

Rebecca Evans AS/MS
Cabinet Secretary for Economy, Energy and Planning
Ysgrifennydd y Cabinet dros yr Economi, Ynni a Chynllunio



Our ref: MA/RE/11160/24

Llywodraeth Cymru
Welsh Government

Mike Hedges MS
Chair, Legislation, Justice, and Constitution Committee
SeneddLJC@senedd.wales

23 January 2025

Dear Mike,

Thank you for the Legislation, Justice, and Constitution Committee report on the Great British Energy Bill Legislative Consent Memorandum. Please find enclosed my response to the issues raised in the report.

Yours sincerely,

A handwritten signature in black ink that reads "Rebecca Evans." The signature is written in a cursive, flowing style.

Rebecca Evans AS/MS
Cabinet Secretary for Economy, Energy and Planning
Ysgrifennydd y Cabinet dros yr Economi, Ynni a Chynllunio

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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.

The Welsh Government's Legislative Consent Memorandum on the Great British Energy Bill

Response to the Legislation, Justice and Constitution Committee

Summary

The Great British Energy Bill ("the Bill") was introduced in the House of Commons on the 25th of July 2024. Certain elements of the Bill require the legislative consent of the Senedd and on 8 August 2024, the then Cabinet Secretary for Economy, Transport and North Wales laid a Legislative Consent Memorandum for the Great British Energy Bill ('the LCM') before the Senedd.

The Cabinet Secretary for Economy, Energy and Planning provided evidence to the Committee on 4 November.

1. Response to issues raised by the committee

This report will respond to the recommendations raised by the committee's report agreed on 25 November 2024.

On 8 August 2024, Ken Skates MS, the then Cabinet Secretary for Economy, Transport and North Wales, laid before the Senedd a Legislative Consent Memorandum (the Memorandum) in respect of the Great British Energy Bill. On 11 September the Cabinet Secretary for Economy, Energy and Planning (the Cabinet Secretary) took over the responsibility for this Bill.

LJCC Recommendation 1. The Cabinet Secretary should continue to provide regular updates to the Committee and the Senedd on its position in respect of the Bill, to enable it to form a view on whether or not it should provide its consent.

I have previously stated we are supportive of legislation to establish Great British Energy to help facilitate and encourage the development of renewable energy projects. The Memorandum highlighted our view that consent for the Bill would be required.

The Bill is a narrow piece of legislation which makes provision for the designation, status, governance, objects, strategic direction and accountability of Great British Energy (GBE).

I met with Michael Shanks, the lead Minister for the Bill in the Department for Energy Security and Net Zero, on 24 October and again on the 13 November. Our discussions were focussed on necessary improvements to the Bill and on matters which are not part of the legislation but are about how we can work in partnership in the future when GBE is operational. I will update the Senedd on progress on the issue of legislative consent including through Supplementary Legislative Consent Memoranda as necessary.

LJCC Recommendation 2. The Cabinet Secretary should set out the different ways the Welsh Government is seeking the Bill to be amended to ensure a role for the Welsh Ministers and the Senedd.

The Bill provides for the designation of a company as GBE and sets its objects. In discussions with Minister Shanks, I raised my concerns about Clause 5 of the Bill.

Clause 5 provides that the Secretary of State must prepare a statement of strategic priorities for GBE. Before making a statement, the Secretary of State must consult with the Welsh Ministers to the extent that the statement concerns subject matters within the Senedd's legislative competence. As currently drafted, the Statement of Strategic Priorities is not subject to any specific legislative scrutiny upon the preparation of the statement by UK Government, beyond scrutiny through the passage of the Bill. I am seeking an amendment to the process set out in clause 5 to require the Secretary of State to seek the consent of Welsh Ministers should the strategic priorities concern matters within the Senedd's legislative competence. I am hoping to see amendments to be laid to reflect this requirement.

LJCC Recommendation 3. The Cabinet Secretary should provide more information and clarity as to why the Welsh Government does not think there is a need for it to undertake its own assessments of the potential impact of the Bill on devolved matters.

This Bill does not require its own impact assessment as the UK Government will be responsible for setting up Great British Energy, and for its ongoing governance.

Detailed discussions on anything which falls within the competencies of Welsh Ministers and/or the Senedd might require further impact assessments, and this will be decided once we have the issues to consider.

LJCC Recommendation 4. The Cabinet Secretary should explain and confirm how the Bill interacts with the obligations of the Trade and Cooperation Agreement.

The aim of the Great British Energy Bill is to set up the company. The Bill is a narrow piece of legislation which makes provision for the designation, status, governance, objects, strategic direction and accountability of Great British Energy (GBE).

The functions and operation of the company are not set out in the Bill. It will be up to the Secretary of State for Energy Security and Net Zero, as sole shareholder of Great British Energy to ensure the operation of Great British Energy is compliant with the Trade and Cooperation Agreement. To the limited extent that the Bill confers functions on the Welsh Ministers, the exercise of those functions will be subject to compliance with relevant provisions of the Trade and Cooperation Agreement.

I will now go onto consider the conclusions raised by the committee in the same report where I can provide further information.

LJCC Conclusion 1. We agree with the Welsh Government's assessment, as set out in the Memorandum, of the provisions within the Bill which require consent of the Senedd in accordance with Standing Order 29.

No response required.

LJCC Conclusion 2. We are concerned that the Senedd will likely be asked to make a decision on whether or not to consent to the Bill without knowing sufficient details about the planned operation of Great British Energy and therefore its potential impact on Trydan Gwyrdd Cymru.

LJCC Conclusion 3. In our view, understanding how Great British Energy will work alongside the already established Trydan Gwyrdd Cymru is a crucial factor in the decision-making process as to whether the Senedd should give its consent to the Bill

I do not consider that a further understanding of how Great British Energy will work alongside Trydan Gwyrdd Cymru is required in relation to consenting this Bill. The Bill itself does not impact on the work of Trydan Gwyrdd Cymru. Trydan Gwyrdd Cymru is in a more advanced position than Great British Energy. I see opportunities to work in partnership with Great British Energy once established which will help to avoid duplication.

I have had positive discussions regarding Trydan Gwyrdd Cymru and expect these to continue as the thinking around GBE continues to develop.

LJCC Conclusion 4. Enabling the UK Government to issue directions in Wales relating to devolved areas without any requirement for consent from the

Senedd or the Welsh Government is inappropriate. As such, we are concerned at the breadth of power clause 6 of the Bill offers to UK Government Minister

LJCC Conclusion 5. We welcome the Cabinet Secretary's statements that she is negotiating with the UK Government a change to the Bill so that the Welsh Ministers' consent must be obtained before clause 6 directions may be given.

The Bill provides that Great British Energy would only be able to act in accordance with strategic plans which reflect the statement of strategic priorities. The amendment I am seeking to clause 5(5) would have the effect of requiring the consent of the Welsh Ministers to the inclusion in that statement of anything which concerns a subject matter where provision about which would be within the legislative competence of the Senedd. Consequently, the effective scope of the direction-making power in clause 6 would necessarily be restricted to activities that would be in accordance with strategic statements agreed by the Welsh Ministers.

In addition to seeking amendment to clause 5 as described above, I have also sought assurances from the UK Government that that Welsh Ministers would be consulted under clause 6(3)(b) should any direction interact with clause 5 on issues within the competence of Welsh Ministers or the Senedd.

Conclusion 6. Given that the Senedd may be required to make its consent decision in the absence of important information and given the uncertainty about the impact of Great British Energy, we believe that the Bill should be amended to include a formal role for the Senedd in connection with the exercise of any delegated powers under the Bill by the Secretary of State.

I believe the amendments we are seeking to Clause 5 and the assurances around consultation processes for Clause 6 would be sufficient for the Senedd to make a consent decision for the Bill.
