

Rt Hon Elin Jones MS

Y Llywydd and Chair of the Business Committee

3 October 2024

Annwyl Lywydd

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

Thank you for your letter of 24 September 2024 inviting my Committee to outline its views on the timetable, as proposed by the Government, for scrutiny of the Legislation (Procedure, Publication and Repeals) (Wales) Bill.

As you state in your letter, the Government has proposed a shortened period for Stage 1 scrutiny: according to the illustrative timetable, a period of eight weeks has been proposed, instead of the 12-week period which is usually afforded.

We considered the Government's paper and accompanying timetable at our meeting of 30 September 2024, and concluded that a period of less than 12 weeks is very likely to be insufficient to enable us to effectively complete our scrutiny. We set out our reasons for coming to this conclusion below.

Being required to complete our scrutiny in less than 12 weeks would leave us with limited time to take evidence from stakeholders, and would limit the Committee's ability to take account of that evidence during future sessions, including with the Member in charge of the Bill. In addition, the proposed reporting deadline of 10 January 2025 – during the first week following the Christmas recess – would also provide us with only one meeting to consider and agree our report.

While the Committee will be responsible for scrutiny of the Bill, it will also be a key stakeholder with regard to its proposals on the arrangements for making and publishing legislation. These are proposals which – as far as we are aware – have not been consulted upon by the Government, either with relevant stakeholders in the Senedd or more generally. We therefore believe it is fundamental that we are afforded an opportunity to thoroughly assess the relevant provisions, drawing on expert advice and the views of other key stakeholders as necessary.

In addition, while the Government notes in its paper that the Committee will only be considering one other Senedd Bill during the period in question, it does not take into account our other time-critical business. As you are aware, the Business Committee has referred legislative consent memoranda in respect of five Parliamentary Bills for our consideration, and the reporting deadlines in respect of all these memoranda fall within this period. We will also be undertaking our regular scrutiny of non-trade international agreements, as well as taking evidence from members of the Government on the broad-ranging matters within our remit (sessions which have been held over from before the summer recess). Therefore, in addition to the likely impact of there being insufficient time to effectively scrutinise the Bill, setting a truncated timetable will likely impact on the Committee's ability to fulfil its other essential business in a timely manner.

Furthermore, the Government has not provided us with early notice – privately or publicly – of its intention to propose an expedited timetable for scrutiny of the Bill. While the former Counsel General wrote to the Committee on 5 July 2024 to offer a technical briefing on the Bill, no reference was made in that letter to the matter of timetabling. Early notice would have provided us with an opportunity to seek to accommodate the Government's proposal, and to arrange our forward work programme accordingly.

You may also be aware that the Government had intended for the Bill to be introduced earlier this year. It is therefore unclear to us why the Government appears to be advocating a truncated timetable for scrutiny of the Bill to enable it to complete its passage by 1 April 2025, instead of seeking to achieve the same aim by introducing the Bill earlier this year as intended. We do not therefore believe it would be appropriate to reduce the standard scrutiny timetable for the Bill following a delay to its introduction.

We are also not aware of any urgency associated with the implementation of the Bill that might require an expedited timetable. We believe that in the absence of any reasons for urgency, a standard 12-week period for scrutiny should always be provided for Senedd committees to undertake Stage 1 scrutiny, to enable a full and comprehensive assessment of a Bill having taken into account a wide range of views on its proposals.

We note your intention to consider the timetable in accordance with set decision-making criteria; we have included at the Annex some further information which you may find useful to your consideration.

I am grateful to you for consulting with the Committee, and will await the Business Committee's decision on the timetable.

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

Annex

Has a draft of the Bill been provided?

The Committee has not seen a draft of the Bill.

According to the Government's paper, the Bill has two main purposes.

Provisions in respect of first purpose – bringing together and formalising the procedural arrangements for making Welsh subordinate legislation, and the requirements for publishing legislation – have not previously appeared in draft form. As far as we are aware, no public consultation has either been undertaken in respect of the policy proposals underpinning these provisions.

Provisions in respect of the second purpose – repealing, amending and otherwise disapplying in relation to Wales provisions and enactments that are no longer of practical utility or benefit – have on the other hand previously appeared in draft form, and have been subject to public consultation. However it is unclear to what degree these provisions have changed since the consultation.

How much detail has been provided about the policy and legislative proposals to be included in the timetable paper? Does the Bill contain provisions of a potentially contentious nature?

As these are interconnected matters we have considered them together.

With regard to the first main purpose (as stated above), no public consultation has been previously undertaken by the Welsh Government in respect of the policy proposals underpinning these provisions. It is very difficult to make a judgement as to whether they are likely to be contentious. The purpose of a sufficiently lengthy public consultation, held by the Committee as part of its scrutiny, would therefore be to allow relevant stakeholders to properly assess these provisions and to bring any issues to its attention (such as for example their merit, impact and complexity).

With regard to the second main purpose, the Government's paper provides little detail on which provisions are proposed for repealing, amending and otherwise disapplying in relation to Wales, and whether these will reflect those previously published in draft form.

The paper also states that the relevant provisions "are no longer of practical utility or benefit"; however, in the absence of further detail on the provisions, this statement is subjective. It is therefore difficult to make a judgement as to its accuracy, and to ascertain whether the Bill's provisions are likely to be of a potentially contentious nature and draw extensive comment and scrutiny from stakeholders.

It is also unclear how many of the repealing provisions stem from recommendations made by the Law Commission, which would help to establish whether or not they are likely to be contentious.