

Agenda – Legislation, Justice and Constitution Committee

Meeting Venue:	For further information contact:
Hybrid – Committee room 4, Tŷ Hywel and video conference via Zoom	P Gareth Williams Committee Clerk
Meeting date: 23 January 2023	0300 200 6565
Meeting time: 13.30	SeneddLJC@senedd.wales

1 Introductions, apologies, substitutions and declarations of interest

13.30

2 Food (Wales) Bill: Evidence Session

13.30 – 14.30

(Pages 1 – 10)

Lesley Griffiths MS, Minister for Rural Affairs and North Wales, and Trefnydd
David Lloyd–Thomas, Head of Food Policy & Strategy Unit, Welsh Government
Claire Butterworth, Lawyer, Welsh Government

[Food \(Wales\) Bill](#)

[Explanatory Memorandum](#)

[Statement of Policy Intent](#)

Attached Documents:

LJC(6)–03–23 – Paper 1 – Briefing

3 Instruments that raise no reporting issues under Standing Order 21.2 or 21.3

14.30 – 14.35

(Pages 11 – 12)

Attached Documents:

LJC(6)–03–23 – Paper 2 – Draft report



Made Negative Resolution Instruments

- 3.1 SL(6)309 – The Official Controls (Import of High-Risk Food and Feed of Non-Animal Origin) (Amendment of Commission Implementing Regulation (EU) 2019/1793) (Wales) Regulations 2022**

4 Instruments that raise issues to be reported to the Senedd under Standing Order 21.2 or 21.3

14.35 – 14.40

Made Negative Resolution Instruments

- 4.1 SL(6)308 – The Education (Student Loans) (Repayment) (Amendment) (No. 4) Regulations 2022**

(Pages 13 – 15)

[Regulations](#)

[Explanatory Memorandum](#)

Attached Documents:

LJC(6)-03-23 – Paper 3 – Draft report

- 4.2 SL(6)310 – The Education (Student Loans) (Repayment) (Amendment) (No.5) Regulations 2022**

(Pages 16 – 17)

[Regulations](#)

[Explanatory Memorandum](#)

Attached Documents:

LJC(6)-03-23 – Paper 4 – Draft report

5 Instruments that raise issues to be reported to the Senedd under Standing Order 21.2 or 21.3 – previously considered

14.40 – 14.45

5.1 SL(6)301 – The Allocation of Housing and Homelessness (Eligibility) (Wales) (Amendment) Regulations 2023

(Pages 18 – 20)

Attached Documents:

LJC(6)–03–23 – Paper 5 – Report

LJC(6)–03–23 – Paper 6 – Welsh Government response

6 Inter–Institutional Relations Agreement

14.45 – 14.50

6.1 Correspondence from the Minister for Education and Welsh Language: Education Ministers Council meeting

(Page 21)

Attached Documents:

LJC(6)–03–23 – Paper 7 – Letter from the Minister for Education and Welsh Language, 13 January 2023

6.2 Correspondence from the Minister for Economy: Ministerial Forum for Trade

(Pages 22 – 23)

Attached Documents:

LJC(6)–03–23 – Paper 8 – Letter from the Minister for Economy, 13 January 2023

6.3 Correspondence from the Minister for Economy: Business and Industry Inter–Ministerial Group

(Pages 24 – 26)

Attached Documents:

LJC(6)–03–23 – Paper 9 – Letter from the Minister for Economy, 19 January 2023

LJC(6)–03–23 – Paper 10 – Letter from the Minister for Economy, 16 January 2023

6.4 Food Supplement and Food for Specific Groups (Miscellaneous Amendments) Regulations 2023: Correspondence and Written Statement from the Deputy Minister for Mental Health and Wellbeing and correspondence between the Deputy Minister and the Health and Social Care Committee

(Pages 27 – 37)

Attached Documents:

LJC(6)-03-23 – Paper 11 – Letter from the Deputy Minister for Mental Health and Wellbeing, 18 January 2023

LJC(6)-03-23 – Paper 12 – Written Statement by the Deputy Minister for Mental Health and Wellbeing, 17 January 2023

LJC(6)-03-23 – Paper 13 – Letter from the Health and Social Care Committee to the Deputy Minister for Mental Health and Wellbeing, 16 January 2023

LJC(6)-03-23 – Paper 14 – Letter from the Deputy Minister for Mental Health and Wellbeing to the Health and Social Care Committee, 20 December 2022

6.5 Correspondence from the Counsel General and Minister for the Constitution: Inter-Ministerial Standing Committee

(Page 38)

Attached Documents:

LJC(6)-03-23 – Paper 15 – Letter from the Counsel General and Minister for the Constitution, 19 January 2023

7 Papers to note

14.50 – 14.55

7.1 Correspondence from the Secretary of State for Levelling Up, Housing and Communities and Minister for Intergovernmental Relations: Intergovernmental relations

(Pages 39 – 43)

Attached Documents:

LJC(6)-03-23 – Paper 16 – Letter from the Secretary of State for Levelling Up, Housing and Communities and Minister for Intergovernmental Relations, 12

January 2023

LJC(6)-03-23 – Paper 17 – Letter to the Secretary of State for Levelling Up, Housing and Communities and Minister for Intergovernmental Relations, 4 November 2022

7.2 Supplementary Legislative Consent Memorandum (No.3) on the UK Infrastructure Bank Bill: Climate Change, Environment, and Infrastructure Committee report

(Page 44)

[Report of the Climate Change, Environment and Infrastructure Committee](#)

Attached Documents:

LJC(6)-03-23 – Paper 18 – Letter from the Climate Change, Environment, and Infrastructure Committee to the Minister for Finance and Local Government, 16 January 2023

7.3 Correspondence from the Minister for Climate Change: The Climate Change (Targeted Greenhouse Gases) Order 2022

(Pages 45 – 47)

Attached Documents:

LJC(6)-03-23 – Paper 19 – Letter and Written Statement from the Minister for Climate Change, 17 January 2023

7.4 Correspondence from the Counsel General and Minister for the Constitution: Implications for Devolution briefing

(Pages 48 – 50)

Attached Documents:

LJC(6)-03-23 – Paper 20 – Letter from the Counsel General and Minister for the Constitution to House of Lords members, 17 January 2023

7.5 Correspondence from the Counsel General and Minister for the Constitution: Corrections to Welsh subordinate legislation

(Pages 51 – 56)

Attached Documents:

LJC(6)-03-23 – Paper 21 – Letter from the Counsel General and Minister for the Constitution, 18 January 2023

LJC(6)-03-23 – Paper 22 – Letter to the Counsel General and Minister for the Constitution, 21 December 2022

7.6 Correspondence from the Counsel General and Minister for the Constitution: Historic Environment (Wales) Bill

(Pages 57 – 60)

Attached Documents:

LJC(6)-03-23 – Paper 23 – Letter from the Counsel General and Minister for the Constitution, 19 January 2023

7.7 Correspondence from the Counsel General and Minister for the Constitution: Retained EU Law (Revocation and Reform) Bill

(Page 61)

Attached Documents:

LJC(6)-03-23 – Paper 24 – Letter from the Counsel General and Minister for the Constitution to the Business Committee, 19 January 2023

8 Motion under Standing Order 17.42 to resolve to exclude the public from the remainder of the meeting

14.55

9 Food (Wales) Bill: Consideration of evidence

14.55 – 15.10

10 Agriculture (Wales) Bill: Draft report

15.10 – 15.55

(To Follow)

Attached Documents:

LJC(6)-03-23 – Paper 25 – Draft report

11 Supplementary Legislative Consent Memoranda (Memoranda No. 3 and No. 4) on the Online Safety Bill: Draft report

15.55 – 16.05

(Pages 62 – 69)

Attached Documents:

LJC(6)-03-23 – Paper 26 – Draft report

LJC(6)-03-23 – Paper 27 – Letter from the Minister for Economy, 18 January 2023

12 Legislative Consent Memoranda on the Economic Crime and Corporate Transparency Bill

16.05 – 16.15

(Pages 70 – 84)

Attached Documents:

LJC(6)-03-23 – Paper 28 – Legal Advice Note

13 Legislative Consent Memoranda (Memoranda No.3 and No. 4) on the Procurement Bill

16.15 – 16.25

(Pages 85 – 104)

Attached Documents:

LJC(6)-03-23 – Paper 29 – Legal Advice Note

14 Independent Commission on the Constitutional Future of Wales: interim report

16.25 – 16.35

(Pages 105 – 120)

[Independent Commission on the Constitutional Future of Wales: interim report](#)

Attached Documents:

LJC(6)-03-23 – Paper 30 – Research briefing

15 Monitoring report

16.35 – 16.45

(Pages 121 – 133)

Attached Documents:

LJC(6)-03-23 – Paper 31 – Monitoring report

Document is Restricted

Statutory Instruments with Clear Reports 23 January 2023

SL(6)309 – The Official Controls (Import of High-Risk Food and Feed of Non-Animal Origin) (Amendment of Commission Implementing Regulation (EU) 2019/1793) (Wales) Regulations 2022

Procedure: Made Negative

Retained Regulation 2019/1793¹ requires the Welsh Ministers to review, in relation to Wales, the lists set out in Annexes 1 and 2 of retained Regulation 2019/1793 on a regular basis not exceeding a period of six months, in order to take into account new information related to risks and non-compliance.

That review has been undertaken by the Food Standards Agency (FSA) and Food Standard Scotland to ensure that higher risk commodities remain subject to enhanced controls on entry to Great Britain through Border Control Posts (BCPs). Such controls include documentary, identity and physical examinations including sampling at designated border control posts.

The Annexes to retained Regulation 2019/1793 contain lists of food and feed commodities which are either subjected to a temporary increase in official control, subject to emergency measures or subject to suspension of entry to GB. Following the review, these Regulations makes changes to the Annexes which can broadly be summarised as follows:

- commodities removed from controls;
- commodities subject to reduced controls;
- commodities subject to increased controls;
- commodities requiring new controls.

For example, the changes to Annex 1 include:

- the frequency of checks on black pepper from Brazil (for Salmonella) is increased from 20% to 50%;
- the entry for goji berries from China (for pesticide residue) has been removed;

¹ Retained Commission Implementing Regulation (EU) 2019/1793 on the temporary increase of official controls and emergency measures governing the entry into the Union of certain goods from certain third countries.



- the frequency of checks for mandarins (including tangerines and satsumas), clementine, wilkings and similar citrus hybrids from Turkey (for pesticide residues) is increased from 5% to 20%.

These Regulations apply in relation to Wales and corresponding regulations will be made in England and Scotland, meaning legislation will be in place to ensure that GB consumers are protected from the highest risk food and feed not of animal origin through controls on entry at the GB border.

High risk commodities can only be imported through already established BCPs in GB. There are currently no BCPs in Wales so these commodities, as it stands, cannot be directly imported into Wales from third countries.

In line with the UK's international obligations, a notification of the proposed amendments was sent to the World Trade Organisation.

The Regulations were made by the Welsh Ministers before they were laid before the Senedd. The Senedd can annul the Regulations within 40 days (excluding any days when the Senedd is: (i) dissolved, or (ii) in recess for more than four days) of the date they were laid before the Senedd.

Enabling legislation: Articles 47(2)(b) and 54(4)(a) and (b) of Regulation (EU) 2017/625, Article 53(1)(b) of Regulation (EC) No 178/2002

Date Made: 14 December 2022

Date Laid: 16 December 2022

Coming into force date: 17 January 2023



SL(6)308 – The Education (Student Loans) (Repayment) (Amendment) (No. 4) Regulations 2022

Background and Purpose

The Education (Student Loans) (Repayment) (Amendment) (No.4) Regulations 2022 (“these Regulations”) amend the Education (Student Loans) (Repayment) Regulations 2009 (the “2009 Regulations”), which govern repayments of student loans by borrowers who have taken out income-contingent loans for courses which begin on or after September 1998.

The 2009 Regulations (and subsequent amendments to them) have been made as composite instruments; meaning they have been made by both the Secretary of State and the Welsh Ministers (in relation to Wales).

The amendments of the 2009 Regulations:

- reorganise student loans within the scope of the 2009 Regulations into five plans, including a new plan 5 loan for certain courses beginning on or after 1st August 2023;
- for borrowers who have a plan 2 loan (formerly a “post-2012 student loan”):
 - maintain the income-based repayment threshold (above which a borrower who has reached the statutory repayment due date in regulation 15 is required to make repayments) at £27,295 until the end of 5th April 2025, and
 - change the annual uprating of the repayment threshold thereafter from a calculation based on differences in average earnings to one based on the retail price index;
- introduce fixed instalment rates, which:
 - are used to calculate repayments by overseas borrowers who have not provided required information about their income,
 - replace the fixed instalments set out in regulation 76 (which is omitted), and
 - for repayments of a plan 2 loan, a plan 3 loan (formerly a “postgraduate degree loan”) or a plan 5 loan, are recalculated annually based on the median salary for graduates;
- consolidate the provisions reducing interest rates on plan 2 and 3 loans applied by S.I. 2021/677, 1005, 1378, 2022/889 and 1151 (which are revoked);
- omit spent provisions;
- make incidental, supplemental or technical amendments.

The change introduced by these Regulations will result in a number of benefits and savings to the Welsh Government, the detail of which is further set out in the Regulatory Impact Assessment contained in Part 2 of the accompanying [Explanatory Memorandum](#).

In consequence of drafting errors in these Regulations, they themselves have been amended by the [No. 5 Regulations](#) of the same name. The Explanatory Memorandum thereto states:



"An error has been identified in the commencement provisions in the 2002 No.4 regulations (SI 2022/1335) which means aspects of the instrument relating to the prevailing market rate interest rate cap for Plan 2 (post-2012 undergraduate) and Plan 3 (Postgraduate) student loans may not come into force on 16 January as intended.

This error may create uncertainty and lead to further difficulty when the relevant provision needs amending in February 2023. To rectify this, the 2022 No.5 Regulations will correct the commencement provision."

Procedure

Composite Negative

The Regulations were made by both the Welsh Ministers and the Secretary of State, before being laid before both the Senedd and the United Kingdom Parliament.

The Senedd can annul the Regulations within 40 days (excluding any days when the Senedd is: (i) dissolved, or (ii) in recess for more than four days) of the date they were laid before the Senedd. The United Kingdom Parliament can also annul the Regulations, in accordance with the rules for annulment that apply to the United Kingdom Parliament.

Technical Scrutiny

The following point is identified for reporting under Standing Order 21.2 in respect of this instrument.

1. Standing Order 21.2(ix) – that it is not made or to be made in both English and Welsh

These Regulations have been made as a composite instrument, meaning the Regulations have been: (a) made by both the Welsh Ministers and the Secretary of State, and (b) laid before both the Senedd and the United Kingdom Parliament. We note, as a result, the Regulations have been made in English only.

The Explanatory Memorandum explains that:

"This composite statutory instrument is subject to the negative resolution procedure. As the regulations will be subject to UK Parliamentary scrutiny, it is not considered reasonably practicable for this instrument to be made or laid bilingually."

Merits Scrutiny

The following point is identified for reporting under Standing Order 21.3 in respect of this instrument.

2. Standing Order 21.3(ii) – that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Senedd

We note there has been no formal consultation on these Regulations. In particular, we note the paragraph 5.1 of the Explanatory Memorandum:



“There is no statutory requirement to consult on these regulations and no consultation has been undertaken.”

Bearing in mind these Regulations reorganise student loans under the 2009 Regulations and, in particular, change the manner in which the repayment threshold for Plan 2 loans is calculated post 5 April 2025 and the basis on which Plan 2, 3 and 5 loans are recalculated annually, it is unclear why a consultation was not undertaken.

Welsh Government response

A Welsh Government response is required in relation to reporting point 2.

Legal Advisers

Legislation, Justice and Constitution Committee

18 January 2023



Senedd Cymru

Pwyllgor Deddfwriaeth, Cyfiawnder a'r Cyfansoddiad

—

Welsh Parliament

Legislation, Justice and Constitution Committee

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Agenda Item 4.2

SL(6)310 – The Education (Student Loans) (Repayment) (Amendment) (No. 5) Regulations 2022

Background and Purpose

The Education (Student Loans) (Repayment) Regulations 2009 (the “2009 Regulations”) govern repayments of student loans by borrowers who have taken out income-contingent loans for courses which begin on or after September 1998.

The 2009 Regulations (and subsequent amendments to them) have been made as composite instruments; meaning they have been made by both the Secretary of State and the Welsh Ministers (in relation to Wales).

Various amendments were recently made to the 2009 Regulations via the Education (Student Loans) (Repayment) (Amendment) (No. 4) Regulations 2022 ([SI. 2022/1335](#)) (the “No.4 Regulations”).

These [Regulations](#) have been made in consequence of drafting errors in the No.4 Regulations. The Explanatory Memorandum states:

“An error has been identified in the commencement provisions in the 2002 [sic: *should read “2022”*] No.4 regulations (SI 2022/1335) which means aspects of the instrument relating to the prevailing market rate interest rate cap for Plan 2 (post-2012 undergraduate) and Plan 3 (Postgraduate) student loans may not come into force on 16 January as intended.

This error may create uncertainty and lead to further difficulty when the relevant provision needs amending in February 2023. To rectify this, the 2022 No.5 Regulations will correct the commencement provision”.

Procedure

Composite Negative

The Regulations were made by both the Welsh Ministers and the Secretary of State, before being laid before both the Senedd and the United Kingdom Parliament.

The Senedd can annul the Regulations within 40 days (excluding any days when the Senedd is: (i) dissolved, or (ii) in recess for more than four days) of the date they were laid before the Senedd. The United Kingdom Parliament can also annul the Regulations, in accordance with the rules for annulment that apply to the United Kingdom Parliament.

Technical Scrutiny

The following point is identified for reporting under Standing Order 21.2 in respect of this instrument.



1. Standing Order 21.2(ix) – that it is not made or to be made in both English and Welsh

These Regulations have been made as a composite instrument, meaning the Regulations have been: (a) made by both the Welsh Ministers and the Secretary of State, and (b) laid before both the Senedd and the United Kingdom Parliament. As a result, the Regulations have been made in English only.

The Explanatory Memorandum explains that:

“This composite statutory instrument is subject to the negative resolution procedure. As the regulations will be subject to UK Parliamentary scrutiny, it is not considered reasonably practicable for this instrument to be made or laid bilingually.”

“This composite statutory instrument is subject to the negative resolution procedure. As the regulations will be subject to UK Parliamentary scrutiny, it is not considered reasonably practicable for this instrument to be made or laid bilingually.”

Merits Scrutiny

No points are identified for reporting under Standing Order 21.3 in respect of this instrument.

Welsh Government response

A Welsh Government response is not required.

Legal Advisers

Legislation, Justice and Constitution Committee

13 January 2023



Senedd Cymru

Pwyllgor Deddfwriaeth, Cyfiawnder a'r Cyfansoddiad

—

Welsh Parliament

Legislation, Justice and Constitution Committee

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Agenda Item 5.1

SL(6)301 – The Allocation of Housing and Homelessness (Eligibility) (Wales) (Amendment) Regulations 2023

Background and Purpose

These Regulations amend the Allocation of Housing and Homelessness (Eligibility) (Wales) Regulations 2014 (“the 2014 Regulations”) which make provision for which persons subject to immigration control are eligible for an allocation of housing accommodation and for housing assistance.

Regulation 3 amends regulation 3 of the 2014 Regulations which relates to the eligibility of persons subject to immigration control for an allocation of housing accommodation under Part 6 the Housing Act 1996 (“the 1996 Act”). It prescribes an additional class of persons (Class M) subject to immigration control who are eligible for an allocation of housing accommodation under the 1996 Act.

Class M applies to persons who are victims of human trafficking or slavery and who have been granted temporary leave to remain in the United Kingdom in accordance with the Immigration Rules made under the Immigration Act 1971.

Regulation 4 amends regulation 5(1) of the 2014 Regulations which relates to the eligibility of persons subject to immigration control for housing assistance under the Housing (Wales) Act 2014. It prescribes an additional class of persons, namely Class N who are eligible for such assistance. This class is equivalent to Class M inserted by regulation 3.

Procedure

Draft Affirmative

The Welsh Ministers have laid a draft of the Regulations before the Senedd. The Welsh Ministers cannot make the Regulations unless the Senedd approves the draft Regulations.

Technical Scrutiny

No points are identified for reporting under Standing Order 21.2 in respect of this instrument.

Merits Scrutiny

The following points are identified for reporting under Standing Order 21.3 in respect of this instrument.

- 1. Standing Order 21.3(ii) – that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Senedd.**



The Explanatory Memorandum to the Regulations has been laid in English only.

The Welsh Government is asked to explain why a Welsh language version of the Explanatory Memorandum has not been laid.

2. Standing Order 21.3(ii) – that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Senedd

We note that there has been no consultation on these Regulations. In particular, we note the following paragraph in the Explanatory Memorandum:

“As the TPS is a product of reserved UK Government policy (immigration), it would not be possible to undertake a meaningful consultation on alternative approaches, as the effect of the 2022 Regulations¹ is to ensure consistency between Welsh housing law and immigration law.”

Welsh Government response

A Welsh Government response is required in relation to point 1.

Committee Consideration

The Committee considered the instrument at its meeting on 16 January 2023 and reports to the Senedd in line with the reporting points above.

¹ The reference should be to the 2023 Regulations. This appears to be an error in the Explanatory Memorandum.



Government Response: The Allocation of Housing and Homelessness (Eligibility) (Wales) (Amendment) Regulations 2023

Merit Scrutiny point 1: The Welsh Government is committed to increasing the number of Explanatory Memoranda and Regulatory Impact Assessments for Statutory Instruments that are laid bilingually before the Senedd. Standing order 15.4 of the Senedd requires all documents to be laid bilingually so far as is appropriate in the circumstances and reasonably practicable, and Standard 47 of the Welsh Language Standards (the statutory duties imposed on the Welsh Government by the Welsh Language Commissioner) requires us to consider the subject matter and the anticipated audience of certain documents to prioritise their translation. Under guidance provided by the Commissioner's office (in their Code of Practice on the Welsh Language Standards (No. 1) Regulations 2015), in prioritising these documents for translation at this time we considered issues such as whether the Regulations related to issues affecting the Welsh language directly, whether the Regulations were of great interest to Welsh speaking groups in particular, and whether a high proportion of the documents' audience would be Welsh speaking. As these Regulations apply mainly to people from outside the UK, and are unlikely to affect Welsh speakers, they have not been deemed a priority for translation at this time.

The Committee will note that the Welsh Government will produce explanatory memoranda to Welsh subordinate legislation bilingually going forward, as confirmed by the Permanent Secretary in the Welsh Government's letter of 13 January 2023.

Jeremy Miles AS/MS
Gweinidog y Gymraeg ac Addysg
Minister for Education and Welsh Language

Agenda Item 6.1



Llywodraeth Cymru
Welsh Government

Huw Irranca-Davies MS
Chair
Legislation, Justice and Constitution Committee
Senedd Cymru

SeneddLJC@senedd.wales

13 January 2023

Dear Chair,

Outcome of the 9 December 2022 Education Ministers Council meeting

In accordance with the inter-institutional relations agreement, I can report I chaired the third meeting of the UK Education Ministers Council (UKEMC) on Friday 9 December at the Welsh Government Buildings in Cathays Park, Cardiff.

Shirley-Anne Somerville MSP, Cabinet Secretary for Education and Skills attended for the Scottish Government. The Rt. Hon. Gillian Keegan, Secretary of State for Education attended for the UK Government and Mark Browne, Permanent Secretary to the Department for Education and Mark Lee, Director Tertiary Education represented Northern Ireland via video link.

Further information on what was discussed during the meeting can be found [here](#).

Yours sincerely

Jeremy Miles AS/MS
Gweinidog y Gymraeg ac Addysg
Minister for Education and Welsh Language

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Canolfan Cyswllt Cyntaf / First Point of Contact Centre:
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Gohebiaeth.Jeremy.Miles@llyw.cymru
Correspondence.Jeremy.Miles@gov.wales

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.



Paul Davies MS
Chair of Economy, Trade, and Rural
Affairs Committee

Huw Irranca-Davies MS
Chair of Legislation, Justice and
Constitution Committee

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SeneddLJC@assembly.wales

13 January 2023

Dear Paul, Huw

I am writing in accordance with the inter-institutional relations agreement, to inform you that I attended the Ministerial Forum for Trade on the 9 January.

The meeting was attended by Greg Hands, Minister of State for Trade Policy; Ivan McKee, Scottish Minister for Business, Trade, Tourism and Enterprise and representatives from the Wales, Scotland and Northern Ireland offices of state. A joint communique regarding the meeting will be issued in due course.

We discussed the revised approach to information sharing between the UK government and Devolved Governments as well as updates on the ongoing trade negotiations, including India and CPTPP.

I welcomed the new arrangements for information sharing as an important step forward to enabling more constructive discussions. I am looking forward to seeing how this new process will operate.

The meeting provided me with the opportunity to give our views on the current negotiations with CPTPP, India and the GCC. I continued to emphasize our view that any trade agreement must support our wider policy aims, including in areas such as the environment and labour. I have always been clear that no trade deal should undermine the high standards we have here in Wales.

I will write to you again to inform you of the date of the next meeting.

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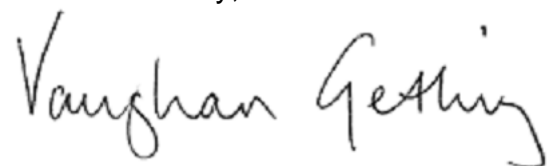
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YPCCGB@llyw.cymru PSCGMET@gov.wales

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.

Yours sincerely,

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

Vaughan Gething AS/MS

Gweinidog yr Economi

Minister for Economy



Llywodraeth Cymru
Welsh Government

Ein cyf/Our ref:VG/00021/23

Huw Irranca-Davies MS
Chair
Legislation, Justice and Constitution Committee
Senedd Cymru

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19 January 2023

Dear Huw

Further to my letter of 16 January, I wanted to update you on the outcome of the meeting of the Inter-Ministerial Group for Business and Industry was held on 17 January.

The meeting attendees were as previously indicated.

At the meeting we discussed the issues currently impacting the respective economies of each nation. We also reviewed the replacement energy support scheme for business, the Energy Bills Discount Scheme (EBDS). While I welcomed the universality of the new scheme, which will provide some certainty for businesses, I emphasised to Minister Callanan how the EBDS could do more the help the public sector and those businesses who supply public sector organisations.

Lord Callanan also provided an update on the Strikes (Minimum Service Levels) Bill. I raised my concerns over the legislation and while recognising that employment law is a reserved matter, I do not share the UK Government's analysis of the impact on the devolution settlement. I emphasised Welsh Government's position that strike action should be always avoided or resolved through constructive negotiation, not legislation.

There followed an update on the Economic Crime and Corporate Transparency Bill, the associated reforms to Companies House and the implementation of the Economic Crime (Transparency and Enforcement) Act.

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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.

I reiterated how I welcomed the provisions included in the Economic Crime Bill and have already laid a Legislative Consent Memorandum before the Senedd.

Finally, we spoke about the strategic focus of this IMG. It was agreed that meetings need to focus on shared key policy areas.

The next Business and Industry IMG will be held in March, which I will Chair. I will write to the Committee confirming the date once it has been agreed.

A communique regarding this meeting will be published on the UK Government website at [Interministerial Group for Business and Industry: communiqués - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/news/interministerial-group-for-business-and-industry-communiqués)

I am also copying this letter to the Lywydd the Rt Hon Elin Jones MS, and the Economy Trade and Rural Affairs Committee.

Yours sincerely,

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

Vaughan Gething AS/MS
Gweinidog yr Economi
Minister for Economy

Vaughan Gething AS/MS
Gweinidog yr Economi
Minister for Economy



Llywodraeth Cymru
Welsh Government

Huw Irranca-Davies MS
Chair
Legislation, Justice and Constitution Committee
Senedd Cymru

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16 January 2023

Dear Huw,

I am writing in accordance with the inter-institutional relations agreement to let you know that the next Business & Industry Inter-Ministerial Group meeting will take place on 17 January 2023 and will be held virtually.

This is the first Business & Industry IMG to be held since May 2022 and will be chaired by Lord Callanan, Minister for Business, Energy and Corporate Responsibility at BEIS. Ivan McKee MSP, Scottish Government Minister for Business, Trade, Tourism and Enterprise will also attend.

With no Northern Ireland Executive Ministers in place and no clear timeline on when their political situation will be resolved, Northern Ireland will be represented by a senior Official, who may offer observations but will not make any decisions.

The meeting will focus on the current economic climate, issues surrounding the Economic Crime and Corporate Transparency Bill – Reforms to Companies House, and the scheduling and strategic focus of future IMGs in 2023.

I am also copying this letter to the Rt Hon Elin Jones MS, the Llywydd and the Economy Trade and Rural Affairs Committee, and will provide an update following the meeting.

Yours sincerely,

Vaughan Gething AS/MS
Gweinidog yr Economi
Minister for Economy

Canolfan Cyswllt Cyntaf / First Point of Contact Centre:
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Correspondence.Vaughan.Gething@gov.wales

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.

Huw Irranca-Davies MS,
Chair, Legislation, Justice and Constitution Committee

Jayne Bryant MS,
Chair, Children, Young People and Education Committee

Russell George MS,
Chair, Health and Social Care Committee

18 January 2023

Dear Huw, Jayne, Russell

I am writing to inform you that my consent has been granted for The Food Supplement and Food for Specific Groups (Miscellaneous Amendments) Regulations 2022 and that this Statutory Instrument has now been laid in the UK Parliament.

The SI has amended the following legislation to effect changes in Scotland, Wales and England.

- The Nutrition (Amendment etc.) (EU Exit) Regulations 2019 (SI 2019/651) as amended,
- Regulation (EU) No 609/2013 of the European Parliament and of the Council of 12 June 2013 on food intended for infants and young children, food for special medical purposes, and total diet replacement for weight control and repealing Council Directive 92/52/EEC, Commission Directives 96/8/EC, 1999/21/EC, 2006/125/EC and 2006/141/EC, Directive 2009/39/EC of the European Parliament and of the Council and Commission Regulations (EC) No 41/2009 and (EC) No 953/2009¹,
- Commission Delegated Regulation (EU) 2016/127 of 25 September 2015 supplementing Regulation (EU) No 609/2013 of the European Parliament and of the Council as regards the specific compositional and information requirements for infant formula and follow-on formula and as regards requirements on information relating to infant and young child feeding^{Error! Bookmark not defined.} and,

¹ Retained EU regulation as amended by The Nutrition (Amendment etc.) (EU Exit) Regulations 2019 and 2020

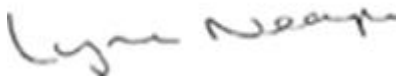
- Commission Delegated Regulation (EU) 2016/128 of 25 September 2015 supplementing Regulation (EU) No 609/2013 of the European Parliament and of the Council as regards the specific compositional and information requirements for food for special medical purposes^{Error! Bookmark not defined.}

These amendments have:

- updated the unit of measurement used for copper in food supplements;
- updated the unit of measurement used for zinc in food supplements;
- updated the forms of niacin which are permitted for use in the manufacture of food supplements to include nicotinamide riboside chloride;
- updated the forms of magnesium which are permitted for use in the manufacture of food supplements to include magnesium citrate malate;
- updated the forms of folate that are permitted for use in the manufacture of infant formula and follow-on formula (IFFOF) to include calcium L-methylfolate;
- updated the forms of folate that are permitted for use in the manufacture of processed cereal-based foods and baby foods to include calcium L-methylfolate;
- standardised the definition of pesticide residues used in the regulations on IFFOF; and
- standardised the definition of pesticide residues used in the regulations on food for special medical purposes developed to satisfy the nutritional requirements of infants and young children (iFSMPs).

[Written Statement: The Food Supplements and Food for Specific Groups \(Miscellaneous Amendments\) Regulations 2023 \(17 January 2023\) | GOV.WALES](#)

Yours sincerely,



Lynne Neagle AS/MS

Y Dirprwy Weinidog Iechyd Meddwl a Llesiant
Deputy Minister for Mental Health and Wellbeing



Llywodraeth Cymru
Welsh Government

WRITTEN STATEMENT BY THE WELSH GOVERNMENT

TITLE: The Food Supplements and Food for Specific Groups
(Miscellaneous Amendments) Regulations 2022

Date January 2023

Lynne Neagle

BY Deputy Minister for Mental Health and Wellbeing

Members of the Senedd will wish to be aware that I gave consent to the Secretary of State for Health and Social Care exercising a subordinate legislation-making power in a devolved area in relation to Wales.

Agreement was sought by Jo Churchill MP (Parliamentary Under Secretary of State for Prevention, Public Health and Primary Care) to make a Statutory Instrument (SI) titled The Food Supplements and Food for Specific Groups (Miscellaneous Amendments) Regulations 2022 which sets provisions to apply in relation to Great Britain. The above titled SI was made by the Secretary of State in exercise of powers conferred by sections 16(1)(a) and 48(1) of the Food Safety Act 1990([1]), Articles 11(1)(b)(g), 16(1)(a) and 16A(2) of Regulation (EU) No 609/2013 of the European Parliament and of the Council of 12 June 2013 on food intended for infants and young children, food for special medical purposes, and total diet replacement for weight control ([2]) and regulation 2(2) of the Nutrition (Amendment etc.) (EU Exit) Regulations 2019([3]) on official controls and other official activities. The SI amended the following legislation to effect changes in Wales and England.

- The Nutrition (Amendment etc.) (EU Exit) Regulations 2019 (SI 2019/651) as amended,

([1]) 1990 c.16. Section 16(1) was amended by section 40(1), of, and paragraphs 7 and 8 of Schedule 5 to, the Food Standards Act 1999 (c. 28) ("the 1999 Act. Section 48 was amended by section 40(1) of, and paragraphs 7 and 8 of Schedule 5 to, the 1999 Act. There are other amendments which are not relevant to these Regulations.

([2]) EUR 2013/609, amended by EUR 2017/1091, S.I. 2019/651 and S.I. 2020/1476.

([3]) S.I. 2019/651, amended by S.I. 2020/1476.

- Regulation (EU) No 609/2013 of the European Parliament and of the Council of 12 June 2013 on food intended for infants and young children, food for special medical purposes, and total diet replacement for weight control and repealing Council Directive 92/52/EEC, Commission Directives 96/8/EC, 1999/21/EC, 2006/125/EC and 2006/141/EC, Directive 2009/39/EC of the European Parliament and of the Council and Commission Regulations (EC) No 41/2009 and (EC) No 953/2009¹,
- Commission Delegated Regulation (EU) 2016/127 of 25 September 2015 supplementing Regulation (EU) No 609/2013 of the European Parliament and of the Council as regards the specific compositional and information requirements for infant formula and follow-on formula and as regards requirements on information relating to infant and young child feeding¹ and,
- Commission Delegated Regulation (EU) 2016/128 of 25 September 2015 supplementing Regulation (EU) No 609/2013 of the European Parliament and of the Council as regards the specific compositional and information requirements for food for special medical purposes¹

These amendments:

- update the unit of measurement used for copper in food supplements;
- update the unit of measurement used for zinc in food supplements;
- update the forms of niacin which are permitted for use in the manufacture of food supplements to include nicotinamide riboside chloride;
- update the forms of magnesium which are permitted for use in the manufacture of food supplements to include magnesium citrate malate;
- update the forms of folate that are permitted for use in the manufacture of infant formula and follow-on formula (IFFOF) to include calcium L-methylfolate;
- update the forms of folate that are permitted for use in the manufacture of processed cereal-based foods and baby foods to include calcium L-methylfolate;
- standardise the definition of pesticide residues used in the regulations on IFFOF; and
- standardise the definition of pesticide residues used in the regulations on food for special medical purposes developed to satisfy the nutritional requirements of infants and young children (iFSMPs).

The regulations were laid before UK Parliament on (13 January) to come into force on 10 February 2023, except for the amendment to update the unit of measurement used for copper in food supplements, which will come into force on 10 August 2024 to allow for an 18-month transition period.

¹ Retained EU regulation as amended by The Nutrition (Amended Etc.) (EU Exit) Regulations 2019 and 2020

Lynne Neagle MS
Deputy Minister for Mental Health and Wellbeing
Welsh Government

16 January 2023

Dear Lynne

Food Supplement and Food for Specific Groups (Miscellaneous Amendments) Regulations 2022

Thank you for your letter of 20 December 2022 regarding the above Regulations. We considered your response, and your recent exchange of correspondence with the Legislation, Justice and Constitution Committee, at our meeting on 11 January 2023. Following our discussion, we would welcome clarification of the following issues (including, where appropriate) where the relevant information can be found in the Explanatory Memorandum to be laid alongside the Regulations.

Timing of the Regulations

Your letter of 21 November indicated that the Regulations would be laid before the UK Parliament on 14 December 2022, and that they would come into effect on 18 January 2023. Your subsequent letter of 20 December 2022 states that the Regulations will be laid "in December". We noted at our meeting on 11 January 2023 that the Regulations do not yet appear to have been laid.

1. Could you confirm when the Regulations are expected to be laid and enter into force?
2. Could you outline why the Regulations have been delayed, and whether the delay will give rise to any consequences?

Divergence with Northern Ireland

You indicate in your letter of 20 December 2022 that no formal assessment has been undertaken of divergence between GB and Northern Ireland regarding barriers to trade or public health.

3. Could you clarify whether standards will be different in GB and Northern Ireland as a result of the amendments to be made by the Regulations?

Bilingual legislation

In your answer in your letter of 20 December to question 3 from our letter of 1 December 2022, you explain that you considered different options for taking forward the proposed amending regulations, including the option for Welsh Government to bring forward its own Statutory Instrument. However, you did not indicate whether the availability of legislation in Welsh and in English, and the implications for the accessibility of law in Wales, was a factor in your consideration.

4. What consideration was given to the impact of the UK Government making regulations on the accessibility of the law and the availability of bilingual legislation?

Consultation with stakeholders

In your response to the LJC Committee's letter, you explain that the UK Government undertook a three week consultation with specific stakeholders on the proposed changes.

5. Could you provide details of which stakeholders were consulted, and how any responses are reflected in the Regulations?

Amendments to be made by the Regulations

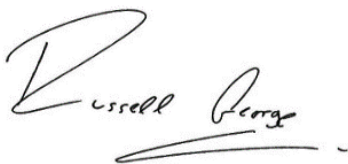
Thank you for the information you have provided on the rationale for the amendments to be made by the Regulations. We welcome the indication that the Welsh Government will be bringing forward its own Regulations regarding baby food.

We note that one amendment will update the definition of pesticide residue from the terminology used in Regulation (EC) No 1107/2009 to a narrower definition taken from an earlier regulation (Regulation (EC) No 396/2005).

6. Could you provide further information about the rationale for reverting to a narrower definition, and what the implications of such a change might be?

We would be grateful for a response by 24 January 2023.

Yours sincerely

A handwritten signature in black ink that reads "Russell George". The signature is written in a cursive style with a long horizontal stroke underneath.

Russell George MS

Chair, Health and Social Care Committee

cc Jayne Bryant MS, Chair, Children, Young People and Education Committee

Huw Irranca-Davies MS, Chair, Legislation, Justice and Constitution Committee

Croesewir gohebiaeth yn Gymraeg neu Saesneg. We welcome correspondence in Welsh or English.



Russell George MS,
Chair, Health and Social Care Committee
Welsh Parliament
Cardiff Bay
Cardiff
CF99 1SN

20 December 2022

Dear Russell

Food Supplement and Food for Specific Groups (Miscellaneous Amendments) Regulations 2022

Thank you for your letter of 21 November 2022 regarding the above amending regulations.

If I take each of your points in order.

An Explanatory Memorandum will be laid alongside the Regulations in December, and I will forward a copy to the Committee.

1. Will these Regulations lead to divergence between GB and Northern Ireland? If so, what assessment has been made of whether any divergence could result in barriers to trade or public health matters?

No formal assessment of divergence regarding barriers to trade or public health was undertaken. These changes will help to safeguard the public by providing consistency and clarity for manufacturers, enforcement officers and the public.

2. Is the Scottish Government bringing forward its own Regulations in this respect? Scotland have brought forward its own regulations to make equivalent amendments to the Processed Cereal-based Foods and Baby Foods for Infants and Young Children (Scotland) Regulations 2004.

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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.

3. Regulations brought forward by the UK Government are made only in English. Regulations brought forward by the Welsh Government must be made in Welsh and in English. To what extent did you consider whether legislation applicable to Wales should be available in both Welsh and English when making your decision on whether to consent to the Regulations?

I considered options for taking forward the proposed amending regulations which includes the option for Welsh Government to draft its own Statutory Instrument (SI) which addresses all amendments. However, to ensure alignment and enforcement with the rest of GB and EU, on this occasion it was felt necessary to progress on this basis. This proposed SI makes minor amendments to existing regulations rather than creating any new policy. Consent to the GBSI has not precluded the Welsh Ministers from taking a different approach upon receipt of any such future request, should it be considered that an alternative approach is warranted and/or preferable

4. Was the joint GB approach for these Regulations considered through the mechanisms set out in the Nutrition Labelling Composition and Standards Common Framework?

Yes, the joint approach was discussed as part of the Nutrition Related Labelling, Composition and Standards Working Group (NLCS). On the 9th March 2021 the European Commission amended Annex II of Directive 2002/46/EC to allow magnesium citrate malate to be a form of magnesium chloride and nicotinamide riboside chloride as a form of niacin used in the manufacture of food supplements. Following this legislative change in the EU and NLCS policy group considered the amendments and following a risk assessment and risk management processes set out in the NLCS framework (including scientific assessment), received GB ministerial consent to authorise nicotinamide riboside chloride as a form of niacin and magnesium citrate malate as a form of magnesium which can be used in food supplements.

5. What is the rationale for making the amendments to be set out in the Regulations? For example, are they for the purpose of keeping pace with changes to EU legislation, or do they reflect developments in the scientific evidence?

The purpose of these amendments varies. They are to correct errors: updating the units of measure for the labelling of zinc in food supplements, and a previously missed amendment to add zinc chloride and ferrous bisglycinate as permitted sources of vitamins and minerals for use in processed based baby foods and baby foods (baby foods) (the latter being applicable only to England in these Regulations as separate Welsh only Regulations will make the equivalent changes for Wales); to use different sources for certain vitamins and minerals to be added to food supplements, baby foods and infant formula and follow-on formula (IFFOF) and for consistency in labelling between food supplements and other types of food containing copper. The definition of pesticide residue will be updated from the terminology used in Regulation (EC) No 1107/2009 (concerning the placing of plant protection products on the market) to a more precise definition of residues taken from Regulation (EC) No 396/2005 (on maximum residue levels of pesticides in or on food and feed of plant and animal origin), providing more clarity and consistency with the definition which is used in the legislation for general food.

Whilst changes are technical in nature, they also ensure continued alignment with GB and EU on these matters.

6. What discussions have you had with the UK Government about the potential implications of the Retained EU Law (Revocation and Reform) Bill for these Regulations

The NLCS policy group are currently considering how best to discuss the future of the REUL and NIP bill work and whether this should be through the existing group or a separate sub-group with the appropriate colleagues.

Yours sincerely,



Lynne Neagle AS/MS

Y Dirprwy Weinidog Iechyd Meddwl a Llesiant
Deputy Minister for Mental Health and Wellbeing

Agenda Item 6.5

Mick Antoniw AS/MS
Y Cwnsler Cyffredinol a Gweinidog y Cyfansoddiad
Counsel General and Minister for the Constitution



Llywodraeth Cymru
Welsh Government

Ein cyf/Our ref: CG/PO/20/2023

Huw Irranca-Davies MS
Chair
Legislation, Justice and Constitution Committee
Senedd Cymru

19 January 2023

Inter-Institutional Relations Agreement: Inter-Ministerial Standing Committee

I am writing in accordance with the inter-institutional relations agreement to notify you of the third meeting of the Inter-Ministerial Standing Committee, which will take place on the 1 February 2023.

I will be chairing The Standing committee meeting. In this virtual meeting I anticipate the discussion will focus on UK legislation, including Retained EU Law, Sewel convention and Common Frameworks.

I will provide an update after the meeting.

Mick Antoniw AS/MS

Y Cwnsler Cyffredinol a Gweinidog y Cyfansoddiad
Counsel General and Minister for the Constitution

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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.



Department for Levelling Up,
Housing & Communities

Rt Hon Michael Gove MP
Secretary of State for Levelling Up, Housing
and Communities
Minister for Intergovernmental Relations
2 Marsham Street
London SW1P 4DF

Agenda Item 7.1

Huw Irranca-Davies
Legislation, Justice and Constitution
Committee
Welsh Parliament
Cardiff Bay
Cardiff
CF99 1SN

Our Reference:22092131

12/1 January 2023

Huw

INTERGOVERNMENTAL RELATIONS

Thank you very much for your letter of 4 November regarding Government legislation that includes devolved matters. I apologise for the delay in replying.

I would like to reiterate that I appreciate the work your committee puts into scrutinising that legislation and I recognise the importance of there being appropriate time available for your committee, and others, to carry out that work thoroughly.

As you note, my officials provide extensive guidance and support to bill teams across UK Government regarding engagement with officials in the Welsh Government. The information contained in the Devolution Guidance Notes certainly informs that work, as does the Memorandum of Understanding between the Government and devolved administrations, and the Guide to Making Legislation. Guidance and support is then adapted to the specific circumstances of each bill and, where relevant, would cover how to handle proposed amendments.

As you will know from your own work in the Senedd, legislation timetabling is often subject to change and must be managed carefully alongside other demands on the legislatures' time. My officials are not responsible for scheduling a bill's passage through Parliament. They do, however, offer advice on how to handle bill timings in the context of engaging with the devolved administrations.

You also asked about the circumstances in which the Government would include devolved matters within its legislation. The content of UK Government legislation is determined according to policy priorities and bills can touch on devolved matters to create consistent UK wide legislation in line with those priorities. You are right, of course, that including devolved matters within a UK Government bill potentially frees up time for the devolved legislatures, as this means the devolved administrations will not need to progress their own legislation on the same matter. Whilst not the primary aim of Government legislation, we recognise this can be an important secondary benefit and are open to engagement on this with the Welsh Government. UK-wide legislation, rather than separate legislation affecting each of the home nations, can of course also improve the simplicity of the legislative 'landscape' across the UK, aiding business and citizens. But we recognise that this is not always possible or desirable.

Any legislation which includes devolved matters would of course be subject to the Sewel Convention and the Government is fully committed to both that Convention and the associated practices for seeking consent. These processes necessarily involve communication between the two governments and any ministerial or official correspondence would be subject to the usual rules which the UK and Welsh Governments follow in relation to releasing information.

The Government will continue to work with colleagues in the Welsh Government on legislation where it affects devolved matters.

Thank you again for your correspondence.

v
1-5,

M. Gove



RT HON MICHAEL GOVE MP

**Secretary of State for Department for Levelling up, Housing and Communities
Minister for Intergovernmental Relations**

The Rt Hon Michael Gove MP
Secretary of State for Levelling Up, Housing and
Communities and Minister for Intergovernmental
Relations

4 November 2022

Dear Michael

Intergovernmental relations

Congratulations on your recent appointment as Secretary of State.

As you will be aware from our [correspondence](#) earlier this year, my Committee (and its predecessor) has spent some considerable time scrutinising how governments within the UK work together and we look forward to maintaining productive relationships with you as we continue with this important work.

In July 2022, we [wrote](#) to the Rt Hon Greg Clark MP, the then Secretary of State for Levelling Up, Housing and Communities, about proposals for UK Bills to legislate in devolved areas and received a helpful [reply](#) in August 2022.

There are a number of points on which we would welcome further clarity.

We asked a number of specific questions regarding engagement between Welsh and UK government officials. These centred on initiating discussions, timetabling, and amendments to UK Bills. In response, the Secretary of State said:

"My officials proactively provide guidance and support on engagement to UK Government bill teams throughout a bill's development and parliamentary passage. Engagement at official level should take place when developing policy which could affect devolved matters, and this engagement should continue throughout the bill's passage, including the sharing of information to allow devolved government counterparts to make informed policy decisions. This

engagement is also important to identify where a UK government bill can include provisions within a devolved legislature's competence and enable timely pragmatic solutions to policy challenges to deliver for people of Wales freeing up devolved legislatures time whilst respecting their legislative competence via the legislative consent process."

We would be grateful to know if the guidance referred to is of a formal nature, akin to, for example devolution guidance notes or an intergovernmental agreement, and also whether it covers specific advice on timetabling and the agreement between governments on proposed amendments. This information is relevant to us in helping to understand how we, and other Senedd committees, can endeavour to influence legislation passed in the UK Parliament that in many cases we would expect to be made by the Senedd.

It would also be helpful to know why the guidance referred to is not always followed (see our original letter) and how this situation can be avoided in future. The lack of engagement can have a knock-on effect on our ability, and that of the Senedd, to conduct scrutiny, which is already constrained by the use of a UK Bill rather than a Welsh one. For example, as regards, surprisingly, the Levelling-up and Regeneration Bill, we have only recently received a legislative consent memorandum from the Welsh Government some 4 months after the Bill was laid in the UK Parliament, because of the "very limited engagement by the UK Government prior to the Bills' introduction and the complexity of the Bill" (paragraph 3 of the [legislative consent memorandum](#)).

This raises a number of issues:

1. Is the matter of identifying when a UK Government Bill can include provisions within a devolved legislature's competence subject to any form of intergovernmental agreement between the Welsh and UK governments?
2. Where there is agreement between governments, for example on the UK Government's Procurement Bill, is there an exchange of Ministerial correspondence formally agreeing this position and, if so, is there any agreed restriction on such correspondence being published and shared with the relevant parliaments?
3. Is it the UK Government's agreed and principled position that it should look to free-up time in the devolved legislatures by proposing UK (or GB or England and Wales) legislation?
4. If this is the UK Government's position, on what basis have you made this assessment, why do you consider that to be appropriate, and for what purpose?

5. Has the Welsh Government approached the UK Government and used 'freeing up devolved legislatures time' as justification during discussions on the inclusion of 'Welsh provisions' in UK Bills?
6. Is it the case that it is more frequent for the UK Government to make an offer to the Welsh Government to include provisions in a devolved area within a UK Bill or do the Welsh Government regularly request such provision?
7. Are there any circumstances in which the UK Government would consider it inappropriate to include provisions in a UK Bill within a devolved legislatures competence? Can you give an example?
8. Are there any circumstances in which the UK Government would refuse a Welsh Government request to include in a UK Bill provision within a devolved legislatures competence? Can you give an example?

I look forward to receiving your response within 6 weeks of the date of this letter.

Yours sincerely,

Huw Irranca-Davies

Huw Irranca-Davies

Chair

—
**Climate Change, Environment,
and Infrastructure Committee**

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Rebecca Evans MS,
Minister for Finance and Local Government

16 January 2023

Dear Rebecca,

Please find enclosed a copy of the Climate Change, Environment and Infrastructure Committee report: **Supplementary Legislative Consent Memorandum (No.3) for the UK Infrastructure Bank Bill**.

As set out in the report, we expect the Minister to respond to the Committee's recommendations during tomorrow's debate on the Legislative Consent Motion. We would also welcome a more detailed, written response as soon as possible (and no later than 30 working days after the publication date of the report, **by 24 February 2023**).

I am copying this letter to the Minister for Climate Change; the Chair of the Legislation, Justice and Constitution Committee; the Chair of the Finance Committee, and, the Chair of the Economy, Trade, and Rural Affairs Committee.

Yours sincerely,



Llyr Gruffydd MS,
Chair, Climate Change, Environment and Infrastructure Committee

Croesewir gohebiaeth yn Gymraeg neu Saesneg.

We welcome correspondence in Welsh or English.

Julie James AS/MS
Y Gweinidog Newid Hinsawdd
Minister for Climate Change

Agenda Item 7.3

Llywodraeth Cymru
Welsh Government

Legislation, Justice & Constitution Committee
Welsh Parliament
Cardiff Bay
CF99 1SN

SeneddLJC@senedd.wales

17 January 2023

Dear Committee Members

Thank you for your report on the Memorandum for The Climate Change (Targeted Greenhouse Gases) Order 2022 - November 2022. Please see the attached response to the recommendation.

Yours sincerely



Julie James AS/MS
Y Gweinidog Newid Hinsawdd
Minister for Climate Change

Canolfan Cyswllt Cyntaf / First Point of Contact Centre:
0300 0604400

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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.

Written Response by the Welsh Government to the Legislation, Justice and Constitution Committee on the Memorandum for The Climate Change (Targeted Greenhouse Gases) Order 2022 - November 2022

The UK Government laid a draft of The Climate Change (Targeted Greenhouse Gases) Order 2022 (the Order) before the UK Parliament on 19 October 2022¹.

The Order makes provision in respect of emissions for the purpose of carbon reporting under the Climate Change Act 2008. The result is that NF₃ [nitrogen trifluoride] emissions will be included within the scope of emissions recorded for the Annual Statement of Emissions 2021, the full accounting period for the UK's Third Carbon Budget (2018-2022), and for subsequent UK carbon budgets.

Standing Order 30A states that a member of the government must lay a Statutory Instrument Consent Memorandum in relation to any statutory instrument, or a draft statutory instrument, laid before the UK Parliament by UK Ministers which makes provision ("relevant provision") in relation to Wales amending primary legislation within the legislative competence of the Senedd.

On 21 October, I laid before the Senedd a Statutory Instrument Consent Memorandum (the Memorandum) for the Order, in accordance with Standing Order 30A and wrote to the Legislation, Justice and Constitution Committee and the Climate Change, Environment and Infrastructure Committee.

I would like to thank the members of the Legislation, Justice and Constitution Committee for their report on the Memorandum for The Climate Change (Targeted Greenhouse Gases). I am particularly pleased to see they are content with the detail within the Memorandum. I have set out my response to the Report's individual recommendation below.

Response to the report's recommendations are set out below:

Recommendation 1. The Committee recommended

The Minister should table a motion under Standing Order 30A.10 to seek the Senedd's agreement to the inclusion of relevant provision in The Climate Change (Targeted Greenhouse Gases) Order 2022.

Response – Reject

The Order brings relevant provisions in the Climate Change Act 2008 in line with provision in the Environment (Wales) Act 2016, and in my view was neither novel nor contentious. I therefore did not table a motion for this SICM in line with the position set out in the First Minister's letter of November 2020, and in compliance with the requirements of Standing Order 30A. The Order was subsequently made by the Secretary of State on 11 January.

¹ [The Climate Change \(Targeted Greenhouse Gases\) Order 2022 \(senedd.wales\)](https://www.senedd.wales)

However, I recognise the Committee's concerns with regards these processes and in particular note the recent correspondence from the Committee surrounding clarification of Standing Order 30A. I would of course welcome further engagement on any such clarification or review of Standing Order 30A.



Llywodraeth Cymru
Welsh Government

Ein cyf/Our ref: CG/PO/14/2023

Members of the House of Lords

17 January 2023

Welsh Government Briefing on UK Primary Legislation

Dear Members of the House of Lords

On 9 January I met with members of the House of Lords to provide a briefing session on Welsh Government's position on the UK Legislative Programme and its impact in Wales. I am very grateful to those Members who were able to attend and contribute to that session, and hope that they, and others who were unable to join the meeting, will find the information attached to this letter helpful.

The importance of the House of Lords in safeguarding our constitution and the integrity of the devolution settlement cannot be understated. I remain deeply grateful in this context for the efforts of Members in seeking to ensure that UK Government legislation fully respects devolution and the Sewel Convention. I welcome further engagement with Members on Wales' interests in the UK Legislative Programme and would be very happy to attend future sessions with you.

I am copying this letter to the First Minister of Wales, and to the Llywydd and the Chair of Legislation, Justice and Constitution Committee of the Senedd.

Mick Antoniw AS/MS

Y Cwnsler Cyffredinol a Gweinidog y Cyfansoddiad
Counsel General and Minister for the Constitution

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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.

Overview of Welsh Government positions on UK Primary Legislation

1. **The UK Government's legislative programme is significant for the Welsh Government and for Wales:**
 - a. Bills on non-devolved matters often apply to Wales and in many cases have a significant impact on our economy or the wellbeing of people in Wales.
 - b. Bills relating to devolved matters necessarily impact very directly in Wales and, as a matter of constitutional principle, also require the consent of the Senedd in line with the Sewel Convention (that is, that the Parliament of the United Kingdom will not normally legislate with regard to devolved matters without the consent of the Senedd).
2. The Welsh Government have serious concerns about UK Government's adherence to principles of devolution, compliance with the Sewel Convention, and with effective inter-governmental working.
3. **Effective engagement** by UK Government with Welsh Government is one of the biggest obstacles to the smooth operation of the current legislative consent process. Whilst there have been some positive experiences, the position generally is one of poor engagement. This places significant constraints on our ability to consider legislation in a timely manner, as well as the ability of the Senedd to scrutinise legislation. Whilst there have been some improvements more recently by UK Government, the lack of engagement prior to the introduction of the Minimum Service Levels Bill is an unfortunately familiar example.
4. The number of occasions where the UK Government did not respect the **Sewel Convention** in recent Parliamentary sessions is unacceptable and completely unjustified by circumstances. We believe that the Sewel Convention needs codification. At the very least, UK Government should set out the decision-making process they go through when they come to a decision to that a situation is 'not normal'.
5. **In this current session, several specific Bills give cause for concern.** The Senedd has refused consent to the Northern Ireland Protocol Bill. Whilst the Senedd has not yet voted and these are ongoing issues, Welsh Government has also currently recommended consent be withheld in relation to the Trade (Australia and New Zealand) Bill, the Genetic Technology (Precision Breeding) Bill, the Levelling-up and Regeneration Bill and the Retained EU Law Bill. Our detailed position in relation to each of those Bills can be found in the relevant legislative consent memoranda. We have not yet laid a memorandum for the Bill of Rights but have similarly set out our public opposition to the Bill.
6. At the briefing session on 9 January, I set out an overview of my concerns relating to **the Retained EU Law Bill** - a Bill which I'm aware Members share similar concerns on. Those issues include the arbitrary 'sunset' date for legislation, the lack of powers for the Welsh Ministers to extend that sunset date, the harm presented by the 'regulatory burden' restrictions, and the use of concurrent powers.

- **Concurrent powers** – that is, powers which confer the ability to make secondary legislation on both Welsh Ministers and UK Ministers – should not be created in devolved areas. They do not reflect, or respect devolution – they give UK Government powers to act in areas which Parliament has determined are devolved. As a result, they fundamentally change the devolution settlement and the Senedd’s legislative competence. However, as seen in the Retained EU Law Bill amongst other Bills, the UK Government have demonstrated a worrying trend in their reliance on concurrent powers. In limited circumstances, concurrent powers might be acceptable; but that is only the case if the ability of a UK Minister to exercise the power in Wales is subject to the consent of the Welsh Ministers.

Access to Welsh Government and Senedd detailed positions on UK Bills

7. The Senedd’s [website](#) hosts a ‘legislative consent’ page⁽¹⁾ containing the Welsh Government’s legislative consent memoranda, and Senedd Committee reports relating to UK Bills. Our legislative consent memoranda include commentary on whether Bills make appropriate provision for Wales, and as such provide detailed information on areas of concern and engagement between Welsh Government and UK Government. Members may find this information useful when seeking to take part in debates, raising questions and scrutinising the impact of UK Government Bills on Wales.

⁽¹⁾ <https://senedd.wales/senedd-business/legislative-consent/>

Ein cyf/Our ref: PO/18/2023

Huw Irranca-Davies, Chair
Legislation, Justice & Constitution Committee
Senedd Cymru
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18 January 2023

Dear Huw

CORRECTIONS TO WELSH SUBORDINATE LEGISLATION

Thank you for your letter of 21 December 2022. You have raised a number of matters relating to correction slips, which I should make clear apply to Statutory Instruments (SIs) only rather than all subordinate legislation made by the Welsh Ministers.

Before turning to your substantive questions, I believe it may help the Committee if I set out a few general points:

1. We are very clear that substantive errors in an SI, no matter how small, can only be corrected by amending legislation. But equally it is important, for the accessibility of our legislation, that where errors are not substantive, but ought to be corrected, that is done wherever possible.
2. When considering how to correct a mistake in a Welsh SI we are informed primarily by [Statutory Instruments Practice](#)¹ (SIP). Although SIP does not provide guidance on Welsh SIs, the procedures and principles outlined in Parts 3 and 4 are followed in practice by the Welsh Government in preparing, registering and publishing legislation.
3. SIP outlines a range of approaches to achieving corrections for non-substantive errors, depending on the error and the point is it at in the process of making, registering and publishing an SI.

¹ The National Archives (November 2017) *Statutory Instrument Practice*, 5th edition

Criteria for considering whether to seek a correction slip

4. A correction slip is used when the SI has been registered and published, and was a process designed very much with the printed SI in mind. Correction slips are issued with every new sale of a printed SI that is purchased (and also sent to known purchasers of the SI); they are also published alongside the digital versions of the (corrected) SI on legislation.gov.uk
5. When considering whether a correction slip may be sought, our first consideration is paragraph 4.7.4 of SIP. We also consider the Special Report of the Joint Committee on Statutory Instruments, *Transparency and Accountability in Subordinate Legislation*, where the Committee is clear that errors in subordinate legislation should not be corrected by correction slip where they amount (or could possibly amount) to a change of substance. In addition, in the report the Committee shows the criteria in determining the suitability of the issue of a correction slip:
 - the errors are small scale (for example, a typographical error that does not affect the substantive meaning);
 - the errors are obvious;
 - the text and location of the corrections are equally obvious; and
 - the corrections are small scale.

Correction on making, registering and publication – process, criteria and role of SI Registrar

6. Your correspondence refers to ‘correction on making’ and ‘correction on publication’, both of which are terms of convenience used by the Government and therefore also the Committee, but not entirely accurate descriptions of the point at which corrections are made. I cover this in more detail below, but the net result of both is the same – the mistake is remedied before publication and ensures that the corrected SI is available in printed form, without an additional correction slip, and the digital version on legislation.gov.uk reflects the final form of the SI.
7. ‘Correction on making’ happens before the SI has been made by the relevant Minister. If the correction is considered to be of the type which could be dealt with by a correction slip (usually a matter which is discussed with the SI Registrar subject to their availability) or is a matter which the Minister has committed to remedy before making the SI – for example in the Senedd’s consideration of a draft affirmative SI – then the draft SI is corrected before it is submitted for making. The “as made” version is then registered in the usual way.
8. Correction on publication is a term we often use, but in practice refers to correction as part of the registration process. In such cases we follow the guidance at paragraph 4.7.13 of SIP which notes:

If it is in the nature of something that could be covered by a correction slip... this can be remedied.
9. There is very limited time available to do this – generally only a few hours – and is dealt with in discussion with the SI Registrar once the SI has been submitted for registration but before registration has been completed.
10. SIP makes clear that if an SI has been registered but not yet published, the mistakes will need to be remedied after publication (by the appropriate means depending on the nature of the error).

Errors in draft affirmative instruments

11. In general terms, if the error is one which could be remedied by correction slip then we would prefer to deal with that as a correction on (i.e. prior to) making. If it is a very minor matter, but not one which would necessarily be suitable for a correction slip, then it still may be the case that we would seek to deal with this as a matter on (i.e. prior to) making. The Minister can bring these matters to the attention of Members either in correspondence with the Committee or during the debate on the instrument.
12. For more substantive matters, then we will either seek to withdraw and re-lay the instrument or, if time does not permit for that, then we may commit to bring forward an amending instrument.
13. Clearly the approach we need to seek to take depends on the error that has been identified, the urgency with which the instrument needs to be made, and the time available to resolve the matter. It will always be the case that our preferred approach in these cases is to correct the draft instrument and re-lay it before the Senedd, and I am grateful to the Committee for those occasions when they have agreed to expedite their consideration of the revised Statutory Instrument.

I am copying this letter to the Minister for Rural Affairs and North Wales, and Trefnydd, and to the Deputy Minister for Mental Health and Wellbeing.

Yours sincerely,

A handwritten signature in blue ink, reading "Mick Antoniw". The signature is written in a cursive style with a horizontal line underneath the name.

Mick Antoniw AS/MS

Y Cwnsler Cyffredinol a Gweinidog y Cyfansoddiad
Counsel General and Minister for the Constitution

Mick Antoniw MS
Counsel General and Minister for Constitution

21 December 2022

Dear Mick

Corrections to Welsh Subordinate Legislation

In recent weeks, my Committee has received a number of Welsh Government responses to our reports on subordinate legislation made (or to be made) by the Welsh Ministers in which it has been stated that errors will be corrected by way of correction slips sought from the SI Registrar or that corrections will be made before the instrument is made or published on legislation.gov.uk.

Most notably, this has occurred in relation to The Food and Feed (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2022, The Trade in Animals and Related Products (Amendment and Legislative Functions) and Animal Health (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2022, and The Marketing of Seeds and Plant Propagating Material (Wales) (Amendment) (EU Exit) Regulations 2022.

As regards the Marketing of Seeds and Plant Propagating Material (Wales) (Amendment) (EU Exit) Regulations 2022 (a made negative instrument), we received an initial response to our report on 2 November, in which we were told that a correction slip would be sought from the SI Registrar to address two technical issues we raised in our report. On 8 December, we received a follow-up response in relation to the first technical point in our report which stated "The S.I. Registrar has now confirmed that a correction slip is not appropriate to remedy the title change. A correcting S.I will, therefore, be made instead of a correction slip." Subsequently, the Welsh Government has made amending Regulations.

In relation to the Trade in Animals and Related Products (Amendment and Legislative Functions) and Animal Health (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2022 (a draft affirmative instrument), the Welsh Government response to our report received on 13 December stated that 12

errors would be corrected “on making”. Two further errors were identified as requiring an amending instrument. In the debate on these Regulations on 13 December the Minister referred to the 12 errors being “corrected on publication”.

Finally, in relation to the Food and Feed (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2022 (a draft affirmative instrument), the Welsh Government response confirmed that two technical issues would be corrected by way of a correction slip, while the remaining three would require a correcting instrument. The Deputy Minister confirmed this position during the Senedd debate on these Regulations on 13 December.

Our consideration of the above named Regulations, and the responses we have received from the Welsh Government, raise questions about the Welsh Government’s own processes for determining how and when corrections to Welsh subordinate legislation can and should be made.

We would be grateful if you would provide specific details of the guidance and procedures the Welsh Government follows when deciding whether it should make a correcting statutory instrument, correct an error on making/publication, or apply to the SI Registrar for a correction slip. In particular please confirm:

1. What criteria are considered by Welsh Government when deciding whether to seek a correction slip from the SI Registrar?
2. Is “correction on making” the same as “correction on publication”? At what point, precisely, during the process of making and publishing an instrument are such corrections made? Is the correction on making / publishing accompanied by any Welsh Government or National Archives document that is publicly available identifying the corrections?
3. What criteria are considered by Welsh Government when deciding whether an error should be corrected on making/publication?
4. Does the SI Registrar have a role in deciding whether an error may be corrected on making/publication, or is the decision taken by the relevant Welsh Minister on the advice of Welsh Government officials?
5. Where an error is identified in a draft affirmative instrument before the Senedd debate has taken place, what criteria are used to decide whether to rely on a correction slip (as in the Food and Feed (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2022) or on the process of correction on making/publication (as in the Trade in Animals and Related Products (Amendment and Legislative Functions) and Animal Health (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2022)?

We are writing to the SI Registrar to similarly ask what rules are followed in determining whether to agree to a correction slip or, if relevant, whether to agree to requests to make corrections on making/publication of an instrument.

I would be grateful to receive a response by 18 January 2023.

I am copying this letter to Lesley Griffiths MS, Minister for Rural Affairs and North Wales, and Trefnydd, and to Lynne Neagle MS, Deputy Minister for Mental Health and Wellbeing.

Yours sincerely,

Huw Irranca-Davies

Huw Irranca-Davies
Chair

Ein cyf/Our ref: CG/PO/17/2023

Llywodraeth Cymru
Welsh Government

Huw Irranca-Davies, Chair
Legislation, Justice & Constitution Committee
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18 January 2023

Dear Huw

HISTORIC ENVIRONMENT (WALES) BILL

I would like to start by expressing, once more, my thanks to you and the Committee for your detailed report on the Bill, and for the positive and helpful way in which yesterday's debate was undertaken. I am very pleased that the Senedd agreed the Bill should proceed as a consolidation Bill and I look forward to our discussions in the Detailed Committee Consideration proceedings scheduled for 13 February.

Ahead of that meeting I am placing on record the Government's position on the recommendations of the Committee addressed to us. I will deal with those recommendations relating to the Historic Environment (Wales) Bill first, before turning to the recommendations of wider application:

- **Recommendation 1** relates to Minister of the Crown consent and, as I informed you yesterday, we have now received consent on both aspects from the Secretary of State for Wales.
- We agree that the law associated with the marine historic environment should be reviewed (**recommendation 6**), but this will have to be considered after the implementation of the current Bill if it is enacted, as this work has not been identified as a priority for this Senedd term.
- Schedule 8 to the Bill deals with procedures for orders modifying or revoking listed building consent, and Schedule 10 deals with procedures for orders terminating listed building partnership agreements. **Recommendation 7** of the Committee's report is concerned with the evidence base for changing these Schedules to permit interested

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parties to make written representations on these matters (not only oral representations). We are of the view that the evidence base does support a change in the law to allow for written representations, but as the Committee has not recommended it be included in this Bill we will not be seeking to amend the Bill at this time. A suitable vehicle to deal with this matter will need to be identified when resources permit.

- **Recommendation 8** is concerned with preservation notices under section 147 of the Bill upon which the Committee received evidence from one stakeholder contending that this should be removed from the Bill. Following the research conducted after the 2016 Act was passed (to which we have drawn the Committee's attention), the next step on determining whether the law should be changed would be for Cadw to undertake a formal consultation, but this is not a priority for the current Senedd term and will have to be considered when resources permit.
- I have already responded to the Committee on **recommendation 10**, which relates to the power to specify exceptions from the general position in section 2(3) of the Bill that religious buildings used for religious purposes are excluded from the definition of "monument" in Part 2 of the Bill.
- **Recommendation 11** seeks clarification on the partial restatement of the grounds for requesting a review under regulation 4 of the Scheduled Monuments (Review of Scheduling Decisions) (Wales) Regulations 2017. Regulation 4(b) of those Regulations allows for an application for a review on the ground that an alteration to the area of a scheduled monument is considered inappropriate. Such a change would only be inappropriate if the area in question is not of national importance, so we consider that this is already captured by the provision in section 9(2) of the Bill. We have accordingly not stated any other ground of review in the Bill. We have retained the regulation-making power in case it turns out that it is necessary to identify new grounds in the future. To date, no applications to review a Welsh Minister's decision to schedule a monument have been made.
- The Committee has looked ahead to implementation of the Bill if enacted by the Senedd and is seeking more information on proposed subordinate legislation (**recommendation 12**). Our current assessment is that 8 statutory instruments made under the 1979 Act and the 1990 Act will be consolidated and restated. There are also three existing directions that will need to be included in those restatements. This is because their subject-matter will fall to be covered by regulations if the Bill is passed in its current form. The number of new statutory instruments that will result is still being settled, as this will depend on judgements about how best to consolidate the existing provisions. In addition, a commencement order and consequential amendment, revocation, transitional and savings regulations will also be required.

Although work on these instruments has already begun, the majority of this work will take place after the Bill is passed and during the implementation period of 2023 to 2026.

Cadw will continue its proactive engagement activity with key users of the legislation during implementation; to date this has included:

- Circulating 9 Historic Environment Updates that explain the Bill and report its progress;
- Updating the Cadw website with useful information on the Bill including a timeline;
- Holding an awareness-raising session with over 100 participants;

- Attending a number of meetings to update key stakeholders, partners and users of the legislation on the Bill.

Some of the Committee's recommendations go beyond the immediate Bill, and in some cases have implications for law reform Bills as well:

- We acknowledge the points made by the Committee in its report and **recommendation 3** relating to pre-introduction work with stakeholders. The aim of much of the pre-introduction work on the two main consolidation Bills under development so far has been to ascertain how stakeholders understand and apply the existing legislation. We have also focussed on discrete elements of proposed drafting to ensure, where there is any element of doubt, that the existing position is being maintained.

As a general principle the Welsh Government continues to ensure that the outcomes of any formal consultation on legislation will be made public, as will a summary of key interactions with stakeholders. But engagement with stakeholders and others on the development of any Bill, including a consolidation Bill, is often done in confidence and without the expectation that full details will be made public. Sometimes this is because stakeholders ask that their views are not made public and only wish to engage fully if this is upheld.

We will however learn from this first consolidation Bill and will ensure this is reflected in future projects.

- **Recommendation 4** is concerned with the consolidation of Measures and Senedd Acts. I recognise that legislation enacted by the Senedd holds a special interest, but it has the same status as legislation enacted by the UK Parliament. I therefore consider it should be dealt with in a similar way in both the exercise of consolidation and the development of the supporting materials. I will however ensure that future Explanatory Memoranda to consolidation Bills make clear when provisions of a Measure or Senedd Act are being incorporated.
- **Recommendation 5**, on the other hand, is concerned with legislation not being incorporated into a Consolidation Bill. Your scrutiny of this first consolidation Bill has highlighted to me that Standing Order 26C sets out that the Committee may consider the scope of the consolidation, but the requirements for the documentation focus only on what is in the Bill. We will consider what information can helpfully be given for future Bills to aid the Committee's considerations.

There are no hard and fast categories of subjects in law. The question of what a consolidation Bill covers is inevitably a matter of judgement and starts from what it is appropriate and feasible to include. The complexity of this was recognised by the Law Commission in their evidence to the Committee who support the way the Government dealt with this (as the Committee notes in paragraph 148 of the report). There will always be connections and interactions with law which is not being consolidated.

As recognised in Standing Orders, part of the scrutiny process is to make a judgement on the scope of a consolidation Bill. In the particular case of this Bill, the information provided in the Explanatory Memorandum explained what law has been included in the Bill, and the subsequent engagement with the Committee during scrutiny has provided additional detailed information on the legislation that was excluded (and the Government has found this interaction helpful).

- **Recommendation 9** has implications for this Bill, future consolidation Bills and (I believe) also law reform Bills, as it is concerned with the information provided on proposed amendments to Bills. The Government currently provides information about the purpose and effect of all amendments it proposes to Bills, and intends to do the same for any amendments it proposes to consolidation Bills. This is over and above the existing requirements for tabling amendments in Standing Orders 26 and 26C. We also ensure that the Government Minister speaking to amendments sets out the case for each amendment during the Committee or Senedd proceedings. I believe this is the way we should continue to provide our views on the necessity and appropriateness of amendments, and that determination on admissibility remains a matter for the Senedd and Llywydd.

The remaining recommendations are for the Senedd or the Business Committee, but in relation to **recommendation 14** I can confirm that the next Bill expected to be brought forward under the *Future of Welsh Law* programme will be a Bill repealing provisions on the statute book that are no longer of practical utility or benefit. The consultation on a draft Statute Law (Repeals) (Wales) Bill has just concluded and I will be making further information about that available in due course. However, as set out in that consultation, we now expect that Bill to be introduced into the Senedd under Standing Order 26. This means the next consolidation Bill is likely to be the project dealing with the simplification and modernisation of planning law, and any review of Standing Order 26C is likely to take place towards the end of this Senedd term.

Yours sincerely,

A handwritten signature in blue ink, reading "Mick Antoniw", with a horizontal line underneath the name.

Mick Antoniw AS/MS

Y Cwnsler Cyffredinol a Gweinidog y Cyfansoddiad
Counsel General and Minister for the Constitution

Ein cyf/Our ref: CG/PO/19/2023

Llywodraeth Cymru
Welsh Government

Rt Hon Elin Jones MS
Llywydd and Chair of the Business Committee
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19 January 2023

Dear Elin,

The Retained EU Law (Revocation and Reform) Bill (“the Bill”) was introduced in the UK Parliament, the House of Commons, on 22 September and I laid a Legislative Consent Memorandum (LCM) on it on 3 November and a Supplementary LCM (SLCM) on 21 December.

Report Stage was held yesterday, 18 January. On 11 January the UK Government tabled amendments and we are analysing the details to see whether these initiate the requirement to undertake a further SLCM. The UK Government shared some policy content on one proposed amendment but did not share all the details of tabled amendments. In addition, relevant non-government amendments have also been tabled and these may yet be agreed for inclusion in the Bill.

We will prepare a single SLCM dealing with all the relevant amendments tabled for Report Stage. I acknowledge this will mean this SLCM will be laid more than two weeks after the tabling of the first batch of amendments, but I believe this will ensure it accurately reflects the development of the Bill and will enable effective Senedd scrutiny.

I am copying this letter to the Minister for Economy, the Minister for Rural Affairs and North Wales, and Trefnydd, the Minister for Climate Change and the Chair of the Legislation, Justice and Constitution Committee.

Yours sincerely,



Mick Antoniw AS/MS
Y Cwnsler Cyffredinol a Gweinidog y Cyfansoddiad
Counsel General and Minister for the Constitution

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Agenda Item 11

By virtue of paragraph(s) vi of Standing Order 17.42

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Vaughan Gething AS/MS
Gweinidog yr Economi
Minister for Economy



Llywodraeth Cymru
Welsh Government

Huw Irranca-Davies MS
Chair of Legislation, Justice and Constitution Committee
SeneddLJC@senedd.wales

18 January 2023

Dear Huw

I would like to thank you and the Legislation, Justice and Constitution Committee for your consideration of the supplementary Legislative Consent Memorandum (SLCM), (Memorandum No.2), laid before the Senedd on 28 September 2022 in respect of the UK Government's Online Safety Bill.

I welcome the report published by the Committee on 19 December, noting that the Members agreed that consent is required for clauses 151 to 154 and 156 of the Bill, as amended in Public Bill Committee (Part 10 communications offences).

I also note the recommendation made by the Committee that in their view consent is required for clause 159 and Schedule 14, as amended in Public Bill Committee, in relation to amendments that are consequential on clauses 152 and 153. Further legal analysis by my officials confirms that consent is required and as such a further SLCM (Memorandum No.4) was tabled on 21 December.

The Committee's report notes that the 'harmful communications offence' set out in clause 151 was omitted from the Bill at Report Stage on 5 December, I confirm that this has been noted in the SLCM (Memorandum No.4).

Yours sincerely,

Vaughan Gething AS/MS
Gweinidog yr Economi
Minister for Economy

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Agenda Item 12

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