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Y Gweinidog Newid Hinsawdd
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Llywodraeth Cymru
Welsh Government

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25 July 2023

Dear Elin

I wrote to you on 29 June 2023 regarding the Energy Bill (the Bill) which was introduced to the UK Parliament, the House of Lords, on 6 July 2022. The passage of the Bill was stalled for a period before resuming in the latter part of 2022 and is still expected to have a number of government amendments introduced at the final stages of the Bill's passage through Parliament.

Following on from that letter and the Legislative Consent Motion, I am now writing regarding a supplementary Legislative Consent Motion (sLCM) on the Offshore Wind Environmental Improvement Package (OWEIP) clauses in the Bill. There are six OWEIP clauses in Chapter 1 for Part 13 of the Bill constituting Clauses 286-291. The clauses were tabled as amendments to the Bill in the House of Lords on 9 January 2023, with further amendments tabled against the Bill by the UK Government on 7 June 2023.

The UKG's aim for the OWEIP clauses is to accelerate delivery of offshore wind developments through:

- enabling the use of strategic compensation measures to unblock barriers to consenting for offshore wind plans or projects that will adversely affect protected European sites;
- allowing the setting up of a Marine Recovery Fund or funds (MRF) to facilitate those measures, and
- allowing amendments to the environmental assessment regime under the Habitats Regulations Assessment (HRA) and the marine conservation zone assessment (MCZ) regime relevant to the consenting and licensing of offshore wind plans and projects to facilitate those changes.

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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.

Further detail regarding the relevant legislation in Wales has been provided in the sLCM for context.

The UK Government believe the OWEIP amendments relate to a reserved matter and are outside the Senedd's legislative competence. They argue the OWEIP amendments' primary purpose is to accelerate the development of offshore wind projects to increase the UK's generation of offshore wind, which relates to the reservation, "Generation, transmission, distribution and supply of electricity".

The Welsh Government's view is that the OWEIP amendments make provision in relation to Wales for a purpose within the Senedd's legislative competence in relation to environmental protection, marine licensing, and planning for generating stations below 350MW, so far as the OWEIP amendments apply in the Welsh inshore region.

I have written to the UK Government on a number of occasions to raise concerns that the OWEIP clauses as drafted do not respect the legislative competence of the Senedd nor the devolved responsibilities of Welsh Ministers. The Welsh Government recommends withholding consent to the OWEIP clauses at this time and I laid the supplementary Legislative Consent Memorandum on 25 July 2023.

As with the LCM I appreciate that we are well outside the normal two-week Standing Order 29 deadline for the laying of this supplementary LCM. This has been in part due to handling of the Bill by the UK Government but also due to the complexity of the issues under consideration. We expect further changes to the Bill and these clauses from the UK Government as the Bill continues its consideration in the House of Commons. Given the importance of the OWEIP measures for our ability to manage the marine environment and given we do not feel the UK Government is respecting our devolution settlement, I am keen to focus this LCM on those clauses introduced as UK Government amendments. A further supplementary LCM will be required to cover the remaining amendments to the Bill which will be laid as soon as possible. The Bill is expected to move through the final stages of the UK Parliament in September.

I am copying this letter to the Counsel General and Minister for the Constitution, Mick Antoniw MS, the Minister for Rural Affairs and North Wales, and Trefnydd, Lesley Griffiths MS and the Chair of the Legislation, Justice and Constitution Committee, Huw Irranca-Davies MS.

Yours sincerely



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