

Mick Antoniw MS

Counsel General and Minister for the Constitution

28 November 2023

Dear Mick,

Elections and Elected Bodies (Wales) Bill

Thank you for attending the meeting of the Committee on 20 November to give evidence in respect of the Elections and Elected Bodies (Wales) Bill. To assist our scrutiny of the Bill, we would be grateful if you could provide further detail about some matters.

1. You stated that some of the regulation-making powers in the Bill are more curtailed, particularly in areas where they relate to the creation of offences. Could you explain whether your consideration of a justice impact assessment during the Bill's development resulted in any changes to its provisions?
2. You stated that, while it is your intention that the Electoral Management Board will maintain the Welsh elections information platform, you have not specified as such on the face of the Bill as it may become apparent that a more appropriate body should undertake this function. Could you provide an example of such a body?
3. Section 5(4) provides for pilot regulations to mirror the registration without application provisions in section 3; however, the coming into force of section 3 is not triggered by a requirement to pilot it. Could you clarify whether you considered making the ability to bring section 3 into force be conditional (for example, no earlier than the conclusion of at least one relevant pilot) and if so, why considered not doing so?
4. It appears that the Welsh Ministers can use the power under section 5 to trial the amended registration provisions introduced by section 3(2); however, there is a

subsequent power in section 8 to change the power in section 5(3). Could you clarify in what circumstances do you envisage such a power being used?

5. Could you clarify why, by virtue of section 26 of the Bill, are you making provision to change the existing regulation-making power in section 1 of the Local Government (Wales) Measure 2011 to a direction-making power?
6. Could you clarify which functions you envisage will be conferred on persons or categories of persons by regulations made under section 27(4), and could you clarify why those functions are not included on the face of the Bill?
7. Could you clarify which functions you envisage will be conferred on persons by regulations made under section 29(8), and could you clarify why those functions are not included on the face of the Bill?
8. The regulation-making power in section 41 is subject to the negative procedure. Given that the power can be used to amend primary legislation, please can you explain why it is not subject to the affirmative resolution?
9. There appears to be a new regulation-making power contained in section 51 of the Bill which does not appear in the table of delegated powers in the EM. Please can you describe the power, how it will be used and the reasons for the procedure chosen?
10. You also stated that you intend to improve the accessibility of the law in respect of devolved elections. Could you therefore clarify why provisions in respect of disqualification from being a Member of the Senedd are included within this Bill, instead of within the Senedd Cymru (Members and Elections) Bill?

During the session you also agreed to provide a note outlining the Welsh Ministers' existing powers to make secondary legislation to provide for the electronic counting of votes in devolved elections.

I would be grateful to receive your response by 19 December 2023.

I am copying this letter to the Chair of the Local Government and Housing Committee.

Yours sincerely,



Huw Irranca-Davies
Chair