

The Rt. Hon Elin Jones MS
Y Llywydd and Chair of the Business Committee

22 December 2023

Dear Llywydd

Procedures for the scrutiny of legislation relating to the United Kingdom Internal Market Act 2020 and UK-wide common policy frameworks

Thank you for your letter of 22 November 2023 enclosing a paper and proposed changes to Standing Orders to deal with the impact of the *United Kingdom Internal Market Act 2020* (the 2020 Act) and UK-wide common policy frameworks.

We are grateful for the opportunity to comment on the specific proposals being considered by the Business Committee, which aim to address recommendation 2 in our report, [The Welsh Government's Legislative Consent Memorandum on the Genetic Technology \(Precision Breeding\) Bill](#) (the Genetic Technology Bill LCM report), as well as matters raised by the Health and Social Care Committee and the Fifth Senedd's External Affairs and Additional Legislation Committee.

As the Business Committee has noted in its paper, our principal concern has centred on ensuring that the Explanatory Memorandum (EM) accompanying a Bill includes information (if applicable) about the effectiveness of the Bill in delivering its objectives (should it be passed and enacted) given the



provisions of the 2020 Act and the market access principles it introduces. Our report on the [Environmental Protection and \(Single-use Plastic Products\) \(Wales\) Bill](#) identified the broad issue as follows:

"...if businesses in England are permitted to sell green chairs, those chairs can be lawfully sold in Wales even if there is a law banning the sale of green chairs in Wales."

As such we believe that if, for example, there were to be a Bill introduced by the Welsh Government proposing to ban the sale of green chairs in Wales, the EM should draw attention to the fact that green chairs could lawfully be sold in Wales by businesses in England, if businesses in England are permitted to sell green chairs. We believe this to be an important consideration for Members scrutinising a Bill introduced by the Welsh Government.

We believe that the proposed inclusion of a new Standing Order 26.6(xiii), namely to "set out the potential impact (if any) of the 2020 Act on the effectiveness of the Bill's provisions, should it be enacted", would be beneficial in assisting committees in their scrutiny of a Bill introduced by the Welsh Government. We also believe it would contribute to ensuring that it is clear to citizens how the law applies to them in Wales, a point we made in our recent [annual report](#).

We note that the intention is to only apply this requirement to public Bills introduced by the Welsh Government. However, we would favour the Standing Orders enabling EMs to public Bills introduced by a Member of the Senedd or a Senedd Committee to set out the potential impact of the 2020 Act, which would also highlight the need to give the issue some consideration. It is likely that our scrutiny of any public Bill brought forward by a Member of the Senedd or a Committee would seek information about the impact of the 2020 Act on their proposals (where necessary), not least because the principle of seeking to determine the effectiveness of the provisions in a Bill, as a consequence of the 2020 Act, would still apply.

We adopted this approach in relation to the Bill introduced by Peter Fox MS, but would also note that the EM accompanying his Bill already explained that his proposal was limited by the 2020 Act (see [paragraph 304 of the EM](#) and our subsequent [report](#)).

We also consider that new Standing Orders 26B.9(xiv) for Hybrid Bills, Standing Orders 26C.9(x) for Consolidation Bills and Standing Order 27.1 are worth pursuing.

As regards the proposal for new Standing Order 30D, we make the following observations.

On new Standing Order 30D.1, we consider that there may be merit in making it enabling and therefore changing "must" to "may". In our Genetic Technology Bill LCM report, we effectively concluded that the UK Government's Genetic Technology (Precision Breeding) Bill did not in our view engage Standing Order 29, and that another Standing Order could have been used as means of

debating the subject matter of the Memorandum. New Standing Order 30D.1, subject to the amendment we suggest, would in our view be a useful addition to Standing Orders and provide a more appropriate vehicle to draw the Senedd's attention to, for example, England only UK Bills (like the Genetic Technology (Precision Breeding) Bill) that might impact on existing Welsh law as a consequence of the 2020 Act. The Welsh Government could table a motion to debate the issues contained in the Written Statement should it wish to do so.

On new Standing Order 30D.3(v), we think there may be merit in increasing the period specified (currently three working days) as these matters could be quite complex.

As regards new Standing Orders 30D.2 and 30D.4, these relate to recommendations arising from the External Affairs and Additional Legislation Committee in the Fifth Senedd. While increasing the transparency of matters relating to common frameworks would be beneficial, we have undertaken an oversight role in relation to their preparation and for that reason, other Committees may be better placed to consider whether the proposed Standing Orders are appropriate. From our perspective, we welcome the responses we have received from the Welsh Government when we have sought further information and clarity on these issues.

I am copying this letter to the Health and Social Care Committee.

Yours sincerely,

Huw Irranca-Davies

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Chair

