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Written Evidence - Legislation (Procedure, Publication and Repeals) (Wales) Bill

Introduction

Mike Hedges MS
 Chair
 Legislation, Justice and Constitution Committee

Dear Chair,

I am pleased to present this written evidence concerning the Legislation (Procedure, Publication and Repeals) (Wales) Bill. We believe this Bill sensibly modernises legislation publishing law for Wales, further advancing public access.

The National Archives is the cornerstone of the public record system as well as the UK's official publisher. We make the records we hold available for people today as well as preserving them for future generations. Public access and accessibility are at the heart of what we do. We are a living digital archive with an expanding digital collection, which includes published legislation and court judgments for the senior courts in England and Wales.

In the book, *Rule of Law*, Lord Bingham sets out eight principles for the rule of law. First of these is that "the law must be accessible and so far as possible intelligible, clear and predictable." The public availability of the legislation is fundamental for the successful conduct of commerce, trade, investment, democracy, justice and good government.

The current legal obligations on me as the King's Printer for Acts of Parliament centre on printing legislation. I ensure all Acts of the Senedd and Welsh Statutory Instruments are published quickly, in print, as the law requires. In practice, it is the online service at legislation.gov.uk that people in Wales use to access the text of a piece of legislation. This service is also the source of data for commercial legal publishers and other third parties.

We provide drafting tools and publishing services to the Welsh Government, including for registering and numbering Welsh Statutory Instruments. Over the last few years, we have worked together to improve the accessibility of Welsh legislation. We have ensured updated texts are provided for amended primary and secondary legislation, in both Welsh and English. Brexit and the COVID-19 pandemic have illustrated the importance for users of having up-to-date texts.

This Bill provides for pragmatic modernisation of the current law for publishing legislation. It crystallises clear and unambiguous duties on a King's Printer for Wales, which are aligned

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with current practice, whilst also creating a bespoke numbering scheme for Welsh Statutory Instruments. The Bill makes sure the law is focused on what's needed by the public, courts and legal profession in Wales, and creates space for us to continue to improve the service in the future, including the use of new technologies.

I am confident we can deliver what the Bill requires of us, and I look forward to continuing our collaboration with the Welsh Government.

Yours sincerely,



Saul Nassé
King's Printer of Acts of Parliament

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Background: The National Archives and Welsh Legislation

1. The National Archives is the archive of Government and the Courts, and the official publisher for the UK. It is a non-Ministerial Government department and operates with the operational independence that this status implies. The jurisdictional extent of our remit varies by function. Our legislation publishing responsibilities are, in effect, UK wide. We provide an archive service to the Welsh Government, whereas Scotland and Northern Ireland have separate institutional arrangements for archiving public records.
2. The Chief Executive and Keeper of The National Archives is Saul Nassé. He is responsible for leading and managing the department. There are a number of distinct roles and responsibilities in law, that are part of his position. These are:
 - Keeper of Public Records
 - The King’s Printer of Acts of Parliament
 - Controller of His Majesty’s Stationery Office
 - The King’s Printer for Scotland
 - Government Printer for Northern Ireland
 - Historical Manuscripts Commissioner
3. The King’s Printer of Acts of the Parliament is appointed by Letters Patent by His Majesty the King. This arrangement cascades certain prerogatives of the Crown to the officeholder, concerning the printing of legislation and the management of the Crown’s copyrights and database rights. In addition, various statutory duties have been conferred on the King’s Printer by Parliament. The King’s Printer is also the Controller of His Majesty’s Stationery Office.
4. There is a long history in the arrangements for publishing legislation, dating back centuries. Most recently two machinery of government changes, in 2006, and 2009, brought together the functions of the Office of Public Sector Information, His Majesty’s Stationery Office and the Statutory Publications Office, under the auspices of The National Archives. Today the official versions of legislation applicable to Wales, of whatever origin, are published by The National Archives, who operate and deliver legislation.gov.uk.
5. Primary legislation for Wales is published by the King’s Printer on behalf of the Crown. Under Section 115 (5E) of the Government of Wales Act 2006, the certified copy of an Act of the Senedd must be transmitted to the King’s Printer. The Bill, as currently drafted, does not amend this arrangement.
6. Secondary legislation, namely Welsh Statutory Instruments, are printed and published

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under provisions set out by the Statutory Instruments Act 1946 (SIA). This deals with numbering, printing, publication and citation of Statutory Instruments. It confers powers on the Secretary of State to make regulations about the numbering of Statutory Instruments and also for the production of issue lists. As the UK Cabinet Minister with responsibility for these functions, the powers and duties under the SIA are held by the Secretary of State for Culture, Media and Sport.

7. Further requirements are set out in the Statutory Instruments Regulations 1947 (SIR). These impose duties on His Majesty's Stationery Office and on the Secretary of State. Regulation 3 provides for consecutive numbering of all Statutory Instruments received. Regulation 9 requires the production of the "Statutory Instrument Issue List", showing the serial number and short title of each statutory instrument which has been issued. Regulation 10 requires the Secretary of State to compile and print annual editions, including lists and tables of effects, and to make those available for sale.
8. Whilst we have no doubt about our publishing responsibilities, we do appreciate the desire of the Welsh Government to update them for Wales. A lot has changed since the 1940s and modern law can better reflect how the public and the courts access and use legislation today.

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

9. From The National Archives' perspective, the most notable elements of the Bill are the King's Printer for Wales; an explicit statutory duty to publish Acts of the Senedd; a discrete series of Welsh SIs with a consecutive numbering scheme; a digital by default publishing regime; and a new duty to update or revise the texts of the legislation.
10. The Bill has been carefully considered by the Welsh Government. It puts on a statutory footing much of what is already delivered through the legislation.gov.uk service, formalising much current practice.
11. The main change that is required of The National Archives is supporting the new Welsh Statutory Instrument numbering series, effectively a new legislation type in our database. Here we will need to adapt our current systems and processes. We are confident that this can be implemented from 1 January 2026 – and indeed we want to make this change as we think it will help users.

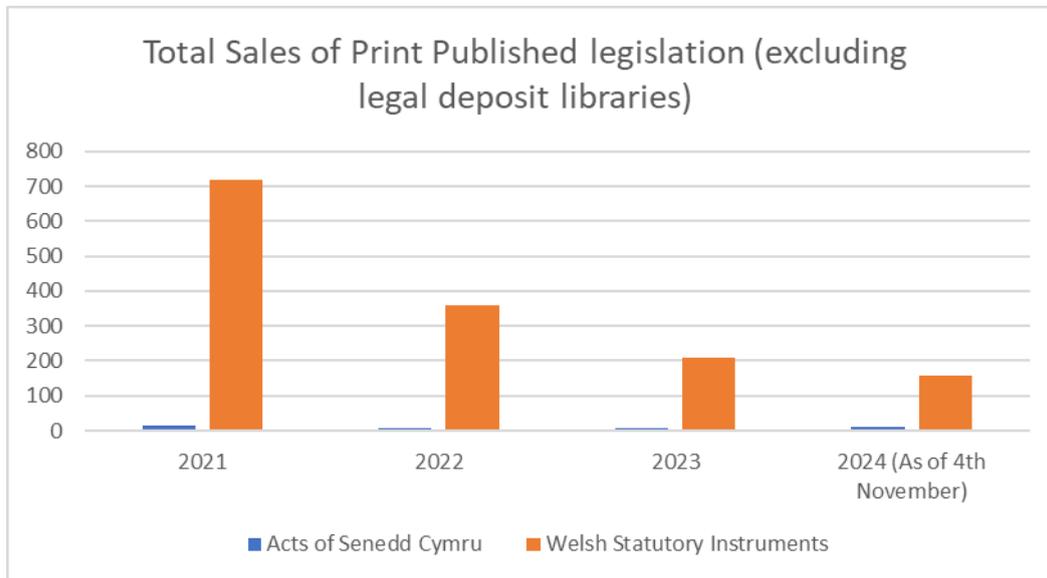
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Publishing new legislation

12. The National Archives has a Legislation Services team, who manage the process for publishing new Acts of the Senedd Cymru, new Welsh Statutory Instruments (WSIs), and any associated documents. Some of the services are delivered directly in-house by the Legislation Services team, whilst others, including the printing and sale of hard copy legislation, are outsourced and managed under contract. The current legislation publishing contractor is TSO Ltd.
13. The scope of the services we provide for Wales spans tools for drafting lawyers of WSIs, with associated training and support; a typesetting service to achieve the two-column layout in paginated form; the registration and numbering of all Welsh Statutory Instruments. We also facilitate the issuing of corrections for non-substantive errors by way of correction slip.
14. We aim to publish all new legislation as quickly as possible. The standard service level is within 24 hours from receipt for web publication (we allow 24 hours for registration and numbering of WSIs) and a further 3 days for print. We aim to publish emergency legislation within 2 hours. During the pandemic we offered 24/7 SI registration and publishing services, registering and publishing new COVID regulations in a few minutes. It should be noted that the publication of WSIs takes longer than other types of legislation publishing, due to the intricacies involved in publishing such SIs in two languages.
15. The publishing services are underpinned by a software system, that is part of the wider legislation.gov.uk platform. This manages receipt of the documents, aids with document checks for SI registration, numbers the instruments, creates the files for print with imprints and ISBN numbers, supports the print production processes, and manages the conversion of the documents to data, for web publication and re-use.
16. The processes for handling legislation documents are highly controlled. There is an audit trail so we can trace back what happened, and when, in case of any issue. We can demonstrate that the document we receive is what we register and number, is what is laid, and what is then published. The accuracy and integrity of the legislation we publish, in print, online and as data, is paramount and assured by our systems and processes.

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Table 1 – the decline of print sales



17. Whilst the law focusses on printing legislation, users of Welsh legislation overwhelmingly just use legislation.gov.uk. People want to read the current, up to date text, of Welsh legislation, rather than buy hard copy of the legislation as enacted or made. This is a long-term trend across all types of legislation. Print has been in decline for 25 or 30 years. Table 2 illustrates both the low level of print sales and the ongoing, recent, decline in print sale volumes.

Legislation.gov.uk

18. Around 120,000 people will access and use legislation.gov.uk each working day. To understand who is using the service, we conduct regular user research. We have developed a set of personas, or fictional characters, to represent the needs and interests of the typical users of legislation online. These encapsulate users' motivations and tasks, and inform our decisions for the website's design and development.

19. From our research, we know that most people using legislation.gov.uk are at work and using it for a work purpose. A significant percentage of users are not lawyers and therefore lack access to one of the commercial services. We have extracted the responses to the survey from people in Wales.

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Table 2 – users of legislation.gov.uk from Wales (2024 Survey Results)

Which of the following best describes you?				
Answer Choices			Response Percent	Response Total
1	Law Professional (qualified or trained law professional)		35.62%	26
2	NOT a Law Professional, but accessing the site in a work or professional capacity		30.14%	22
3	Law Student		1.37%	1
4	Student (not in Law)		4.11%	3
5	Academic		4.11%	3
6	Member of the Public (not using legislation.gov.uk for work purposes)		13.70%	10
7	A user of the legislation API to access raw legislation data		6.85%	5
8	Other (please specify):		4.11%	3
			answered	73

20. We use web analytics to see what users are accessing on legislation.gov.uk and use it to both better understand user behaviour and inform our editorial priorities. We collect this information for the whole of the UK and it can give us useful insights into the usage of Welsh legislation.

Table 3 – top 10 most visited pieces of Welsh legislation

Top 10 Welsh Legislation documents 2024			
Rank	Document URI	Title	Page Views
1	http://www.legislation.gov.uk/id/anaw/2014/4	Well-being of Future Generations (Wales) Act 2015	1,717,364
2	http://www.legislation.gov.uk/id/asc/2021/1	Planning (Wales) Act 2015	1,210,195
3	http://www.legislation.gov.uk/id/wsi/2020/1609	Renting Homes (Wales) Act 2016	945,774
4	http://www.legislation.gov.uk/id/anaw/2013/1	Regulation and Inspection of Social Care (Wales) Act 2016	895,951
5	http://www.legislation.gov.uk/id/anaw/2018/2	Environment (Wales) Act 2016	693,929
6	http://www.legislation.gov.uk/id/anaw/2016/1	Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Act 2016	565,588
7	http://www.legislation.gov.uk/id/anaw/2014/7	Public Health (Wales) Act 2017	554,062
8	http://www.legislation.gov.uk/id/anaw/2016/3	Public Services Ombudsman (Wales) Act 2019	443,799
9	http://www.legislation.gov.uk/id/anaw/2019/3	Senedd and Elections (Wales) Act 2020	378,698
10	http://www.legislation.gov.uk/id/anaw/2015/2	Local Government and Elections (Wales) Act 2021	366,837

Users' needs

21. In our research with users, we have found that many people accessing legislation on the web lack knowledge about how legislation works. People reading legislation online assume the document they are looking at is current, in force and applies to where they live. Often that is not the case. This is a particular challenge for people in Wales, where

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UK Acts that apply to England and Wales may have been amended in different ways. One of the benefits of the legislation.gov.uk platform is that it provides a solution to some of these challenges. Any piece of primary legislation can be searched and viewed, with annotations, so the user can see how the law stands in Wales and how it compares to other parts of the UK.

22. The parity given to legislation across the four nations of the UK by legislation.gov.uk is particularly valued by users from Wales, Scotland and Northern Ireland, where the commercial services can be less comprehensive.
23. We try to present legislation on the web in a way that makes the context and status of each document clear and accessible. Legislation is complicated to understand; for example, an Act may have multiple sections, each with different amendments that apply to different places, with different commencement dates, or the Act may have prospective provisions.
24. The legislation.gov.uk user interface makes the status of each piece of legislation apparent, with a timeline and extent, so people know whether the document they are viewing is current and in force, and where it applies.
25. However, there are particular challenges in displaying updated legislation as it applies to Wales, where amendments made by later legislation for Wales differ from amendments made for England (or the rest of the UK). Making it easy for users to understand what has changed in the legislation and where the changes apply to is extremely difficult. This year, The National Archives has been working with the drafting offices across the UK to explore joint solutions to some of these challenges, and has conducted user research to test different way of displaying amendments that only have a limited geographical extent. More user testing is also planned for later this year to specifically look at how Welsh users currently interact and use Welsh legislation and explore what features/functionality would be useful or could be improved. This will include looking at how users use the site level Welsh language toggle, searching Welsh legislation, how users work with multiple languages versions, what the key user needs are when viewing legislation and what help and guidance is useful for Welsh users to aid legal certainty.

Updating or revising legislation in the English and Welsh languages

26. Legislation.gov.uk is a bilingual service, as far as the legislation itself is bilingual. The user interface is available in English and Welsh. Welsh legislation is published as enacted or made in English and Welsh, and crucially is now revised or updated, in English and Welsh. As we have increased the amount of revised legislation in the Welsh language, so the use of legislation in Welsh has grown, with a big uplift in 2024.

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Table 4 – Page views of Welsh legislation

Page Views for each Welsh Legislation type broken down into language									
Legislation Type	anaw		asc		mwa		wsi		
Language	English	Welsh	English	Welsh	English	Welsh	English	Welsh	
2017	495,799	110,552	-	-	138,895	10,061	1,300,997	193,800	
2018	824,705	132,531	-	-	172,728	7,656	2,375,159	243,928	
2019	720,950	122,782	-	-	160,448	2,210	2,002,378	186,652	
2020	922,870	132,030	19,705	1,271	224,030	6,628	4,108,854	407,277	
2021	719,486	85,176	109,893	594	173,812	2,705	4,021,561	284,916	
2022	1,938,736	201,794	530,078	18,481	280,141	2,564	5,730,486	467,707	
2023	1,829,375	267,425	597,470	76,252	310,317	14,997	6,046,636	760,383	
2024	2,882,969	1,446,870	1,210,522	31,344	467,099	25,165	7,493,737	1,564,284	

Page Views for the whole site and welsh version of site								
	2017	2018	2019	2020	2021	2022	2023	2024
Welsh Version of site	2,294,826	3,053,361	4,155,876	7,277,204	5,401,318	7,350,972	13,978,298	61,004,200
Total Website	518,617,011	1,662,939,311	1,407,416,228	2,201,188,767	1,732,689,687	2,294,397,268	3,168,715,079	2,463,260,125

27. An up-to date statute book that reflects the law as it stands today is absolutely vital for aiding legal certainty. The requirement for up-to-date legislation has been the main user need since legislation.gov.uk was launched in 2010. The legislation has substantially been brought up to date over the last few years. We receive a lot of feedback from users telling us how invaluable the service is, because it is now largely up to date.
28. 'The future of Welsh law: revised accessibility programme 2021 to 2026' also recognised the importance of up-to-date legislation in its aim to: *"Ensure Welsh law is available in an up-to-date form on legislation.gov.uk and enable the Welsh and English language texts of Welsh legislation to be viewed side by side."*
29. Today, around 98% of all revised legislation viewed on legislation.gov.uk is fully up to date and work on the Welsh legislation, in both languages, is well advanced.

Table 5 – Up to date Welsh legislation

Legislation Type	Documents	English text up to date to 04/11/2024		Welsh text up to date to 04/11/2024	
Acts of Senedd Cymru 2020-present	18	18	100.0%	16	88.9%
Acts of the National Assembly for Wales 2012-2020	44	42	95.5%	40	90.9%
Measures of the National Assembly for Wales 2008-2011	22	21	95.5%	20	90.9%
Welsh Statutory Instruments	6,373	5,253	82.4%	4,547	71.3%
TOTAL	6,457	5,334	82.6%	4,623	71.6%

30. The National Archives is working in close collaboration with colleagues in the Welsh Government to bring all Welsh legislation up to date and maintain the revised versions on an ongoing basis. The editorial team at The National Archives provides training and support to Welsh editors and review all the update work before it is published to legislation.gov.uk to ensure the updated legislation is accurate. This collaboration was essential for enabling Welsh language versions of legislation to be updated alongside the

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English language versions - a major milestone for the service.

31. To deliver revised legislation for Wales, bilingually, The National Archives has made a significant investment in systems, tools and editorial services, totalling £618k since 2019. This involved extending the legislation.gov.uk editorial system and the functionality on legislation.gov.uk website to support the revision of Welsh language versions of legislation.

32. A further ambition laid out in the accessibility programme was to *"Expand functionality on the legislation.gov.uk site so users may access Welsh law by subject."* The National Archives has plans to develop a subject classification scheme which can be used across all UK legislation and meets the requirements of users. In doing this, we are keen to collaborate with the Welsh Government and are committed to ensuring that legislation.gov.uk meets the needs of all our users, including those in Wales.

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