



Eich cyf/Your ref  
Ein cyf/Our ref

Mike Hedges MS, Chair  
Legislation, Justice and Constitution Committee  
Cardiff Bay  
Cardiff  
CF99 1SN

26 February 2025

Annwyl Mike

### **Legislation (Procedure, Publication and Repeals) (Wales) Bill**

I am grateful to the members of Legislation, Justice and Constitution Committee and your support staff, for their consideration of the Bill. The Government is also grateful to those stakeholders and other interested persons who took their time to help develop the Bill before introduction and those who gave evidence to the Senedd during Stage 1.

I am pleased to see that the proposals in the Bill are welcomed and that the Committee believes that the three main purposes of the Bill will have a positive impact on the accessibility of Welsh law. The Committee has concluded the Senedd should agree the general principles of the Bill, and I look forward to continuing to work constructively with the Committee and Members of the Senedd if this Bill proceeds.

The Committee made seven recommendations to the Government, and this letter provides my response to those.

**Recommendation 2: The Welsh Government should give further consideration to undertaking a post-legislative review of the Bill, if enacted, at the midpoint of the Seventh Senedd, and as a consequence, to consider tabling an amendment to the Bill to include provision requiring such a review to be held.**

Response: Accept in principle

This Bill is a vehicle to amend other legislation. It repeals provisions in other enactments that are no longer of practical utility or benefit. It makes minor amendments to existing provisions of the Legislation (Wales) Act 2019. Of course, it also makes more significant amendments to the 2019 Act to include the codification and modernisation of the procedural

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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.

and publication arrangements for Welsh legislation. Once those changes are in force, the Bill (or Act as it would be then) will have done its work. There will be nothing left to be kept under review. The Government does not therefore support a review of this Bill itself.

We do however see value in understanding whether new Part 2A of the 2019 Act (in particular) is working as we all anticipate, including the operation of new Schedules 1A, 1B and 1C. We also note recommendations 5 and 6 of the Committee's report and depending on whether these are accepted by the Business Committee and when any consideration may be given, it may be that a future Senedd and Government consider further legislative change will be necessary.

We are also mindful that the Act on the interpretation and operation of legislation has itself already been subject to a number of amendments, and the Bill will significantly impact that further. It may be that a future Government could consider consolidation of the 2019 Act to be an appropriate project, capacity permitting, in a future programme to improve the accessibility of Welsh law.

Rather, therefore, than commit a future Government to reviewing an Act that will have no practical value after it makes the amendments set out, the next Government and Senedd may wish to consider whether a review of Part 2A of the 2019 Act would be helpful as part of any consideration of future legislative reform.

**Recommendation 3: The Welsh Government should consider how legislative provision could be made in order to require the Welsh Ministers to make instruments in a timely manner to correct statutory instruments which it accepts to be defective, and should in response to the Committee, set out the detail and outcome of that consideration.**

Response: Reject

The Government is fully committed to ensuring that legislation is easy to understand and certain in its effect. However, there are occasions when errors do occur in both primary and subordinate legislation. Whenever and however these are identified, the Government carefully considers the nature of the error and its likely impact. In some cases, these can be left alone, in other cases (and depending whether the legislation has been made or not) a correction slip may be an appropriate remedy or an amendment needs to be made.

In relation to statutory instruments<sup>1</sup> that have been made by the Welsh Ministers:

- where corrective action is to be taken through a correction slip that is a matter for the SI Registrar to take forward and, as the Committee will be aware, these are taken forward by the SI Registrar as time allows.
- where an amendment is to be made, a decision has to be taken as to the most appropriate and effective method of remedy. One factor is timeliness, but a range of other matters also need to be considered. These include the resource implications including the cost of preparing a stand-alone amending instruments or, if other changes are being considered, whether it would be more suitable to include the amendment with those.

Other statutory instruments that are laid before the Senedd may not be made solely by the Welsh Ministers (for example, joint instruments) or may be made, for example, by His Majesty in Council.

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<sup>1</sup> recognising these are one form by which subordinate legislation is made

Given these significant variables the Government does not consider that legislative provision (either through this Bill or other legislative means) to either prescribe a timescale or place a general duty to amend an error in either primary or subordinate legislation “in a timely manner” to be appropriate.

Nonetheless, I wish to again reassure the Committee that I recognise the underlying concerns that have led to this recommendation, and the Committee will be aware that I am taking action to deal with outstanding commitments.

**Recommendation 4: The Welsh Government should, every 12 months, lay a report before the Senedd setting out the progress it is making towards correcting statutory instruments which it accepts to be defective.**

Response: Accept in principle

The Government provides a response to each Committee report setting out its views of the points raised, where requested. Those reports will include an indicative time frame for any agreed corrections, if it is possible to provide that information at that point. This may not always be possible if a future instrument is not already planned, for example. When an instrument is subsequently laid that makes amendments (including amongst other matters), the accompanying Explanatory Memorandum should make this clear. The Government is therefore satisfied that the Senedd receives timely information on the correction of statutory instruments.

I have spoken with the Committee about the “omnibus amending instrument” that the Government intends to bring forward, before summer recess, to address certain errors in statutory instruments. I will shortly be writing with more details about what that instrument is expected to contain.

Once that instrument has been made, I will consider whether this is an effective and efficient method of addressing corrections where an immediate alternative vehicle for remedy is not available. It may be a method the Government adopts periodically to avoid errors that we consider need to be rectified persisting without a clear timescale. However, until that consideration has concluded, it is not possible to say whether further omnibus instruments would be helpful.

It may be that we use the annual report on progress against the programme to improve the accessibility of Welsh law, to report on any significant developments in relation to correcting instruments.

**Recommendation 7: The Welsh Government should explain why the Bill’s provisions in respect of the King’s Printer for Wales do not mirror the arrangements set out in the Scotland Act 1998 and the Interpretation and Legislative Reform (Scotland) Act 2010, whereby the King’s Printer for Scotland exists as a separate role to that of the King’s Printer for Acts of Parliament.**

Response: Accept

The Committee has heard evidence from both the Government and the King’s Printer and his team on this matter, as noted in the Committee’s report. The Government has also explained that the intention with new Parts 2A and 2B is to codify and modernise existing legislative arrangements to reflect both the realities of devolution and of current practice.

When the UK Government brought forward the Government of Wales Act 1998 and subsequently the Government of Wales Act 2006, it did not make provision for a “King’s Printer for Wales”. Nor has there been changes to the Letters Patent by which the King’s Printer for Acts of Parliament is appointed to reflect “Welsh legislation”. In practice this has not affected the publication of statutory instruments, Measures and now Acts of Senedd Cymru. The constitutional arrangements for Scotland (and indeed for Northern Ireland) predate the devolution arrangements brought about for Scotland and Wales in 1998/1999, and therefore the 1998 Acts for Scotland and for Wales simply reflected those arrangements in relation to the publication of legislation.

The Committee heard clear evidence from the King’s Printer and the Digital Director of The National Archives that there are no practical differences in either the process of publishing legislation or for the user of accessing legislation between the arrangements for Scotland and the arrangements now being codified for Wales. As quoted in the Committee’s report at paragraph 138 *“the practical arrangements are equivalent”*.

I am therefore satisfied that the right approach is being taken in the Bill.

**Recommendation 8: The Welsh Government should provide an assessment of any financial implications of mirroring the arrangements set out in the Scotland Act 1998 and the Interpretation and Legislative Reform (Scotland) Act 2010, whereby the King’s Printer for Scotland exists as a separate role to that of the King’s Printer for Acts of Parliament.**

Response: Reject

Neither the Government nor the King’s Printer (or The National Archives) consider that the arrangements in the Bill need to “mirror” the arrangements for Scotland. In consequence the Government will not be undertaking work to develop a financial appraisal of a model that is not being pursued.

**Recommendation 9: The Bill should be amended to replace its references to “Clerk of Senedd Cymru” with “Clerk of the Senedd”, in accordance with section 26(2) of the Government of Wales Act 2006.**

Response: Accept

Although we do not consider these changes are necessary, I intend to bring forward amendments at Stage 2 for the responsible Committee’s consideration.

**Recommendation 10: The Welsh Government should set out what assessment it has made of the impact of its proposed decision to move away from the dual-column format for Welsh statutory instruments on the Welsh language, and should confirm whether it has consulted the Welsh Language Commissioner on this proposal.**

Response: Accept in principle

The Committee will recall my predecessor’s letter to the Llywydd that set out some of the format and design changes we are considering for Welsh legislation. Our starting point is to improve the accessibility of the legislation, in both languages, and not to the detriment of either. I would also remind the Committee that this Government is taking proactive steps to develop and expand Welsh as a language of the law.

The final decision on the format and design of Welsh statutory instruments will be taken by the Government in discussion with the publisher of legislation; in this case that means the

Legislation Team in The National Archives (who report to the King's Printer) who will also be working on these changes with the publication concessionaire (currently The Stationery Office).

Although the Government's preference at this time is to replace the dual column format with a format more like that of Acts of Senedd Cymru<sup>2</sup> (i.e. Welsh and English texts interleaved), we wish to take into account insights into how legislation (and particularly bilingual legislation) is being accessed and what users need. To that end we will very shortly be discussing with The National Archives their recent user research and what this may be able to tell us about user behaviours. The experience of how users access the pdf versions of Acts may be particularly helpful, given the interleaving of Welsh and English texts in use for bilingual primary legislation. We will consider the implications of those findings and will provide an update to the Senedd of likely next steps and (if known) likely timescales.

Until we have those next step discussions with The National Archives, the only formal assessment of impact undertaken to date has been to understand the costs of typesetting. As noted in paragraph 96 of the Explanatory Memorandum to the Bill, Governments and departments in the UK Government are charged fees under the publishing services contract awarded by The National Archives on behalf of the King's Printer. The Government's evidence to the Committee on this Bill included an explanation of the higher costs paid by the Welsh Government as a result of the typesetting charges currently associated with publishing 'Welsh statutory instruments' – see also paragraphs 124 to 127 of the Explanatory Memorandum<sup>3</sup>.

We do not consider we need to consult with the Welsh Language Commissioner on this matter, but as a matter of good practice we would always welcome her views and those of others on the modernisation of publication of bilingual legislation. And if Committee Members would like to share any thoughts on the format of statutory instruments or other subordinate legislation, I would be very happy to make the relevant officials available.

Yours sincerely,



**Julie James AS/MS**

Y Cwnsler Cyffredinol a'r Gweinidog Cyflawni  
Counsel General and Minister for Delivery

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<sup>2</sup> Mentioned at paragraph 127 of the Explanatory Memorandum

<sup>3</sup> If the Bill proceeds past Stage 1, the Government intends to update Part 4 of the Explanatory Memorandum after Stage 2 so as to also provide information on the costs of publishing instruments for the financial year 2024-25. This will include updating Table 7 relating to typesetting.