the reader to the correct provisions. Additionally, the preamble of the Welsh language version of the Regulations is correctly set out.

Technical Scrutiny point 2: The Government acknowledges the incorrect footnotes in Schedule 1, Forms 1(W) and 4(W). The body of the forms are, however, clear and should avoid incorrect information being entered.

Technical Scrutiny point 3: The Government acknowledges that the reference to regulation 7A(3) of the Energy Performance of Buildings (England and Wales) Regulations 2012 in regulation 5(12) of these Regulations should be to regulation 7A more generally. However, the drafting of regulation 5(12)(a) and regulation 5(12)(b) taken together makes the intended reference clear.

Technical Scrutiny point 4: The Government acknowledges the word “*apelydd*” in the fourth line of paragraph 9 of Schedule 3 to the Regulations should be “*cymeradwywr*”, but in the context of the Schedule consider this will not cause confusion.

Merit Scrutiny point 1: Thank you for the point. The Government considers that those likely to use the forms in question will have a good understanding of the meaning of the phrase “higher-risk building work”. However, it is accepted that the accessibility of the forms could be improved by adding a footnote explaining the term where it appears. The Government will consider inclusion of such an explanation in future.

## **SL(6)565 – The Local Health Boards, NHS Trusts and Special Health Authorities (Constitution, Membership and Procedures) (Miscellaneous Amendments) (Wales) Regulations 2024**

### **Background and Purpose**

These Regulations make amendments to the legislation concerning the membership and procedures of Local Health Boards, NHS trusts and Special Health Authorities in Wales.

The Welsh Government's Explanatory Memorandum provides that the Regulations are necessary to ensure that the boards of all NHS bodies are subject to the same eligibility criteria and appointment processes.

The Explanatory Memorandum also provides that although there is no statutory duty to consult, officials have consulted with the Chairs, Chief Executives, Directors of Governance and Board Secretaries of all NHS Bodies as well as the Trade Unions recognised by those NHS bodies on the intended amendments to the Regulations, and that the amendments are "*broadly supported*" by stakeholders.

### **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 4, the description of the location of the text for amendment is defective as it does not note the paragraph and Schedule numbers where "sub-paragraph (1)" is found in the Local Health Boards (Constitution, Membership and Procedures) (Wales) Regulations 2009. It is not sufficient to state "paragraph 2 of Schedule 2" in the heading of the regulation because the headings are not an operative part of the instrument. Similar amendments made



by regulations 5, 11 and 15 do correctly include all the details in the body of the regulation as well as in the heading.

### **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 6 January 2025 and reports to the Senedd in line with the reporting point above.



**Government Response: The Local Health Boards, NHS Trusts and Special Health Authorities (Constitution, Membership and Procedures) (Miscellaneous Amendments) (Wales) Regulations 2024**

**Technical Scrutiny point 1:** The Welsh Government notes the point made however, maintains that the amendment within regulation 4 will be read in conjunction with the heading making it clear and unambiguous where the amendments within regulation 4 are to be made within the amended instrument.

# Agenda Item 6.1

Huw Irranca-Davies AS/MS

Y Dirprwy Brif Weinidog ac Ysgrifennydd y Cabinet dros  
Newid Hinsawdd a Materion Gwledig  
Deputy First Minister and Cabinet Secretary for Climate  
Change and Rural Affairs



Llywodraeth Cymru  
Welsh Government

Ein cyf/Our ref: MA/HIDCC/11206/24

Mike Hedges MS  
Chair  
Legislation, Justice and Constitution Committee  
Welsh Parliament

6 January 2025

Dear Mike,

I wish to inform the Committee of my intention to consent to the UK Government making and laying the Retained EU Law (Revocation and Reform) Act 2023 (Consequential Amendments) Regulations 2025 (“the Regulations”). The Regulations will be made using powers in Section 19(1) of The Retained EU Law (REUL) (Revocation and Reform) Act 2023 (“the REUL Act”).

The Regulations are aimed at ensuring legal clarity and accessibility by making consequential amendments to secondary assimilated legislation. The changes are consequential on sections 2, 4 and 5 of the REUL Act. Amendment of the secondary assimilated legislation and assimilated direct legislation will have no substantive policy effect in Wales and will improve the accessibility of the statute book.

I can confirm that no amendments are being made to Senedd legislation or to instruments made under Senedd legislation. All of the changes apply to instruments made under UK Acts or to assimilated direct legislation.

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 I consider it appropriate for the UK Government to legislate on a GB-wide basis.

The Regulations are due to be laid before the UK Parliament on 27 January 2025.

Yours sincerely,

**Huw Irranca-Davies AS/MS**

Y Dirprwy Brif Weinidog ac Ysgrifennydd y Cabinet dros Newid Hinsawdd a Materion Gwledig  
Deputy First Minister and Cabinet Secretary for Climate Change and Rural Affairs

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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.

Jane Hutt AS/MS  
Ysgrifennydd y Cabinet dros Gyfiawnder Cymdeithasol, y  
Trefnydd a'r Prif Chwip  
Cabinet Secretary for Social Justice, Trefnydd and Chief Whip

Agenda Item 6.2  


Llywodraeth Cymru  
Welsh Government

Ein cyf/Our ref: Safety, Security and Migration IMG

Mike Hedges MS  
Chair  
Legislation, Justice and Constitution Committee  
Senedd Cymru

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

Cc Jenny Rathbone MS, Chair of the Equality and Social Justice Committee.

07 January 2025

Dear Mike

### **Inter-Institutional Relations Agreement: Safety, Security and Migration Interministerial Group**

In accordance with the Inter-Institutional Relations Agreement, I am writing to inform you that a meeting of the Interministerial Group for Safety, Security and Migration has been scheduled to take place on Wednesday 22<sup>nd</sup> January from 10:15am to 11:30 am. The meeting will take place virtually and will be chaired by the Home Secretary.

It has been agreed the meeting will focus on outlining all four devolved governments' priorities for safety, security and future migration policies. The agenda allows time for a round table discussion on all outlined topics and will include discussion on improving future engagement and collaborative working.

In line with the agreement, a joint communique will be published following the meeting and I will notify you of this in due course.

I am copying this letter to Jenny Rathbone MS, Chair of the Equality and Social Justice Committee.

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[Correspondence.Jane.Hutt@gov.wales](mailto:Correspondence.Jane.Hutt@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.

Yours sincerely

A handwritten signature in black ink that reads "Jane Hutt". The signature is written in a cursive style with a long horizontal line above the first letter 'J'.

**Jane Hutt AS/MS**

Ysgrifennydd y Cabinet dros dros Gyfiawnder Cymdeithasol, y Trefnydd a'r Prif Chwip  
Cabinet Secretary for Social Justice, Trefnydd and Chief Whip

Jane Hutt AS/MS  
Ysgrifennydd y Cabinet dros Gyfiawnder Cymdeithasol, y  
Trefnydd a'r Prif Chwip  
Cabinet Secretary for Social Justice, Trefnydd and Chief Whip



Llywodraeth Cymru  
Welsh Government

Ein cyf/Our ref JH/PO/3/25

Mike Hedges MS  
Chair  
Legislation, Justice and Constitution Committee  
Senedd Cymru

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

9 January 2025

Dear Mike,

### **Inter-Institutional Relations Agreement: Forthcoming Intergovernmental Meetings**

I am writing in accordance with the Inter-Institutional Relations Agreement to notify you that I attended the second meeting of the Four Nations Group on the UK Government Child Poverty Strategy. As I noted in my letter to you in November the purpose of the group is to embed Scotland, Wales and Northern Ireland into the development of a UK-wide strategy on Child Poverty. The group will provide the opportunity for Scotland, Wales and Northern Ireland to inform the development of the UK-wide strategy and ensure the proposed strategy complements existing and developing strategies in Scotland, Wales and Northern Ireland.

The meeting, held on the 11<sup>th</sup> of December was chaired by Alison McGovern MP - Minister for Employment. Also in attendance was Shirley-Anne Somerville MSP – Cabinet Secretary for Social Justice, Scottish Government and Gordon Lyons MLA, Minister for Communities

The meeting focused on the Priority areas for the UK strategy and a forward look to future Taskforce and Four Nations meetings. During this meeting I highlighted key Welsh Government asks on energy social tariffs and Local Housing Allowance Rates. I also highlighted the importance of childcare as part of supporting people on pathways out of poverty and accessing skills and employment.

Bae Caerdydd • Cardiff Bay  
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[Correspondence.Jane.Hutt@gov.wales](mailto:Correspondence.Jane.Hutt@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.

I am copying this letter to Huw Irranca-Davies MS, Deputy First Minister and Cabinet Secretary for Climate Change and Rural Affairs; the Children, Young People and Education Committee; and the Equalities and Social Justice Committee.

Yours sincerely,

A handwritten signature in black ink that reads "Jane Hutt". The signature is written in a cursive style with a long horizontal line above the first name.

**Jane Hutt AS/MS**

Ysgrifennydd y Cabinet dros dros Gyfiawnder Cymdeithasol, y Trefnydd a'r Prif Chwip  
Cabinet Secretary for Social Justice, Trefnydd and Chief Whip

Huw Irranca-Davies AS/MS  
Y Dirprwy Brif Weinidog ac Ysgrifennydd y Cabinet dros  
Newid Hinsawdd a Materion Gwledig  
Deputy First Minister and Cabinet Secretary for Climate  
Change and Rural Affairs

Ein cyf/Our ref: MA/HIDCC/10617/24

Mike Hedges MS  
Chair  
Legislation, Justice and Constitution Committee  
Welsh Parliament  
Cardiff Bay  
Cardiff  
CF99 1SN

6 January 2025

Dear Mike,

The Common Organisation of the Markets in Agricultural Products (Marketing Standards and Organic Products) (Transitional Provisions) (Amendment) Regulations 2025 are required to amend assimilated EU and domestic legislation to further extend grace periods for Marketing Standards and Organic Products which are due to expire 1 February 2025.

The regulations apply to extend grace periods that currently apply to import requirements for hops and hop products exported by the EU and certain third countries to Great Britain, poultrymeat with optional indications exported from the EU to Great Britain and organic products exported from the EU, European Economic Area (“EEA”) states and Switzerland to Great Britain. The proposed SI will extend the grace periods for these products until February 2027.

Though Welsh Ministers have the ability to make regulations in this area itself, it is important to avoid unnecessary discrepancies between Wales, Scotland and England in technical regulations due to the interconnected nature of our agricultural markets. The proposed SI intends to extend the expiry date of regulations that are already in place, rather than creating any new policy, and as such there will be no practical change to the status quo. The SI is an extension of previous regulations concerning grace periods, which were made using the same powers at a Great-Britain level. The Agricultural Support Framework provides a governance structure through which the Welsh Government has worked with the UK Government on the development of regulations in this area.

The SI will be subject to the made affirmative procedure and it is proposed by the Department for Environment, Food and Rural Affairs (DEFRA) that it is laid before Parliament on 9 January 2025. Welsh Government officials were involved in the creation of

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[Correspondence.Huw.Irranca-Davies@gov.wales](mailto:Correspondence.Huw.Irranca-Davies@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.

these regulations and were consulted regularly by colleagues DEFRA throughout and will continue to work closely with their counterparts to oversee the delivery of the SI.

I am writing to let you know that as these amendments are temporary emergency easements, I give my consent, pursuant to Article 38a(3) of the retained Regulation (EU) 834/2007, to the Secretary of State to make this statutory instrument in relation to Wales.

I am copying this letter to Julie James MS, Counsel General and Minister for Delivery and Jane Hutt MS, Cabinet Secretary for Social Justice, Trefnydd and Chief Whip.

Yours sincerely,

A handwritten signature in black ink, consisting of several fluid, overlapping strokes that form a stylized representation of the name 'Huw Irranca-Davies'.

**Huw Irranca-Davies AS/MS**

Y Dirprwy Brif Weinidog ac Ysgrifennydd y Cabinet dros Newid Hinsawdd  
a Materion Gwledig

Deputy First Minister and Cabinet Secretary for Climate Change and Rural Affairs

Mike Hedges MS

Chair of the Legislation, Justice and  
Constitution Committee  
Senedd Cymru

6 January 2025

Dear Mike,

**Re: joint-ministerial scrutiny session on criminal justice**

On 23 December you were copied into our correspondence with the Welsh and UK governments proposing a joint-ministerial scrutiny session on criminal justice. We hope that both governments will agree to our proposal to kickstart enhanced dialogue on how to improve a system which appears to be letting down too many people in Wales.

As outlined in the letter, our previous work has focused primarily on issues which are either devolved; or substantially overlap with or impact upon Welsh Government responsibilities. We are fully aware that Prisons and Justice are currently reserved matters.

I would like to ensure that our approach is complementary where possible and explore potential opportunities for collaboration should you wish to do so. Subject to the views of our respective Members, it may be helpful to consider arrangements such as guesting or rapporteur arrangements. Alternatively, we could agree a mechanism for sharing information and provide updates at key stages. Our previous experience of collaborating with other committees has involved different methods at different times and we are therefore not wedded to a single approach.

I would welcome your thoughts on this matter and would be happy to arrange a meeting to discuss further if helpful.

Kind regards,

Yours sincerely,



Jenny Rathbone MS

Chair of the Equality and Social Justice Committee

Welsh Parliament

Chairs' Forum

Via e-mail

7 January 2025

Dear Chairs,

### **Representation on inter-parliamentary bodies**

Following the discussion at the Chairs' Forum meeting of 2 December, I am writing to confirm the decisions taken around the Senedd's representation on the Inter-Parliamentary Forum and the UK-EU Parliamentary Partnership Assembly. The Senedd may nominate two Members each group. Chairs agreed that:

- The Senedd's representation on the two bodies should continue to be linked to committee remits;
- The nominated Members should be the chairs of the relevant committees in each case, but with the continued ability for a chair to nominate alternates from their committee to attend meetings as required;
- Continuity of representation was important, where that could be maintained;
- The Legislation, Justice and Constitution (LJC), Climate Change, Environment and Infrastructure (CCEI), Economy, Trade and Rural Affairs (ETRA) and Culture, Communications, Welsh Language, Sport and International Relations (CCWLSIR) Committees would provide the Senedd's representation on the two bodies, with the allocation of roles to be determined with those committee chairs outside the Chairs' Forum meeting.

Discussion outside of the Forum has led to the following nominations being agreed:

- Inter-Parliamentary Forum: The Chairs of the LJC and CCEI Committees.
- UK-EU Parliamentary Partnership Assembly: The Chairs of the ETRA and CCWLSIR Committees.

Yours sincerely,

A handwritten signature in blue ink that reads "Elin Jones".

The Rt. Hon. Elin Jones MS/AS

Llywydd

Chair of the Chairs' Forum

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

# Agenda Item 7.3

Julie James AS/MS  
Y Cwnsler Cyffredinol a'r Gweinidog Cyflawni  
Counsel General and Minister for Delivery



Llywodraeth Cymru  
Welsh Government

9<sup>th</sup> January 2025

Dear Chair,

Thank you for your letter of 17 December regarding the Welsh Government's Principles on UK Legislation in devolved areas. Please find the answers to your questions in the Annex below.

In your letter you requested further information on the specific changes which have been made to the principles. In my letter of 4 December, I described the main changes which have been made to the principles; I have asked my officials to liaise with your officials regarding any further clarity which is useful in this regard.

Yours sincerely,

**Julie James AS/MS**

Y Cwnsler Cyffredinol a'r Gweinidog Cyflawni  
Counsel General and Minister for Delivery

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[correspondence.Counsel.General@gov.wales](mailto:correspondence.Counsel.General@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.

## Annex A

**Question 1: In its Annual Reports for 2021/22 and 2022/23 the Committee described the Welsh Government's Principles on UK Legislation in devolved areas as "flawed" because the core principle (of using Welsh Government Bills to legislate) is subject to a catch-all exemption which renders that principle of "little value". How do the refreshed Principles address this concern?**

I do not agree with the view that the principles are flawed. The principles demonstrate the considerations which we take into account when reaching positions on UK legislation.

For the purposes of the legislative consent process, it is entirely appropriate for Welsh Government to make a recommendation to the Senedd on consent, including on what we view to be in Wales' best interests. Indeed, Standing Order 29 requires legislative consent memoranda to explain whether the relevant provision is considered appropriate. It is for Members to decide whether or not to accept the reasoning put forward by the Government as they consider legislative consent motions.

**Question 2: What factors have influenced the revision of the Principles?**

As previously set out, the revised principles support consistency and transparency. We have taken the opportunity to amend specific elements, as highlighted in my letter of 4 December, to ensure that our positions are clear.

**Question 3: The refreshed Principles say that there may be situations where it is "in the best interests of Wales" for provisions in devolved areas to be included in UK Legislation. Can you outline the criteria that will be used to make that assessment, what role you envisage the Senedd having in informing that assessment, and who will take the final decision prior to a legislative consent memorandum being laid?**

The Welsh Ministers will consider a variety of relevant issues, including a wide range of constitutional, policy, delivery and other factors.

As noted above, it is then for Members to decide whether or not to accept the reasoning put forward by the Government as they consider legislative consent motions.

At a general level, decisions on whether to recommend consent are made by the lead portfolio Minister(s), taking into account the Welsh Government's principles. The Counsel General and Minister for Delivery, and ultimately the First Minister have oversight and are involved as appropriate.

**Question 4: Why did you not create a separate set of principles for the making of subordinate legislation in devolved areas, given that the Senedd's consent processes between primary and subordinate legislation vary and, in some cases, consent for making subordinate legislation is between governments?**

As previously set out, I believe that articulating a single, streamlined approach to all UK legislation will support consistency and transparency. The principles support not just the Senedd's scrutiny of Welsh Ministers' approaches, but also provide a clear articulation of Welsh Ministers' position to the public more widely.

The principles clearly can be applied distinctly to primary and secondary legislation as required.

**Question 5: Given that the principles are generalised but now apply to more categories of UK legislation with differing consent processes, please can you explain how you reached the view that the refreshed Principles are more transparent?**

This is the first time that we have published our position on both primary and secondary legislation. In doing so, and in seeking to engage both the Senedd and UK Government on this work, I believe we have presented a set of principles that is both transparent and clear.

**Question 6: Please can you provide an analysis of which new elements of the refreshed Principles that have been added to cover subordinate legislation will now apply to primary legislation for the first time?**

There are no substantive new elements beyond those set out in my letter of 4 December.

**Question 7: How are the refreshed Principles consistent with the Sewel Convention?**

The Sewel Convention provides that Parliament will not normally legislate with regard to devolved matters without the consent of the Senedd. Our principles guide our recommendations to the Senedd on whether to give legislative consent, and our position is that the view of the Senedd must be respected.

**Question 8: When did the Welsh Government Cabinet agree the refreshed Principles? And from what point did the Welsh Government begin to use them when making decisions about legislation?**

The refreshed Principles were finalised and agreed during November 2024. Our approach to UK legislation has taken into account the refreshed principles following their publication.

**Question 9: During the evidence session, you spoke about talking to the UK Government about the principles being accepted by it. (i) Why did you consider this to be necessary? (ii) What are the Welsh Government's expectations for how this might impact on the UK Government's approach to legislating in devolved areas? (iii) What are the long-term implications of seeking the UK Government's agreement, and do you envisage this taking place at the start of each new Senedd and each new UK Parliament?**

As discussed in Committee, there is a clear benefit to ensuring UK Government are aware of our principles on UK legislation. I believe this will benefit further the improvements we have been seeing in engagement with UK Government on their legislative programme – by highlighting our principles, they can be taken into account from the earliest stages of legislation development within the UK Government, and engagement can therefore be more focussed and informed.

**Question 10: What is the rationale for the change of language in the first bullet point of paragraph 3 from “there is no time available for similar provisions to be brought forward in the Senedd” in the original Principles to “where Welsh-made provision**

**could not otherwise be delivered within a suitable time frame” in the refreshed Principles? What constitutes a “suitable timeframe”?**

This is an example of us seeking to improve clarity. There will be instances when - whilst Welsh made-provision might be possible - the comparable timeframe to UK legislation would not be suitable to the situation. The assessment of timeframes will take into account the nature of the specific legislative proposals, and policy and delivery imperatives.

**Question 11: Why has the reference to “must” been removed in the fourth bullet, and what criteria will be used to decide whether using UK legislation will enable policy objectives “to be most effectively achieved”?**

This was a drafting clarification, recognising that “must” in this context did not clearly represent the situation described in the principle.

As noted above, the Welsh Ministers will consider a variety of relevant issues, including a wide range of constitutional, policy, delivery and other factors.

**Question 12: Why has the example situation under paragraph 3, where powers of the Welsh Ministers would be extended in a way that could not be achieved through a Senedd Act, been removed from the refreshed Principles? Has the Welsh Government’s position on this matter changed?**

The Welsh Government’s underlying position has not changed but it was not felt necessary to include this as an example.

**Question 13: Would any of the criteria set out in paragraph 4 of the refreshed Principles be considered as a ‘red line’ by the Welsh Government such that it would not be able to recommend consent under any circumstances?**

We have taken a strong approach to the application of the original principles, and we intend to continue to do so with these refreshed principles to seek the best possible outcomes for Wales.

**Question 14: What is the rationale for including the additional criteria set out in paragraph 4 of the refreshed Principles that if Welsh Ministers do agree to the creation of concurrent powers, these should be subject to relevant consent mechanisms and associated ‘carve outs’ from the Government of Wales Act 2006? Would it not be clearer to maintain the position of opposing the creation of concurrent powers?**

The wording of this section reflects a principled and pragmatic approach to concurrent powers drawing on previous experiences on UK legislation. It is articulated in this way here for transparency and coherence.

**Question 15: The refreshed Principles state that new “constraints” should not be introduced to the existing devolution settlement as well as new “reservations” as set out in the original Principles. Could you outline what is intended to be captured by new “constraints” on the existing devolution settlement?**

This is intended to cover potential constraints beyond just 'reservations', given the specific meaning of that term in the Government of Wales Act 2006. Its inclusion is an example of one of the ways in which we have sought to bolster the constitutional strength of the principles.

**Question 16: The refreshed Principles refer to the Welsh Government having a “meaningful role” in the governance of any new cross-border body with functions which relate to devolved matters, rather than the “equal status” to the UK Government as noted in the original Principles. Could you outline why this position has changed?**

This reflects the reality that there are various types of bodies which could fit the description of a cross-border body, and in relation to some a pure form of “equal status” for the Welsh Government in governance terms would not be appropriate. The refreshed principle recognises that whilst each case needs to be considered on its own circumstances, devolution safeguards are essential.

Julie James MS,  
Counsel General and Minister for Delivery

17 December 2024

Dear Julie,

The Welsh Government's Principles on UK Legislation in devolved areas

Thank you again for sharing with the Committee a refreshed version of the Welsh Government's Principles on UK Legislation in devolved areas.

We discussed the refreshed Principles at our meeting on 9 December, when you and the Deputy First Minister and Cabinet Secretary for Climate Change and Rural Affairs attended to give evidence on aspects of your portfolios which fall within our remit.

We have some further questions relating to the refreshed Principles, which are included in the Annex.

We would also be grateful if you would provide the Committee with versions of the refreshed Principles and original Principles (2021) that display clearly the changes which have been made.

We would be grateful for your response by 15 January 2025.

Yours sincerely,



Mike Hedges  
Chair

## ANNEX

**Question 1:** In its Annual Reports for 2021/22 and 2022/23 the Committee described the Welsh Government's Principles on UK Legislation in devolved areas as "flawed" because the core principle (of using Welsh Government Bills to legislate) is subject to a catch-all exemption which renders that principle of "little value". How do the refreshed Principles address this concern?

**Question 2:** What factors have influenced the revision of the Principles?

**Question 3:** The refreshed Principles say that there may be situations where it is "in the best interests of Wales" for provisions in devolved areas to be included in UK Legislation. Can you outline the criteria that will be used to make that assessment, what role you envisage the Senedd having in informing that assessment, and who will take the final decision prior to a legislative consent memorandum being laid?

**Question 4:** Why did you not create a separate set of principles for the making of subordinate legislation in devolved areas, given that the Senedd's consent processes between primary and subordinate legislation vary and, in some cases, consent for making subordinate legislation is between governments?

**Question 5:** Given that the principles are generalised but now apply to more categories of UK legislation with differing consent processes, please can you explain how you reached the view that the refreshed Principles are more transparent?

**Question 6:** Please can you provide an analysis of which new elements of the refreshed Principles that have been added to cover subordinate legislation will now apply to primary legislation for the first time?

**Question 7:** How are the refreshed Principles consistent with the Sewel Convention?

**Question 8:** When did the Welsh Government Cabinet agree the refreshed Principles? And from what point did the Welsh Government begin to use them when making decisions about legislation?

**Question 9:** During the evidence session, you spoke about talking to the UK Government about the principles being accepted by it. (i) Why did you consider this to be necessary? (ii) What are the Welsh Government's expectations for how this might impact on the UK Government's approach to legislating in devolved areas? (iii) What are the long-term implications of seeking the UK Government's agreement, and do you envisage this taking place at the start of each new Senedd and each new UK Parliament?

**Question 10:** What is the rationale for the change of language in the first bullet point of paragraph 3 from "there is no time available for similar provisions to be brought forward in the Senedd" in the original Principles to "where Welsh-made provision could not otherwise be delivered within a suitable time frame" in the refreshed Principles? What constitutes a "suitable timeframe"?

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**Question 14:** What is the rationale for including the additional criteria set out in paragraph 4 of the refreshed Principles that if Welsh Ministers do agree to the creation of concurrent powers, these should be subject to relevant consent mechanisms and associated ‘carve outs’ from the *Government of Wales Act 2006*? Would it not be clearer to maintain the position of opposing the creation of concurrent powers?

**Question 15:** The refreshed Principles state that new “constraints” should not be introduced to the existing devolution settlement as well as new “reservations” as set out in the original Principles. Could you outline what is intended to be captured by new “constraints” on the existing devolution settlement?

**Question 16:** The refreshed Principles refer to the Welsh Government having a “meaningful role” in the governance of any new cross-border body with functions which relate to devolved matters, rather than the “equal status” to the UK Government as noted in the original Principles. Could you outline why this position has changed?

# Agenda Item 10

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

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# Agenda Item 14

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

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# Agenda Item 15

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

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Llywodraeth Cymru  
Welsh Government

Our Ref: RE/303/2024

Elin Jones MS  
Llywydd  
Senedd Cymru  
Cardiff Bay  
Cardiff  
CF99 1SN  
[Llywydd@senedd.wales](mailto:Llywydd@senedd.wales)

30 October 2024

Dear Llywydd,

The UK Government introduced the Data (Use and Access) Bill "DUA Bill" to the House of Lords on 23 October. The purpose of this letter is to notify you of a possible delay in laying a Legislative Consent Memorandum in relation to the Bill. There are a number of reasons for this which relate primarily to the complexity and length of the Bill, coupled with the need to consider the issues encountered on the previous Data Protection and Digital Information Bill, which contained similar provisions to those within the new DUA Bill.

Through the DUA Bill the UK Government is seeking '*harness the enormous power of data to make our lives easier, healthier and wealthier*' it will '*provide efficiencies and opportunities worth approximately £10 billion over 10 years*' and it will have three objectives: '*harnessing the power of data for economic growth, supporting a modern digital government, and improving people's lives*'.

This is a complex piece of legislation which cuts across a number of Welsh Government policy areas and Ministerial portfolios. The breadth of the DUA Bill, which is made up of seven Parts and covers 262 pages in length, is demonstrated through the Bill's long title as follows:

*A bill to make provision about access to customer data and business data; to make provision about services consisting of the use of information to ascertain and verify facts about individuals; to make provision about the recording and sharing, and keeping of registers, of information relating to apparatus in streets; to make provision about the keeping and maintenance of registers of births and deaths; to make provision for the regulation of the processing of information relating to identified or identifiable living individuals; to make provision about privacy and electronic communications; to establish the Information Commission; to make provision about information standards for health and social care; to make provision about the grant of smart meter communication licences; to make provision about the disclosure of information to improve public service delivery; to make provision about the retention of information by providers of internet*

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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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*services in connection with investigations into child deaths; to make provision about providing information for purposes related to the carrying out of independent research into online safety matters; to make provision about the retention of biometric data; to make provision about services for the provision of electronic signatures, electronic seals and other trust services; and for connected purposes.*

As you will be aware, the previous UK Government introduced the Data Protection and Digital Information (DPDI) Bill, which fell following the dissolution of Parliament prior to the General Election. Although the majority of the DPDI Bill concerned reserved matters, four Legislative Consent Memoranda were laid on the Bill. The Welsh Government were supportive of the policy intent of the majority of the Bill's provisions. However, a number of concerns were identified from both a policy and constitutional perspective. Whilst extensive engagement was undertaken with UK Government to address these concerns, a satisfactory resolution was not achieved. This resulted in the Senedd withholding its consent for the DPDI Bill during the Legislative Consent Motion plenary debate on the Bill on 14 May.

My officials received first sight of the draft DUA Bill in its entirety on 3 October, with an updated version ([HL Bill 40 \(as introduced\)](#)) being published on 24 October.

The UK Government have stated they will be seeking legislative consent from the Senedd in respect of provisions within four different parts of the Bill:

- Part 1 Access to Customer Data and Business Data.
- Part 2 Digital Verification Services.
- Part 3 National Underground Asset Register.
- Part 7 Information to improve public service delivery.

We are currently analysing the Bill, and whilst we do expect to lay a Legislative Consent Memorandum before the Senedd, it is likely that this will be outside the normal two-week Standing Order 29 deadline due to the reasons outlined above.

I am copying this letter to the Counsel General and Minister for Delivery.

Yours sincerely,



**Rebecca Evans AS/MS**

Cabinet Secretary for Economy, Energy and Planning  
Ysgrifennydd y Cabinet dros yr Economi, Ynni a Chynllunio

# Agenda Item 17

Huw Irranca-Davies AS/MS  
Y Dirprwy Brif Weinidog ac Ysgrifennydd y Cabinet dros New  
Hinsawdd a Materion Gwledig  
Deputy First Minister and Cabinet Secretary for Climate  
Change and Rural Affairs



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Welsh Government

Julie James AS/MS  
Y Cwnsler Cyffredinol a'r Gweinidog Cyflawni  
Counsel General and Minister for Delivery

Ein cyf/Our ref: HIDCC/PO/0314/24

Mike Hedges MS/AS  
Chair  
Legislation, Justice and Constitution Committee  
Welsh Parliament  
Cardiff Bay  
Cardiff

8 January 2025

Dear Mike,

Thank you for your letter of 14 November 2024 requesting detail on our proposed spending set out in the Welsh Government's Draft Budget for 2025-26 on justice activities and the accessibility of Welsh law.

## Breakdown of planned spending across justice-related actions

A breakdown of planned spending across the main justice-related budgets within the 2024-25 Draft Budget can be found in the annexed table, alongside a narrative description of any year-on-year changes identified. This includes key activity within the *Delivering Justice for Wales* work programme, programmes delivered in partnership with the Ministry of Justice, such as the Women's Justice and Youth Justice Blueprints, and tribunals.

Additionally, there are budget lines across the Welsh Government which contribute less directly to justice outcomes, such as elements of the housing, health, and education budgets though we are not able to isolate the expenditure within those budgets that is going towards justice related expenditure. The draft budget allocations for these budget lines will be considered for scrutiny by their relevant subject scrutiny committees for the primary purpose of that budget and so we have not provided information on these budget lines as well.

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[Correspondence.Huw.Irranca-Davies@gov.wales](mailto:Correspondence.Huw.Irranca-Davies@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.

## *Improving the level of information provided on planned justice spending including changes to the structure and presentation of the budget*

We recognise the Committee's point that it is useful to the Welsh Government to be able to understand justice-related expenditure. We intend to improve the level of information we can provide about justice expenditure across government. These questions are fair ones, and we recognise the public interest in there being answers available to them. We are grateful to the Committee for the attempts it has made, notwithstanding its significant other workload, to provide cross-cutting scrutiny of justice matters.

As our predecessors have indicated before the Committee, though, it is not currently possible to provide comprehensive granular level information about justice expenditure, as justice-related activity cuts across portfolios and is allocated from within a number of BELs. In some areas, where a BEL covers a range of different activities, the allocation of a draft settlement will not mean that final decisions have been taken as to how the funds within that BEL would then be prioritised, and further work will be needed to assess the extent to which they will be allocated to justice related expenditure.

We have provided information on the budget lines that directly contribute to delivering justice-related activities across the separate MEGs in which they reside.

### **Delivering Justice for Wales**

#### *The Delivering Justice for Wales programme*

In February 2024, we published a [progress report](#) following on from the *Delivering Justice for Wales* report in 2022. This progress report remains the best and most recent summary of the outcomes the Welsh Government are hoping to deliver.

The table in the annex sets out proposed expenditure relating to a number of activities that form key parts of the Welsh Government's *Delivering Justice for Wales* programme, including a narrative on changes from the current financial year.

#### *Joint working with the MoJ*

The table attached also details the proposed joint work with the MoJ over the coming year, including the Youth Justice Blueprint, the Women's Justice Blueprint and the VAWDASV Blueprint. We are pleased to have been able to provide additional funding for the important work that has been carried out in these areas. We are also continuing to fund PCSO numbers in Wales, providing funding over and above what is available to forces in England.

We note that the Equality and Social Justice Committee have responsibility for scrutiny of these budget lines, as part of the broader activity to improve community safety and promote equality in Wales.

Additionally, we will be working jointly with the MoJ to explore the devolution of youth justice and of probation.

#### *Devolution of Justice*

Any devolution of justice functions must be properly funded. This includes both capital and revenue funding to provide devolved services. The financial implications of devolving youth justice and probation will form part of the discussions we hold with the UK Government.

In advance of these discussions, it is not possible to indicate the likely uplift to the justice budgets to the Committee. We anticipate any large-scale transfer of powers and functions, including the expansion of budget resources, would come into force in the next Senedd term. Any more immediate transfers of functions would require discussions on the need for in-year funding.

In 2025/26, we anticipate significant activity to negotiate with the UK Government and stakeholders, refine operational policy, and potentially to bring forward the legal mechanism to devolve new responsibilities to Wales. This activity will be funded out of both the Justice Transformation BEL and the Constitutional Reform BEL as part of the wider work programme to implement the recommendations of the Independent Commission on the Constitutional Future of Wales.

In particular, we expect to use these two BELs to fund a small number of additional staff to support discussions with the UK Government and preparation for the adoption of new functions by the Welsh Government.

### **The Welsh Tribunals**

The annexed table attached also includes information on the proposed budget allocation for the tribunals service for 2025/26.

Officials have been working with the President of Welsh Tribunals (PWT) to identify the drivers for additional costs and to reduce them for this and subsequent years. Tribunals are fundamentally a demand led service, but we seek to make their operation as efficient as possible. While a number of drivers of increased expenditure are irreversible, some other areas do offer some potential for efficiency with the support of the leadership of the individual tribunals.

Nevertheless, over recent years there have been sustained increases in the running costs of the tribunals service without corresponding increases in the initial provision in annual budgets.

The draft Budget has addressed this position with a provisional allocation for 2025/26 of £6.008m, an increase from £4.110 million in 2024/25. This represents a substantial recognition of the importance of the tribunals' work and the challenges faced. The expectation would be that the President and his leadership team would take all possible steps to ensure that expenditure remained within this sum.

### **Tribunals reform**

The Justice Transformation BEL resources the tribunal reform project. *Delivering Justice for Wales* set out our intention to modernise the tribunal system for Wales based on the recommendations of the Commission on Justice in Wales and the Law Commission.

Reform at the scale we propose can only be achieved with primary legislation. The scheduling of legislation is, of course, subject to its own separate process. In the meantime, we continue to take forward work to develop a Bill whether for introduction in this Senedd or in preparation for the next Senedd. To date, that work has been accommodated within existing resources.

The Draft Budget includes additional resources for the Justice Transformation BEL. A key purpose of this is to allow for intensification of preparatory work to identify, scope and plan for the significant workstreams that will be required to bring a new tribunal system into operation following the passage of legislation.

## The accessibility of Welsh law

As explained in previous years, the costs of our work to deliver *The Future of Welsh Law* are met from across a number of portfolios as part of the wider legislative activity of the organisation. That remains the position for 2025-26 and indeed will do so in future years.

Yours sincerely,



**Huw Irranca-Davies AS/MS**

Y Dirprwy Brif Weinidog ac Ysgrifennydd y  
Cabinet dros Newid Hinsawdd  
a Materion Gwledig  
Deputy First Minister and Cabinet Secretary  
for Climate Change and Rural Affairs



**Julie James AS/MS**

Y Cwnsler Cyffredinol a'r Gweinidog Cyflawni  
Counsel General and Minister for Delivery

Annex A – draft budget allocations to justice budgets – 2025/26

BEL	MEG	24/25 budget	Proposed 25/26 budget	Impact of changes
Justice Transformation	Climate Change & Rural Affairs	0.48m	0.688m	This BEL funds devolution preparations and tribunals reform. The increase in funds will support staffing of both of these activities and potentially other associated costs.
Constitutional Reform	Climate Change & Rural Affairs	1.997m	2.014m	This BEL also contributes to work in pursuit of devolution of youth justice and probation, by funding (amongst other things) staff to work on these policies. This budget has increased by 1.3% to reflect a pay award uplift and SCAPE impacts
Women's Justice and Youth Justice Blueprints	Social Justice	1.092m	1.292m	This BEL delivers work to support women and children in the justice system, including the One Wales service which we jointly commission with justice partners. The increase in budget will support an expansion in activity, with a particular focus on youth justice. We are working with partners to define this activity in full so it can deliver the best possible outcomes.
Community Support and Safety	Social Justice	15.488m	16.003m	This BEL supports our funding for Police Community Support Officers who are employed and tasked by the Welsh forces and British Transport police. We anticipate

				the additional approximate 3% of funding will primarily be used to support any salary rises for PCSOs in 2025-26.
Tribunals	Central Services and Administration	4.15m	6.008m	This increase will regularise the tribunals' budgetary position, as in-year injections of funds have long been needed.

## Annex B – list of budget lines that indirectly contribute to justice policy outcomes

The allocations to these budget lines are being scrutinised by the policy scrutiny committees which oversee the primary purpose of the budget lines.

SPA	BEL
Central Services and Administration MEG	
Central Programmes	Civil Contingencies & National Security
Welsh Language	Welsh Language
Housing and Local Government MEG	
Housing Policy	Homelessness
Social Justice MEG	
Equality, Inclusion & Human Rights	Equality, Inclusion & Human Rights
Equality, Inclusion and Human Rights	Cohesive Communities
Supporting Communities	Basic Income
Supporting Communities	Advice Services
Violence against Women, Domestic Abuse and Sexual Violence	Violence against Women, Domestic Abuse and Sexual Violence
Economy, Energy and Planning MEG	
Sectors & Business	Business Wales
Skills	Employability Including Young Persons Guarantee
Sectors & Business	Valleys Task Force
Skills	Apprenticeships
Social Partnership	Social Partnerships
Education MEG	
Wellbeing	Offender Learning
Wellbeing	Whole School Approach to Wellbeing
Health and Social Services MEG	
Health Central Budgets	Mental Health
Health Central Budgets	Substance Misuse
Healthcare Inspectorate Wales	Healthcare Inspectorate Wales
Supporting Children	Children and Communities Grant (“CCG”)
NHS Delivery	Core NHS Allocations
Supporting Children	Supporting Children
Social Care	Sustainable Social Services
Supporting Children	Support for Families and Children
Cafcass Cymru	Cafcass Cymru

Huw Irranca-Davies MS

Deputy First Minister and Cabinet Secretary for Climate Change and Rural Affairs

Julie James MS

Counsel General and Minister for Delivery

14 November 2024

Dear both,

**The Welsh Government's Draft Budget for 2025-26**

To assist our scrutiny of the Welsh Government's Draft Budget for 2025-26, anticipated to be published on 10 December 2024, we would be grateful to receive further detail around the Welsh Government's proposed spending in relation to justice and the accessibility of Welsh law.

We intend to undertake our scrutiny of these proposals through correspondence; we would therefore be grateful to receive further detail within the areas set out in the annex by 8 January 2025.

Yours sincerely,



Mike Hedges

Chair

## Annex

### General

1. A breakdown of planned spending on justice-related actions within the 2025-26 draft budget and future indicative budgets, by Spending Programme Area (SPA), Action and Budget Expenditure Line (BEL), both revenue and capital, and, where relevant, year-on-year comparison to planned expenditure in 2024-25.
2. A detailed narrative description of any planned spending on justice in the 2025-26 draft budget and any year-on-year changes identified.
3. A summary of any work undertaken to improve the level of information provided on planned justice spending within the draft budget including detail on any changes made to the structure and presentation of the budget compared to previous years as a result.

### Delivering Justice for Wales

4. An overview of planned spending in 2025-26 on the Delivering Justice for Wales work programme including:
  - the outcomes the Welsh Government are hoping to deliver as a result of this spending;
  - an explanation of what areas of work will be prioritised in 2025-26; and
  - details of how this planned spend compares to expenditure on the Delivering Justice for Wales work programme in the current 2024-25 financial year.
5. Detail on planned spending on justice programmes in partnership with the Ministry of Justice in 2025-26.
6. An overview of any planned spending to prepare for the Welsh Government's ambition to devolve elements of the justice system to Wales.
7. An overview of any resources in the 2025-26 draft budget to take forward proposals for a new tribunals system for Wales, including the development of a Senedd Bill to reform the Tribunals.

### The Welsh Tribunals

8. An overview of the resources in the 2025-26 draft budget to support the Welsh Tribunals, and how the Welsh Government is working with the President of the Welsh Tribunals to ensure that there are no further instances of expenditure exceeding the budget available to the Tribunals, as stated in the President's [Annual Report for the period 1 January 2023 to 31 March 2024](#).

## **The accessibility of Welsh law**

**9.** A breakdown of any planned spending within the 2025-26 draft budget relating to the delivery of the Welsh Government's programme to improve the accessibility of Welsh law.