

Agenda – Legislation, Justice and Constitution Committee

Meeting Venue:	For further information contact:
Virtual – Video conference via Zoom	P Gareth Williams
Meeting date: 23 October 2023	Committee Clerk
Meeting time: 13.30	0300 200 6565
	SeneddLJC@senedd.wales

1 Introductions, apologies, substitutions and declarations of interest
(13.30)

2 Instruments that raise issues to be reported to the Senedd under Standing Order 21.2 or 21.3
(13.30 – 13.35)

Made Negative Resolution Instruments

2.1 SL(6)392 – The Water Resources (Control of Agricultural Pollution) (Wales) (Amendment) (No. 2) Regulations 2023

(Pages 1 – 2)

[Regulations](#)

[Explanatory Memorandum](#)

Attached Documents:

LJC(6)-29-23 – Paper 1 – Draft report

3 Instruments that raise issues to be reported to the Senedd under Standing Order 21.2 or 21.3 – previously considered
(13.35 – 13.40)

Affirmative Resolution Instruments



**Senedd Cymru
Welsh Parliament**

3.1 SL(6)390 – The Environmental Protection (Single-use Plastic Products) (Wales) Act 2023 (Commencement No. 1) Order 2023

(Pages 3 – 6)

Attached Documents:

LJC(6)-29-23 – Paper 2 – Report

LJC(6)-29-23 – Paper 3 – Welsh Government response

4 Inter-Institutional Relations Agreement

(13.40 – 13.45)

4.1 Correspondence from the Counsel General and Minister for the Constitution: Inter-Ministerial Group for Elections and Registration

(Page 7)

Attached Documents:

LJC(6)-29-23 – Paper 4 – Letter from the Counsel General and Minister for the Constitution, 17 October 2023

4.2 Written Statement and correspondence from the Minister for Rural Affairs and North Wales, and Trefnydd: The Official Controls (Establishment Lists) (Revocation) Regulations 2023

(Pages 8 – 10)

Attached Documents:

LJC(6)-29-23 – Paper 5 – Letter from the Minister for Rural Affairs and North Wales, and Trefnydd, 18 October 2023

LJC(6)-29-23 – Paper 6 – Written Statement by the Minister for Rural Affairs and North Wales, and Trefnydd, 18 October 2023

5 Papers to note

(13.45 – 13.50)

5.1 UK-EU Parliamentary Partnership Assembly: Third meeting summary report

(Pages 11 – 21)

Attached Documents:

LJC(6)-29-23 – Paper 7 – Summary report

LJC(6)-29-23 – Paper 8 – Joint letter from the Chair of the Legislation, Justice and Constitution Committee and Luke Fletcher MS to the First Minister of Wales, 18 October 2023

5.2 Correspondence from the Minister for Health and Social Services: UK–Norway–Liechtenstein–Iceland Convention on Social Security Coordination

(Pages 22 – 25)

Attached Documents:

LJC(6)-29-23 – Paper 9 – Letter from the Minister for Health and Social Services, 16 October 2023

LJC(6)-29-23 – Paper 10 – Letter to the First Minister of Wales, 29 September 2023

5.3 Correspondence from the Institute for Government and the Bennett Institute for Public Policy: Review of the UK Constitution

(Page 26)

[Review of the UK Constitution: Final report](#)

Attached Documents:

LJC(6)-29-23 – Paper 11 – Letter from the Institute for Government and the Bennett Institute for Public Policy, 17 October 2023

5.4 Correspondence from the Minister for Climate Change: The Environment (Wales) Act 2016 (Commencement No. 4) Order 2023

(Page 27)

Attached Documents:

LJC(6)-29-23 – Paper 12 – Letter from the Minister for Climate Change, 17 October 2023

5.5 Correspondence from the Minister for Climate Change: Supplementary Legislative Consent Memorandum (Memorandum No. 4) on the Levelling-up and Regeneration Bill

(Pages 28 – 34)

Attached Documents:

LJC(6)-29-23 – Paper 13 – Letter from the Minister for Climate Change, 17 October 2023

6 Motion under Standing Order 17.42 to resolve to exclude the public from the remainder of the meeting
(13.50)

7 Retained EU Law (Revocation and Reform) Act 2023: Consideration of correspondence

(13.50 – 14.05)

(Pages 35 – 44)

Attached Documents:

LJC(6)-29-23 – Paper 14 – Letter from the Counsel General and Minister for the Constitution, 12 October 2023

LJC(6)-29-23 – Paper 15 – Letter from the Minister for Rural Affairs and North Wales, and Trefnydd, 3 October 2023

LJC(6)-29-23 – Paper 16 – Letter from the Minister for Climate Change, 27 September 2023

8 Forward Work Planning

(14.05 – 14.15)

(To Follow)

Attached Documents:

LJC(6)-29-23 – Paper 17 – Forward work paper

9 Annual Report

(14.15 – 14.25)

(To Follow)

Attached Documents:

LJC(6)-29-23 – Paper 18 – Draft report

SL(6)392 – The Water Resources (Control of Agricultural Pollution) (Wales) (Amendment) (No. 2) Regulations 2023

Background and Purpose

The Water Resources (Control of Agricultural Pollution) (Wales) Regulations 2021 (the 2021 Regulations) seek to tackle the causes of water pollution from agricultural activities across Wales.

The 2021 Regulations impose limits on the application of organic manure: regulation 4 of the 2021 Regulations limits the amount of nitrogen in livestock manure that may be applied to a holding (whether directly by an animal or by spreading) to 170kg multiplied by the area of the holding in hectares.

For holdings that were not previously in a nitrate vulnerable zone, regulation 4 was subject to a transitional period. For such holdings, regulation 4 was originally intended to apply from **30 April 2023**. In April 2023, that deadline was changed to **31 October 2023**. Now, these Regulations change that date again, extending the transitional period by a further 2 months so that holdings that were not previously situated in a nitrate vulnerable zone will have to comply with the 170kg limit from **1 January 2024**.

Because of the change in dates, the associated record-keeping requirements in regulation 36 of the 2021 Regulations are also amended.

These Regulations do not change the application of the 170kg limit to holdings that were previously in a nitrate vulnerable zone.

Procedure

Negative

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.

Technical Scrutiny

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

1. Standing Order 21.2(vii) – that there appear to be inconsistencies between the meaning of its English and Welsh texts



In regulation 2(3)(a), there is a slight difference between the English and Welsh text that could potentially lead to a difference in interpretation. In the English text, the new text states “any year beginning 1 January”, but the translation has conveyed the meaning as “any year beginning on 1 January”. In the Explanatory Note, it does state in both language texts that regulation 2(3) amends regulation 4 so that the limit of nitrogen in livestock manure applies to each 12-month period “beginning with 1 January”.

The Welsh Government’s drafting guidelines recommend avoiding the use of “on” when describing the beginning or ending of periods of time – see [Writing Laws for Wales](#) 8.3 and 8.4. This is because the use of “on” may cause doubt as to whether the period of time will begin or end at a particular time on that day. The drafting guidelines recommend the use of “with” for clarity and to avoid any ambiguity.

However, we note this difference between the English and Welsh text when describing the beginning and ending of periods already exists in the bilingual text of the 2021 Regulations in a few places.

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 required.

Legal Advisers

Legislation, Justice and Constitution Committee

18 October 2023



Senedd Cymru

Pwyllgor Deddfwriaeth, Cyfiawnder a'r Cyfansoddiad

—

Welsh Parliament

Pack Page 2

Legislation, Justice and Constitution Committee

SL(6)390 – The Environmental Protection (Single-use Plastic Products) (Wales) Act 2023 (Commencement No. 1) Order 2023

Background and Purpose

The Environmental Protection (Single-use Plastic Products) (Wales) Act 2023 (“the Act”) prohibits the supply of specified single-use plastic products to consumers in Wales, unless an exemption applies. The specified products and relevant exemptions are set out in the Table in the Schedule to the Act.

Sections 3, 4, 17, 21, 22 and 23 of the Act came into force on 7 June 2023, the day after the Act received Royal Assent.

The Environmental Protection (Single-use Plastic Products) (Wales) Act 2023 (Commencement No. 1) Order 2023 (“the Order”) brings into force all other provisions of the Act, with the exception of three entries in the Table of prohibited single-use plastic products.

As a result, from 30 October 2023 it will be an offence for a body corporate, a partnership, an unincorporated association or a sole trader to supply, or offer to supply, the following single-use plastic products to a consumer in Wales, unless an exemption applies:

- cups,
- cutlery,
- drink-stirrers,
- straws,
- plates,
- takeaway food containers,
- balloon sticks, and
- cotton buds.

Procedure

Affirmative

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

Technical Scrutiny

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

Merits Scrutiny



The following three 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.

In accordance with section 21(3) of the Act, the Order is subject to the draft affirmative procedure. It is very unusual for a commencement order to be subject to this level of Senedd scrutiny; the majority of commencement orders are not subject to any Senedd scrutiny procedure.

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.

According to paragraph 4.4 of the Explanatory Memorandum, Welsh Government intends to introduce the prohibition of the specified single-use plastic products in phases.

The Order brings into force eight of the 11 entries in the Table of prohibited products in the Schedule to the Act. Welsh Government is asked to explain:

- why the prohibitions relating to lids for cups or takeaway food containers, carrier bags and products made of oxo-degradable plastic are not being commenced at this stage,
- when the remaining entries in the Table will be commenced, and
- how many further phases are planned to bring the remaining prohibitions into force?

3. 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 United Kingdom Internal Market Act 2020 (“UKIMA”) contains market access principles which, broadly, ensure that goods which may be sold lawfully in one part of the UK may also be sold elsewhere in the UK, free from any relevant requirements that would otherwise apply to the sale in that other part of the UK. Paragraph 13 of Schedule 1 to UKIMA provides that the market access principles do not apply to legislation so far as it prohibits the sale of certain specified single-use plastic items.

It is noted that the products listed in the entries in the Table brought into force by the Order are the same as the items excluded from the UKIMA market access principles by paragraph 13 of Schedule 1 to UKIMA.

The products listed in the three entries in the Table which are not brought into force by the Order – lids for cups or takeaway food containers, carrier bags and products made from oxo-degradable plastic – are not included in paragraph 13 of Schedule 1 to UKIMA and so do not appear to be covered by the exclusion from the market access principles.

During passage of the Bill that became the Act, this Committee raised concerns about the impact of the UKIMA market access principles on the effectiveness of the Bill’s provisions.



Welsh Government is asked whether it continues to hold the view that the Act will be “*fully effective and enforceable*”¹ when fully commenced.

Welsh Government response

A Welsh Government response is required to the second and third reporting points.

Committee Consideration

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

¹ [Letter from the Minister for Climate Change to the Legislation, Justice and Constitution Committee, 9 December 2022](#)



Government Response: The Environmental Protection (Single-use Plastic Products) (Wales) Act 2023 (Commencement No. 1) Order 2023

Merit Scrutiny point 2:

During the passage of the Environmental Protection (Single-use Plastic Products) (Wales) Bill (“the Bill”) through the Senedd, the Minister for Climate Change highlighted that its prohibition of single-use plastic products would be implemented in two phases. The first phase would include single-use plastic products which had been subject to consultation in 2020 and legislative action at both UK and European Union level.

The second and final phase would include products not banned elsewhere in the UK (single-use plastic carrier bags, polystyrene lids for cups and takeaway food containers and products made of oxo-degradable plastics). This phased approach is intended to provide businesses with additional time to transition away from these products and source alternatives. It will also allow for amendments to be made to the Single Use Carrier Bags Charge (Wales) Regulations 2010. The Minister for Climate Change also noted further consideration was being given to emerging scientific evidence on the environmental impacts of oxo-degradable/oxo-biodegradable plastics.

Details of the timetable for the commencement of the second phase are still being finalised, however the Minister for Climate Change has committed to commencing the prohibition of the remaining products before the end of this Senedd term (March 2026).

Merit Scrutiny point 3:

As stated throughout the passage of the Bill in the Senedd, the Welsh Government’s position is, and remains, that where the Senedd legislates in non-reserved areas, it does so free from the requirements of the United Kingdom Internal Market Act 2020. This means that the prohibitions provided in the Environmental Protection (Single-use Plastic Products) (Wales) Act 2023 will be fully effective and enforceable regardless of the regulatory positions elsewhere in the United Kingdom.

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

Agenda Item 4.1



Eich cyf/Your ref CG/PO/350/2023
Ein cyf/Our ref DC/CG/00134/23

Llywodraeth Cymru
Welsh Government

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

SeneddLJC@senedd.wales

18th October 2023

Dear Huw,

I am writing in accordance with the inter-institutional relations agreement to let you know that I will be representing the Welsh Government at an Inter-Ministerial Group for Elections and Registration on 25 October 2023. I will give an update on behalf of the Welsh Government as will Scotland and UK Governments. Further discussion is likely to focus on Online absent voting and managing divergence and mitigating risks.

The meeting will be held virtually and, on this occasion the meeting will be hosted by the Scottish Government. George Adam MSP, Minister for Cabinet and Parliamentary Business, Scottish Government, Steve Baker MP, Minister of State at the UK Government's Northern Ireland Office, and Baroness Scott of Bybrook OBE, the UK Government's Parliamentary Under Secretary of State for Faith and Communities.

I will write again following the meeting.

Yours sincerely

Mick Antoniw AS/MS
Gwnsler 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.



Llywodraeth Cymru
Welsh Government

Huw Irranca-Davies MS
Chair
Legislation, Justice and Constitution Committee
Senedd Cymru
Cardiff Bay
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SeneddLJC@senedd.wales

18 October 2023

Dear Chair,

The Official Controls (Establishment Lists) (Revocation) Regulations 2023

I wish to inform the Committee that I am giving consent to the Secretary of State for Environment, Food and Rural Affairs to make the Official Controls (Establishment Lists) (Revocation) Regulations 2023.

The Regulations will be made under powers made using powers in Retained Regulation (EU) 2017/625 – the Official Controls Regulation.

The purpose of the Regulations is to revoke restrictions placed on certain Brazilian food establishments. This will enable the previously restricted Brazilian food establishments to be added to the list of establishments approved to export to Great Britain, upon submission of an updated list of approved establishments by the Brazilian Competent authorities.

I would like to reassure this Committee it is normally the policy of the Welsh Government to legislate for Wales in matters of devolved competence. However, in certain circumstances there are benefits in working collaboratively with the UK Government where there is a clear rationale for doing so. On this occasion, therefore, I am giving my consent to these Regulations for reasons of efficiency and expediency, and cross-government coordination and consistency.

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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

The Regulations will be laid before the UK Parliament on 18 October 2023 using the negative procedure and will come into force on 08 November 2023.

I have also written to the Chair of the Economy, Trade, and Rural Affairs Committee, Paul Davies MS.

Regards,

A handwritten signature in black ink that reads "Lesley Griffiths". The signature is written in a cursive style with a large, sweeping flourish at the end of the name.

Lesley Griffiths AS/MS
Y Gweinidog Materion Gwledig a Gogledd Cymru, a'r Trefnydd
Minister for Rural Affairs and North Wales, and Trefnydd



Llywodraeth Cymru
Welsh Government

WRITTEN STATEMENT BY THE WELSH GOVERNMENT

TITLE	The Official Controls (Establishment Lists) (Revocation) Regulations 2023
DATE	18 October 2023
BY	Lesley Griffiths MS, Minister for Rural Affairs and North Wales, and Trefnydd

Members of the Senedd will wish to be aware that I have given consent to the Secretary of State for Environment, Food and Rural Affairs to exercise a subordinate legislation-making power in a devolved area in relation to Wales.

The above titled Statutory Instrument (SI) was laid before the UK Parliament by the Secretary of State on 18 October 2023 in exercise of powers conferred by the article 126(1) of regulation (EU) 2017/635 of the European Parliament and of the Council on official controls and other official activities.

These regulations revoke restrictions placed on certain Brazilian food establishments. This will enable previously restricted Brazilian food establishments to be added to the list of establishments approved to export to Great Britain, upon submission of an updated list of approved establishments by the Brazilian Competent authorities.

Impact the instrument may have on the Senedd's legislative competence and/or the Welsh Ministers' executive competence:

The Regulations do not diminish or undermine the powers of Welsh Ministers in any way, and they do not create, amend or remove any functions conferred on the Welsh Ministers.

I would like to reassure the Senedd it is normally the policy of the Welsh Government to legislate for Wales in matters of devolved competence. However, in certain circumstances there are benefits in working collaboratively with the UK Government where there is a clear rationale for doing so. On this occasion, I have given my consent to these Regulations for reasons of efficiency and expediency in future policy change and adherence to international obligations, cross-government coordination, and consistency.

The Regulations were laid before the UK Parliament on 18 October and come into force on 8 November 2023.

UK-EU Parliamentary Partnership Assembly: Third meeting summary report

October 2023

The Parliamentary Partnership Assembly (PPA) is a formal body established under the UK-EU Trade and Cooperation Agreement (TCA). It plays an important role in overseeing the implementation of the TCA and all future UK-EU agreements.

The third meeting of the PPA took place in Brussels on 3-4 July. This report provides a summary of the issues discussed of importance to Wales. The summary report of the last meeting of the PPA made five recommendations on development of Senedd engagement with the PPA. This report reflects on how those have been taken forward between the second and third meetings.

Huw Irranca-Davies, MS, Chair of the Legislation, Justice and Constitution Committee and Luke Fletcher, MS, a member of the Economy, Trade and Rural Affairs Committee participated in the third meeting and the report has therefore been agreed by them in that capacity.



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1. Issues of importance to the Senedd and Wales

The UK-EU, the [Trade and Cooperation Agreement \(TCA\)](#) covers large areas that fall within devolved competence or have a significant impact on them. You can find more information about what these are, how these affect Wales and the role of the PPA in the Senedd Research [guides and infographics on the agreement](#).

In a signal that the agreement on the Windsor Framework has changed the tone and atmosphere in UK-EU relations and the desire for further cooperation under the TCA, the agenda and discussions covered areas where further future cooperation may be possible and where there is common interest from both sides in further collaboration.

You can [watch](#) the proceedings in full on the European Parliament UK delegation website.

“ A more positive trajectory”

Implementation of the Northern Ireland Protocol and the terms of the Windsor Framework is a significant issue for Welsh ports, businesses and citizens. The [Senedd’s Legislation, Justice and Constitution Committee](#) and its [Economy, Trade and Rural Affairs Committee](#) are closely monitoring the impacts of its implementation on Wales.

European Commission Vice-President Šefčovič [remarked](#) that agreement of the Windsor Framework has set UK-EU relations on “a more positive trajectory”. The UK Foreign Secretary, James Cleverly, [welcomed](#) the mutual trust, confidence and understanding grown between both parties. The more collaborative and cooperative atmosphere was notable and should be strongly welcomed.

Vice-President Šefčovič [emphasised](#) the need for work on the implementation of the Windsor Framework to be continued at pace. How implementation issues are resolved will be of significant interest to Wales. The Welsh Government has already [signalled](#) its intention to consent to regulations implementing the Framework in devolved areas.

Signs of further cooperation

The signing of the [Memorandum of Understanding](#) on Financial Services between the UK and EU was highlighted by both sides as a signal of how further cooperation could be agreed.

Securing energy supplies

In response to the [joint recommendation](#) on energy cooperation adopted by the PPA during its second meeting, the Partnership Council highlighted that the UK and EU have agreed to regular discussion on security of supply issues and that the UK has signed an MoU with the North Sea Energy Commission (NSEC) which includes cooperation on hybrid and joint projects, maritime spatial planning, financing of renewable energy projects and exchange of best practice. In our pre-briefing to the UK delegation we highlighted the importance of cooperation in the Irish Sea and Celtic Sea for renewable energy and interconnector projects in Wales and the hope cooperation in these areas can continue to be strengthened in similar ways to cooperation in the North Sea.

A call for global leadership on climate cooperation

The breakout group on climate energy [highlighted](#) the ‘huge potential for cooperation between the EU and the UK’ on delivery of net zero targets,

decarbonisation and reform of electricity markets. It called for cooperation on the development of carbon border adjustment mechanisms and a specialised committee on net zero to be created under the TCA governance structure.

The breakout group provided an opportunity to raise Senedd Committee work on the Welsh Government's net zero ambitions and policy and legislation in Wales aimed at tackling the climate crisis.

Accession to Horizon

The UK's accession to the Horizon research programme featured heavily in multiple sessions and breakout groups. Members from all sides in the PPA called on the UK Government and European Commission to conclude negotiations and reach an agreement as soon as possible.

In the breakout groups and in our pre-briefing to the UK delegation we highlighted the importance to the research, innovation and higher education sector in Wales of rapid accession to the Horizon research programme. We emphasised that factors such as the potential quality of research partnerships and outcomes should factor in any value for money analysis concluded by the UK Government.

We welcome the subsequent announcement on the UK's association to Horizon.

A common desire to improve mobility

The ability of UK citizens and EU citizens to move between the UK and EU for study, work and leisure continues to be a key focus of PPA members.

The breakout group on mobility drew attention once again to the on-going issues for the arts and culture sector of travelling and touring. We were able to highlight evidence gathered on this issue by the Senedd's Culture Committee as part of its Wales-Ireland inquiry where issues remain despite the Common Travel Area. The breakout group reiterated the recommendation made previously to the TCA Partnership Council that the EU and UK should negotiate a comprehensive agreement to allow artists to tour and work in the EU and the UK.

The decreased opportunities and barriers to youth mobility and engagement remains of concern to PPA members. We highlighted the work of the Welsh Government's Taith learner exchange programme and its reciprocal elements. The breakout group encouraged the Partnership Council to facilitate the mobility of school children with identity cards and group permits.

On-going issues around settled and pre-settled status for EU citizens wishing to remain in the UK remains a concern. The [Senedd's Equality and Social Justice Committee](#) monitors this issue in Wales.

Including citizen voices through civil society cooperation

Horizon and youth mobility were identified by PPA members as a key element of improving civil society cooperation. Emphasising the common importance members from both sides place on resolving these issues.

Further engagement between the PPA and civil society dialogue on the UK-EU relationship is something PPA members are keen to explore. The Senedd and Welsh organisations have been active in supporting Wales and EU civil society engagement post-Brexit. The discussion of the issues provided an opportunity to draw attention to the importance of this work. Engagement of Welsh civil society in UK-EU relations is a key element of the Senedd's Legislation, Justice and Constitution Committee [inquiry on UK-EU governance](#). The Committee hopes to report in advance of the next meeting of the PPA in December.

More room to cooperate on green industrial policy and trade?

The EU's Green Deal, Fit for 50 and the US Inflation Reduction Act formed the basis for discussions on further opportunities to cooperate on industrial policy. Lord Johnson, UK Minister for Investment [called](#) for close cooperation to produce resilient supply chains particularly in relation to the development of new technologies. Mr Richard Szostak, Direct for Western European Partners, European Commission [emphasised](#) the Commission's focus on fully implementing and realising the potential of the TCA before focussing on further areas of cooperation outside of the agreement. He further echoed Vice-President Šefčovič's message that further divergence will necessarily mean further barriers to trade. He reiterated Commission concerns about the Retained EU Law Act remain and that close attention will be paid by the EU to any legislative changes made. The Senedd refused consent to the Bill but the Act was passed by the UK Parliament without consent.

Our briefing for the UK delegation emphasised that Technical Barriers to Trade with the EU remain a key concern for many Welsh businesses.

“Unwavering condemnation of the unprovoked and unjustified war of aggression against Ukraine”

In its [second recommendation](#) to the Partnership Council, the PPA reiterated its unwavering condemnation of the war in Ukraine, its support for Ukraine and the need for cooperation between the EU and UK particularly in relation to an effective sanctions policy. It also called for an ‘intensification of dialogue’ on avenues for future cooperation and coordination on foreign and security related matters in general between the UK and the EU. It has asked the Partnership Council to report back on its recommendation before the next meeting in December 2023.

The Senedd has been unanimous in supporting motions that condemn the war and express solidarity with the people of Ukraine.

2. Senedd engagement in the work of the PPA

Devolved legislatures have much to contribute to the work of the PPA as this report shows. Devolved members’ positive contribution to the work of breakout groups and the valuable opportunity to raise issues and good practice from Wales in those groups clearly demonstrates the benefits of our inclusion.

Our [summary report](#) on the second meeting of the PPA made five recommendations to further develop the relationship between the Senedd and the PPA. Progress has been made on several recommendations but we’ll continue to work and press for further progress on others.

Recommendation 1: Improvements made to the participation of devolved legislatures in the PPA are now embedded as ordinary working practice.

Recommendation 2: Consideration continue to be given by the Bureau of the PPA to devolved legislatures being able to participate in Plenary discussions on areas of devolved competence.

The inclusion of breakout groups on the agenda for the second time and the invitation for devolved members to fully participate in these demonstrates that positive developments made at the second meeting are being embedded. We value the opportunity this provides to contribute to the important discussions taking place. The publication of the points raised by the breakout groups by both institutions is also very welcome and helps aid transparency and engagement with the PPA.

Whilst appreciating the limited time available to all members of the PPA to contribute during plenary debates, we continue to press for time to be found for devolved legislatures to speak in plenary debates on areas of devolved competence. The PPA plays a hugely important role in strengthening relationships between the UK and the EU and the devolved legislatures can make a positive contribution to the development of ideas and sharing of good practice.

In a similar way the contribution of European regional representatives and wider civil society can only strengthen the work of the PPA.

We provided a written briefing in advance of the meeting to the UK delegation to raise issues of specific importance to the Senedd and Wales. We hope this proved useful in informing the contributions of the UK delegation. We also met with a Vice-Chair the Rt.Hon Hilary Benn in advance. We will continue to seek to develop our relationship and engagement with UK delegation members.

Recommendation 3: The Senedd representatives and relevant Senedd committees work together on the development of the relationship with UK and EU delegation members outside of formal PPA meetings.

Recommendation 4: The reports on outcomes of the session are routinely shared and drawn to the attention of relevant Senedd committees and Welsh Government.

We drew our last report to the attention of relevant Senedd committees and the First Minister for Wales. We're grateful for their positive response and continue to engage with them.

The Senedd's Legislation, Justice and Constitution Committee has invited sister committees in other UK legislatures to participate in its inquiry on UK-EU Governance and met with MEPs from the EU's delegation during its visit to Brussels in September.

Other Senedd Committees have plans to visit Brussels over the next 12 months to discuss issues relevant to the work of the PPA and will continue to seek to build relationship with counterparts in their respective areas.

We take note of the calls from the European Commission in particular to raise the political profile of the TCA and its governance structures and will continue to raise awareness of the PPA's important work.

Recommendation 5: That mechanisms are developed to engage with Welsh civil society on the work of Senedd members in the PPA, both in advance of the formal meetings and after meetings to feedback on proceedings.

We were able to engage informally with stakeholders ahead of this third meeting and used this information to inform our briefing to the UK delegation and contributions in the breakout groups. We're grateful to those stakeholders who were able to provide a steer at such short notice. A key challenge in seeking to engage formally with stakeholders ahead of meetings is that agendas haven't been received until, at most, a week in advance.

Whilst this limits the opportunities available to formally engage with stakeholders on specific agenda items, there are opportunities to engage stakeholders on issues of importance to them in general in advance of meetings and to seek to influence the contents of the agenda. There are also opportunities to raise awareness of any issues identified through more formal stakeholder engagement with both delegations outside of the formal meetings.

In addition, we will seek further opportunities to coordinate work on the PPA with that done by Senedd Members on the UK-Committee of the Regions Contact Group to seek to maximise opportunities available to raise issues of importance to Wales.

Rt Hon Mark Drakeford MS
First Minister

18 October 2023

The third meeting of the UK-EU Parliamentary Partnership Assembly

Dear Mark,

As you will be aware, the Trade and Cooperation Agreement (TCA) provided for the establishment of a UK-EU Parliamentary Partnership Assembly (PPA). The PPA oversees the implementation of the TCA and any future UK-EU Agreements.

We represented the Senedd at the third meeting of the UK-EU PPA on 3-4 July. During this meeting, the PPA held important discussions on issues such as the Northern Ireland Protocol and the Windsor Framework, the signing of the Memorandum of Understanding on Financial Services, securing energy supplies, climate cooperation, UK access to the Horizon research programme, improving citizens' mobility between the UK and EU, and including citizen voices through civil society cooperation.

A number of recommendations were made to the TCA Partnership Council during this session which include:

- A reiteration of a recommendation from the breakout group on mobility previously made to the TCA that the EU and the UK should negotiate a comprehensive agreement to allow artists to tour and work in the EU and the UK; and
- The PPA reiterated its unwavering condemnation of the war in Ukraine, its support for Ukraine and the need for cooperation between the EU and the UK particularly in

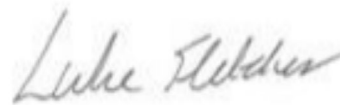
relation to an effective sanctions policy. It also called for an 'intensification of dialogue' on avenues for future cooperation and coordination on foreign and security related matters in general between the UK and the EU. It has asked the Partnership Council to report back on its recommendation before the next meeting in December 2023.

We are writing to you to draw your attention to our short report on the outcomes of the meeting. We hope the issues discussed will be of interest to you and we will continue to keep the Welsh Government updated of the Senedd's work with the PPA and any areas discussed of particular importance to Wales.

Yours sincerely,



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



Luke Fletcher MS
Member
Economy, Trade and Rural Affairs Committee

We welcome correspondence in Welsh or English

Agenda Item 5.2

Y Gweinidog Iechyd a Gwasanaethau Cymdeithasol
Minister for Health and Social Services



Llywodraeth Cymru
Welsh Government

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

SeneddLJC@senedd.wales

16 October 2023

Dear Huw

I am writing in response to your letter to the First Minister of 29 September, concerning the UK-Norway-Liechtenstein-Iceland Convention on Social Security Coordination (“the Convention”). The letter has been passed to me for response, as discussions with the UK Government concerning the content of devolved aspects of international reciprocal healthcare agreements, and the impacts and implementation of such agreements, sit within my portfolio.

My officials meet monthly with UK Government officials and officials from the other Devolved Governments to liaise on reciprocal healthcare matters. These meetings include discussion of the development and impact of new international healthcare agreements, as required by the Intergovernmental Memorandum of Understanding in Respect of the Consultation Process for International Healthcare Agreements and their Implementation Regulations.

Since EU exit, the UK Government has been negotiating new social security agreements with Switzerland, Norway, Iceland and Lichtenstein, the aim of the UK Government being to place all these countries on the same basis as the Trade and Cooperation Agreement (“TCA”), which re-instates the majority of the reciprocal health arrangements that prior to EU Exit were provided for by the various EU reciprocal healthcare provisions. The UK-Switzerland Convention on Social Security Coordination came into force on 1 November 2021.

The UK Government’s broad intent regarding the reciprocal healthcare provisions within the Convention has thus been clear and the Welsh Government has been consulted and commented on the content of both this agreement and the previous, similar UK-Switzerland Convention. The UK Government has provided updates on progress on the negotiation of the Convention by UK Government, including assessments of potential impacts and updates on timings.

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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.

Although signed by all parties, the Convention is not yet in force. UK Government officials expect the Convention will be brought into force before the end of 2023 with regard to Iceland and Liechtenstein, and in early 2024 with regard to Norway, once the necessary procedures have been undertaken by their relevant national bodies.

Ahead of the coming into force date the Welsh Government will amend the National Health Service (Charges to Overseas Visitors) Regulations 1989 (“the Charging Regulations”) to add Iceland and Liechtenstein to the countries covered by those Regulations. Norway is already listed in the Charging Regulations as there is a pre-existing limited bi-lateral agreement with the UK (the 1991 Convention on Social Security between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Kingdom of Norway and subsequent supplementary protocol). The amending regulations will be accompanied by an impact assessment including the expected impact to the NHS of the Convention.

All relevant Welsh Government guidance documents and NHS websites will also be updated to reflect the new arrangements with the three countries. Welsh Government officials have informed the Local Health Boards of the signing and provisions of the Convention and will further update once the coming into force date is known.

I trust this answers your questions.

This letter has been copied to Russell George MS, the Chair of the Health and Social Care Committee.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'M. E. Morgan'.

Eluned Morgan AS/MS

Y Gweinidog Iechyd a Gwasanaethau Cymdeithasol
Minister for Health and Social Services

Rt Hon Mark Drakeford MS
First Minister for Wales

29 September 2023

Dear Mark,

As you are aware, the Legislation, Justice and Constitution Committee is responsible for monitoring the implementation of non-trade international agreements in the Sixth Senedd.

During our meeting on 11 September 2023, we considered the UK-Norway-Liechtenstein-Iceland Convention on Social Security Coordination. This agreement provides for continued social security coordination between the UK (excluding Gibraltar and the Crown Dependencies) and Iceland, Liechtenstein and/or Norway post-Brexit.

Whilst the negotiation of reciprocal healthcare agreements is a reserved matter, it is within the legislative competence of the Senedd to implement certain aspects of this agreement, including the recovery of overseas visitor costs. On that basis, we understand that the UK Government engaged and consulted with health officials from the devolved governments, shared draft legal text and liaised on health implications.

We would be grateful if you could please provide more information on your engagement with the UK Government in relation to this agreement, as well as the steps the Welsh Government will take to ensure that the agreement is implemented in areas within devolved competence.

I would be grateful to receive a response by 19 October 2023.

I am copying this letter to the Chair of the Health and Social Care Committee.

Yours sincerely,

Huw Irranca-Davies

Huw Irranca-Davies

Chair

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To the Legislation, Justice and Constitution Committee,

Please find enclosed a copy of the final report of the Institute for Government and Bennett Institute for Public Policy's Review of the UK Constitution.

This report concludes an 18-month long review— supported by a high-level advisory board including former supreme court judge Baroness Hale, former ministers Sir Robert Buckland and Sir David Lidington, and shadow leader of the House of Lords Baroness Smith of Basildon and former Mayor of Liverpool, Joanna Anderson. Taking a non-partisan and evidence-based approach, the review makes robust recommendations designed to re-assert the UK's fundamental constitutional principles, establish them as a stable basis for the operation of government and reassure the public that they will be enforced.

The report sets out how strengthen the existing political constitution.

Recommendations include:

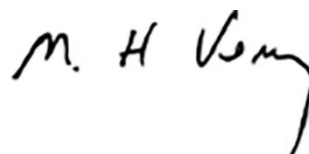
- Establishing a new Parliamentary Committee on the Constitution
- Creating an independent Office of the Constitution to the support the new parliamentary committee
- Creating a new category of constitutional acts to formally recognise the importance of key pieces of legislation that underpin our political system
- Giving parliament a more extensive scrutiny process for new constitutional bills
- Clarifying the role and strengthening the capacity of the civil service to give constitutional advice
- Establishing a permanent centre for constitutional expertise within the Cabinet Office
- Integrating public engagement – though citizens' juries and assemblies – into the processes of constitutional change

We hope that you find the paper of interest, and we are keen that this paper forms part of a wider discussion on the future of the UK constitution.

Kind Regards,



Hannah White
Director
Institute for Government



Michael Kenny
Co-director
Bennett Institute for Public Policy

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

Agenda Item 5.4

Llywodraeth Cymru
Welsh Government

Ein cyf/Our ref: MA/JJ/2378/23

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

17 October 2023

Dear Huw,

I am writing to inform you that The Environment (Wales) Act 2016 (Commencement No. 4) Order 2023 which falls under the scope of the Resources and Waste Common Framework, was made on 16 October 2023.

Yours sincerely,



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

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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.

Agenda Item 5.5

Y Gweinidog Newid Hinsawdd
Minister for Climate Change



Llywodraeth Cymru
Welsh Government

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

SeneddLJC@senedd.wale

17 October 2023

Dear Huw,

Many thanks to you and the Legislation, Justice and Constitution Committee for its report on the Supplementary Legislative Consent Memorandum (Memorandum No. 4) on the Levelling-up and Regeneration Bill. I have provided a response to your recommendations below.

General observations on consent

Recommendation 1. The Minister should confirm whether amendments 175, 176, 177 and 178 as they apply to clause 84 of the Bill require the consent of the Senedd.

Thank you for highlighting this issue. The references to the amendment numbers 175, 176, 177 and 178 within the subheading to Clause 84 at paragraph 34 of the SLCM (No.4) were included in error. I can confirm that these amendments do not require the consent of the Senedd.

Recommendation 2. The Minister should explain why she has changed her position and is now recommending that the Senedd provides its consent for clause 230 of the Bill (clause 191 as introduced).

Clause 230 (clause 191 as introduced) is the general power of the Secretary of State to make consequential provision. As introduced, the Bill took no account of devolved matters, the role of devolved authorities or the Senedd. As such it was necessary to withhold consent in respect of the power to make consequential provision.

Significantly, the Bill as introduced did not provide the Welsh Ministers with regulation making powers under Chapter 1 of Part 3 and Part 6 and made provision in devolved areas. As such, consequential amendments made under clause 230 linked to the subject matter covered by those regulations would have been within competence and therefore we were not recommending consent at that time.

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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.

The Bill as amended allows regulations to be made by the Welsh Ministers under Chapter 1 of Part 3 and Part 6. Any such regulations will be able to include necessary consequential amendments by virtue of clause 231.

Clause 230 will allow the Secretary of State to make consequential provision in respect of the Bill as a whole, which may include provisions in consequence of non-reserved matters. Therefore, consent is required. However, we envisage that the main amendments relating to Chapter 1 of Part 3 and Part 6 would be included in regulations made by the Welsh Ministers under those Parts. Where consequential amendments are made by the Secretary of State, the Statutory Instrument Consent Motion pursuant to Standing Order 30A would be engaged.

Recommendation 3. The Minister should explain:

- whether clause 231 of the Bill (clause 192 as introduced) requires the consent of the Senedd;**
- why clause 231, as amended by amendments 288, 291, 294 and 298, requires the consent of the Senedd.**
- why she is recommending that the Senedd consents to clause 231.**

Clause 231 (clause 192 as introduced) does require the consent of the Senedd. It enables the Welsh Ministers when making regulations to make different provision for different purposes or for different areas, and consequential, incidental, supplementary, transitional, transitory or saving provision. As we are recommending consent to the regulation making powers in Chapter 1 of Part 3 and Part 6 of the Bill, we also recommend consent is given to clause 231.

Part 1 of the Bill

Recommendation 4. The Minister should explain why the Welsh Government has changed its position and is now recommending that the Senedd consents to Part 1 of the Bill.

Recommendation 5. The Minister should explain how the change in the Welsh Government’s position to Part 1 of the Bill came about and when the decision was made to recommend that the Senedd gives its consent, given the Counsel General’s Written Statement on 23 June 2023 and the tabling of relevant amendments in early July 2023.

Recommendation 6. The Minister should explain why she did not write to Senedd Committees as soon as her position on Part 1 of the Bill changed, not least given that Memorandum No. 4 was laid during the summer recess period on 16 August 2023, and around a month after the relevant amendments were tabled (and outside the normal requirements of Standing Order 29) in the UK Parliament.

Recommendation 7. The Minister should state whether it is still the Welsh Government’s view that Part 1 of the Bill “represents an inappropriate intrusion into the legislative competence of the Senedd”.

Response to recommendations 4,5, 6 and 7

Following a meeting with the then Minister for Levelling Up, Dehenna Davison MP, on 22 March and letter of 27 March 2023, I wrote to the Minister for Levelling Up on 26 April 2023 which confirmed that it remained our preference for Part 1 to be amended, reflecting our

view that Part 1 of the Bill would require the consent of the Senedd. On 3 July I met with the Minister to discuss proposed UK Government amendments. The Minister for Levelling Up wrote to me (4 July) to confirm their position on their proposed amendments. The UK Government tabled amendments to Part 1 (Levelling Up Missions) on 4, 5 and 6 July for consideration at the House of Lords Report stage. These were debated on 11 July 2023.

We received information on proposed amendments to the Bill from the UK Government at short notice and therefore we needed to assess the implications of these amendments from both a legal and policy perspective in order to lay a supplementary Legislative Consent Motion which we did at the earliest opportunity. The SLCM (No.4) confirmed the Welsh Government's position on the amendments.

The amendments proposed by the UK Government clearly indicate a recognition of the role of Senedd Cymru and the Welsh Government in the devolved areas covered by the Levelling Up Missions and respond to the concerns we have consistently expressed to UK Government on this Bill.

The amendments place several consultation and due regard obligations on the UK Government when setting, reporting, revising, and reviewing the statement of Levelling Up Missions and associated methodology. The amendments also require a Minister to report to Parliament on how they have had regard to the role of Senedd Cymru and Welsh Government which will be subject to scrutiny.

In operation, the UK Government would be required to take account of the role of the Senedd and Welsh Government requiring them to carry out appropriate consultation and give due regard. I recognised that this was a much-needed improvement to the Bill, creating a necessary fetter on the relevant Minister of the Crown in devolved matters, and create a report open to scrutiny on how they have given due regard.

I am content that the amendments tabled by the UK Government on 4 July 2023 improve upon the position set out in the original revised LCM laid on this Bill on 25 November 2022.

Recommendation 8. The Minister should state whether, and if so when, she intends to bring forward a Welsh Government Bill covering matters related to Part 1 of the Bill to enable scrutiny by the Senedd and its Committees, as well as engagement with Welsh stakeholders.

Recommendation 10. The Minister should explain:

- **the extent to which provisions in the Bill are already provided for in the Well-being of Future Generations (Wales) Act 2015 and whether any conflict or overlap exists between the two pieces of legislation;**
- **how the Bill and the 2015 Act will operate alongside each other;**
- **if there are any implications arising from the Bill for the Welsh Government's obligations under the 2015 Act, given her comments in the revised Memorandum.**

Response to recommendations 8 and 10

Part 1 of the Bill places duties on the UK Government. We already have a more comprehensive legislative framework for long term systemic policy making through the Well-being of Future Generations (Wales) Act 2015. Improving the well-being of everyone in Wales and addressing inequalities is the core mission of this Government and underpins the approach taken to the WFG Act. Through the WFG Act, we have a legislative framework to improve the economic, social, and environmental and cultural well-being of the whole of Wales for current and for future generations.

The provisions in clauses 1-6 of the Bill contain some of the elements that are already provided for through the WFG Act. The WFG Act provides for a suite of long-term well-being goals for Wales which are designed to address the key economic, social, environmental, and cultural challenges. It places duties on Welsh Government and devolved public bodies in Wales to set and achievement well-being objectives that are designed to maximise their contribution to each of the well-being goals. This includes 48 public bodies (including the regional Corporate Joint Committees) and Public Services Boards and some Town and Community Councils. The WFG Act also includes annual reporting through a well-being of Wales report, establishing national well-being indicators and milestones and the setting of objectives by Government and public bodies and associated reporting.

The LUR Bill does not have any direct implications for the duties on the Welsh Government in WFG Act. It does however result in a potentially confusing policy landscape given we have set out the long-term well-being goals for Wales with associated indicators and national milestones looking ahead to 2050. Public bodies have a legal duty under the WFG Act and we would expect them to discharge their legal duties and design and deliver well-being objectives that contribute to the achievement of Wales' well-being goals.

For example, despite the Welsh Government being denied any role in the design and delivery of the UK Shared Prosperity Fund, which should be devolved to Wales, the Minister for Economy wrote (June 2022) to local authorities to emphasise the importance of their investment plans and interventions aligning with Welsh Government delivery, policies and ways of working through our *Well Being of Future Generations Act* in order to achieve better value for money and better outcomes for Wales.

Recommendation 9. The Minister should state what discussions she has had with the Secretary of State about the delivery of, and reporting on, each of the levelling-up missions relevant to Wales under Part 1 of the Bill.

Recommendation 11. The Minister should state how the Welsh Government's approach to policy-making on matters related to levelling-up will be changed should the Bill be passed by the UK Parliament and enacted.

Recommendation 12. The Minister should state what inter-governmental arrangements the Welsh Government intends to utilise in order to be engaged in the levelling-up agenda and the implementation of Part 1 of the Bill, and what arrangements she will put in place to ensure the Senedd and its Committees can hold the Welsh Government to account for the decisions it makes.

Recommendation 13. The Minister should state what mechanism she will use to seek a co-decision-making role for agreeing how funds supporting the levelling-up agenda (including the Shared Prosperity Fund) should be spent, and what arrangements she will put in place to ensure the Senedd and its Committees can hold the Welsh Government to account for the decisions it makes.

Recommendation 14. The Minister should report to the Senedd before 12 December 2023 on the outcome of her discussions with the UK Government in relation to recommendations 12 and 13

Recommendation 15. The Minister should make a statement to the Senedd setting out the outcome of the consultation now required by Part 1 of the Bill and make appropriate arrangements to ensure that the UK Government's first statement of levelling-up missions is brought to the attention of the Senedd within 7 days of it being laid in the UK Parliament.

The UK Government's Levelling Up agenda and missions are broad, covering a wide range of areas, some of which are devolved to Wales. While the Welsh Government has had some meaningful engagement from the UK Government on policies impacting on our economy and labour market (for example Freeports), engagement on other areas, including on devolved matters, have been either non-existent or less than satisfactory (for example, in the design and delivery of the Shared Prosperity and Levelling Up funds as well as a series of smaller schemes including, most recently, the UK Government's announcement on Long term Plan for Towns on 1 October, with the UK Government denying the Welsh Government from having any decision-making role despite these being devolved matters).

It is unhelpful that the UK Government is persisting in using the financial assistance powers of the UK Internal Market Act to by-pass devolved governments and the scrutiny of their respective legislatures in order to spend directly in devolved areas of responsibility. This risks duplication, poor value for money and outcomes, and a confused funding landscape that is directly at odds with Welsh Government policies and does not meet the distinct needs of the Welsh economy and communities.

We will continue to use all channels of communication between the Welsh and UK Governments to represent our views and the interests of Wales, including through, for example the Inter-Ministerial Standing Committees and we will continue to press for decisions on devolved matters to be made by Welsh Ministers and scrutinised by the Senedd. A legislative framework already exists to hold the Welsh Government to account for the decisions it makes on policies and proposed legislation, of which the Senedd and its cross-party Committees are part.

In accordance with normal practice, the Minister will update the Senedd when there is anything substantial to report. Updates on discussions at Inter-Ministerial Standing Committees are also routinely provided to the relevant Senedd Committees as part of the Inter-Institutional Relations Agreement between Senedd Cymru and the Welsh Government agreement.

I will soon be writing to the new Minister for Levelling Up, Neil Young MP, to seek clarification and assurances on how the UK Government will comply with their new duties arising from the amendments and the approach to the reporting of this missions, and where data may be sought about these missions in Wales. This will include the process the UK Government intends to follow to ensure that it has regard to the role of the Senedd and the Welsh Ministers and carries out appropriate consultation with the Welsh Ministers.

In addition, Clause 2(2) specifically requires the UKG Minister to prepare a document that sets out how they have complied with the duty to 'have regard' to the role of the Senedd and the Welsh Ministers in connection with the levelling up missions. Clause 2(3) requires this to be placed before each House of Parliament, and publish it, at the same time as, or as soon as is reasonably practicable after, the statement of levelling-up missions is so laid and published. We will ensure that this report is brought to the attention of the Senedd.

Other parts of the Bill

Recommendation 16. The Minister should explain:

- **why she has agreed to the Secretary of State having powers to make regulations in relation to planning data and environmental outcomes reports, in areas of devolved competence;**

▪ **the circumstances under which she would consent to the Secretary of State making regulations in relation to planning data and environmental outcomes reports, thereby denying the Senedd the ability to fully scrutinise such regulations under its Standing Orders.**

This Bill started in a deeply unsatisfactory state containing placeholder provisions which gave the Secretary of State powers to legislate within devolved competence. The only acknowledgment of devolution was a requirement for the Secretary of State to consult the Welsh Ministers prior to making planning data and EOR regulations. As a result of Welsh Government engagement with UK Government the consultation requirements have been amended to become a consent requirement. The Welsh Ministers have regulatory making powers in devolved areas, either alone or concurrently with the Secretary of State. The Secretary of State would only be able to make regulations in devolved areas with the prior consent of the Welsh Ministers. Amendments also provide for a consultation requirement in situations where a Devolved Welsh Authority e.g., National Resource Wales is conferred a new function, or a function is modified or removed, under EOR regulations made by the Secretary of State for a reserved matter.

Given the safeguard of the consent mechanism, I consider a pragmatic approach to is required in this case, as is consistent with our principles. This will enable the potential benefits of the Bill as set out in my Supplementary Legislative Consent memoranda and enable smooth consent routes for cross jurisdictional schemes that may be required.

The UK Government would apply the EOR approach to consent regimes that are reserved irrespective of whether it is applied to devolved regimes. Therefore it is vitally important that the Welsh Ministers have the regulation making powers to use should they need them to ensure cross jurisdictional projects are adequately accommodated, even if it means accepting a concurrent plus approach.

To give consent for the Secretary of State to make EOR or planning data regulations acting alone would likely be limited to small technical matters. I do not envisage this situation happening frequently.

Specific consideration to the exercise of the powers would also need to be given to take forward EOR in areas where cross jurisdiction projects regularly occur. Marine consenting is the most likely area where alignment of processes makes sense to avoid duplication and additional procedures. Any regulations made collaboratively would have to be developed with full engagement with Welsh stakeholders.

Recommendation 17. The Minister should clarify exactly how her concerns about clause 155(2) (clause 128(2) of the Bill as introduced), regarding the omitting of section 71A of the Town and Country Planning Act 1990 have been resolved as a consequence of the amendments to the Bill.

As I outlined in my letter of 27 June 2023, the loss of section 71A would impact the ability of the Welsh Ministers to make regulations for the i town and country planning parts of the EIA regime. However, the amendments to the Bill, which provide the Welsh Ministers with the power to make EOR regulations in devolved areas means there is a mechanism for the entire EIA regime to be replaced in due course, if desired. As I consider the powers to make EOR procedures to be acceptable to Welsh Ministers, I consider all issues with the repeal of 71A to be resolved.

Recommendation 18. The Minister should provide a detailed analysis of the regulation-making powers provided to the Welsh Ministers by the Bill including:
▪ **the scope of each power;**

- a statement of policy intent for each power;
- when she intends to exercise each power.

The LCMs that have been laid on the Bill set out the scope of the powers provided to the Welsh Ministers, but I provide further detail on this matter in response to Question 22 below. In terms of a statement of policy intent of how I intend to use these powers and my timetable for doing so I want to engage with stakeholders over an appropriate framework for Wales. This means I cannot set these out at this time.

Recommendation 19. The Minister should explain how her agreement to include concurrent powers in the Bill is consistent with principles that Ministers have agreed in Cabinet in relation to such powers, as set out in her letter to us of 6 August 2021.

The position is consistent with those principles, as set out in principle 8. I have sought further improvement to this provision as detailed in [SLCM \(No.5\)](#), where the commencement of the provisions for the carve out is undertaken automatically.

I consider the rationale set out in response to recommendation 16 provides justification for the creation for these concurrent plus powers.

Recommendation 20. The Minister should state whether she intends to bring forward, before the end of the Sixth Senedd, a Welsh Government Bill that will include provisions replicating those in the Bill relating to planning data and environmental outcomes reports to allow full Senedd scrutiny and to enable the making of bilingual, accessible Welsh law.

I do not intend to bring forward a Welsh Government Bill that would replicate these provisions in the near future.

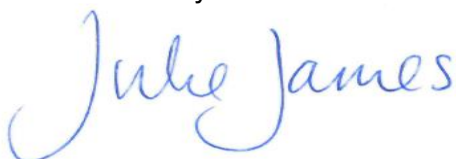
Recommendation 21. The Minister should state when she expects the first opportunity to arise such that all concurrent powers in the Bill will be removed in accordance with principles agreed in Cabinet by Ministers.

As is set out in response to recommendation 16 certain environments have benefited from a joint working approach to legislation. Therefore, I cannot at this point set out when concurrent powers will be removed. The amendments set out in SLCM (No.5) ensure that should we want to remove concurrent powers in the Bill in the future we are able to do so.

Recommendation 22. The Minister should lay before the Senedd a document explaining the effect in Wales, including on devolved matters, of every section of the Act that applies in Wales within 3 months of the Bill receiving Royal Assent (should it do so).

I consider the LCMs laid throughout the passage of the Bill set out the effects in accordance with Standing Orders. Should the Bill receive Royal Assent the explanatory notes should provide further an explanation of the Act, including the effect it will have in Wales.

Yours sincerely



Julie James AS/MS
Y Gweinidog Newid Hinsawdd
Minister for Climate Change Pack Page 34

Mick Antoniw AS/MS

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

Agenda Item 7

Our ref: CG/PO/339/2023



Llywodraeth Cymru
Welsh Government

Huw Irranca-Davies MS
Chair
Legislation, Justice and Constitution Committee
Senedd Cymru
SeneddLJC@Senedd.Wales

12th October 2023

Dear Huw,

Thank you for your letter of 22nd September 2023 seeking responses to questions in relation to the Retained EU Law (Revocation and Reform) Act. My answers are set out in the following Annex.

A handwritten signature in blue ink, reading "Mick Antoniw". The signature is written in a cursive style and is underlined.

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.

Annex

1. ...please would you:

i. confirm and provide details of the consent process which has been agreed between the UK Government and the Devolved Governments,

No mechanism has been agreed between UK Government and the Devolved Governments about how consent should be obtained in relation to UK Ministers making regulations using powers in the REUL Act in an area of devolved competence in Wales. We are about to write again at Ministerial level on this issue to emphasise a clear process is needed to respect the devolution process for both governments and legislatures.

ii. confirm that the consent process “protects and respects the devolution settlement”, and

As above, we will need further input from UK Government in order to finalise this.

iii. provide a copy of the relevant intergovernmental agreement to Senedd Committees.

I will be happy to provide this to the Committees as and when anything is agreed.

2. ...What advice and guidance has been provided to individual departments in the Welsh Government about the work they must undertake to ensure they are confident that the retained EU law listed in the Schedule to the REUL Act is no longer needed?

Welsh Government officials in the central team dealing with post-Brexit matters worked with individual policy teams to ensure that the contents of the Schedule for revocation were fit for purpose when it was constructed in the latter Parliamentary stages at Westminster. Those policy teams have also worked with UK Departments to ensure that all necessary measures are retained.

3. ...Please can you confirm the nature and details of this engagement, and what analysis the Welsh Government has undertaken on the 93 pieces of retained EU law which are included in Schedule 2 to these Regulations.

The large majority of those 93 pieces are matters of reserved competence as regards Wales. On those few which did touch on devolved competence in Wales, there was contact by UK Departments to Welsh Government counterparts in the preparation of the Regulations. In that context, Welsh Government analysis has been proportionate and appropriate.

4. ...What mechanisms, if any, exist within the Welsh Government to monitor changes to retained EU law in reserved areas that may impact Wales, including its impact in devolved areas up to June 2026?

It is a priority for Welsh Government to focus on issues of devolved competence in Wales arising from the implementation of the REUL Act. We have not established a universal mechanism to address instruments covering matters of reserved competence in Wales. We will keep any such instruments under review and address any implications for matters that are the responsibility of the Welsh Government accordingly.

5. ...Please would you confirm that this is the position across all Welsh Government departments.

Yes, this is the position across the whole of the Welsh Government.

6. The two items that are the subject of the aforementioned correspondence from the Minister for Climate Change show that for one set of Regulations (relating to fluorinated greenhouse gases) the relevant common framework was used but not for another (relating to National Emissions Ceiling Regulations).

i. Please would you explain why this was the case?

As the Committee will be aware through its oversight of the Common Frameworks programme, there are varying levels of engagement between the UK Government and the devolved governments depending on the relevant Framework area. In policy areas where Frameworks processes are well embedded, information on policy and legislative proposals are shared constructively and in a timely manner with the Welsh Government.

ii. You have previously told us that you did not have sight of Schedule 1 to the REUL Act prior to its addition to the Bill during the amending stages in the UK Parliament. Can you confirm whether the decision to include any of the retained EU law listed on Schedule 1 to the REUL Act went through the corresponding common framework?

We would expect that discussions would have taken place via the relevant Common Framework. This follows a commitment by the UK Government to the proper use of Common Frameworks and that they would not seek to make changes to REUL within Common Frameworks without following the ministerially-agreed processes outlined in the documents.



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

SeneddLJC@senedd.wales

3rd October 2023

Dear Huw,

The Plant Protection Products (Miscellaneous Amendments) Regulations 2023

Thank you for your letter of the 22 September 2023 seeking a response to questions raised by the Legislative Justice and Constitutional Committee (LJCC) at its meeting on the 18 September 2023.

I will address your questions in the order in which they have been presented in your letter.

1. The Plant Protection Products (Miscellaneous Amendments) Regulations (“the Regulations”) are being made using powers in the Retained EU Law (Revocation and Reform) Act 2023 (“the REUL Act”). Whilst there is no statutory consent procedure contained in section 14 of the REUL Act, the UK Minister for Environmental Quality and Resilience, Rebecca Pow, wrote to me asking for my consent to the Regulations. This is in line with the Welsh Government’s position that subordinate legislation made by the UK Government in relation to Wales with regard to devolved matters should only be made with the consent of the Welsh Ministers. As the legislation is in a devolved area, the Explanatory Memorandum to the legislation reflects that Defra officials have worked collaboratively with Scottish and Welsh Devolved Governments to develop the instrument, and the policy has been agreed across all three nations.
2. In accordance with the provisional Common Framework for Chemicals and Pesticides, Defra officials have engaged with Welsh Government officials to develop the Regulations collaboratively and I have been consulted on the terms of the Regulations throughout.

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3. Prior to my decision to give consent, Welsh Government officials undertook an assessment of the specific power in the REUL Act being used to make these Regulations. Officials confirmed that they considered section 14(2) of the REUL to be the correct and appropriate provision for making these Regulations. Section 14(2) is a concurrent power which is being exercised here by UK Government on behalf of the Welsh Ministers on matters within a devolved area. Whilst there is not a legal requirement to seek consent, the UK Government have sought the Welsh Ministers consent in accordance with the convention on legislating in devolved areas.
4. Prior to my decision to give consent, Welsh Government officials considered Schedule 5 of the REUL Act as to the regulation making procedure and considered the UK Government's choice of scrutiny procedure. Welsh Government officials were satisfied that the relevant processes would be followed in respect of making this secondary legislation.
5. Officials in UK Government have undertaken a Regulatory Impact Assessment (RIA) which has been shared with Welsh Government officials in draft form. The RIA includes consideration of both regulatory and non-regulatory options, costs and benefits. The preferred option is to maintain the status quo by extending existing, or recently lapsed, transitional provisions, so the proposed legislation does not increase any regulatory burden.

Yours sincerely,

A handwritten signature in cursive script that reads "Lesley Griffiths". The signature is written in a light grey or blue ink on a white background.

Lesley Griffiths AS/MS
Y Gweinidog Materion Gwledig a Gogledd Cymru, a'r Trefnydd
Minister for Rural Affairs and North Wales, and Trefnydd

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



Llywodraeth Cymru
Welsh Government

Ein cyf/Our ref: JJ/PO/318/2023

Huw Irranca-Davies MS
Chair
Legislation, Justice and Constitution Committee
Welsh Parliament
Cardiff Bay
Cardiff
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27 September 2023

Dear Huw,

Thank you for your letter of 15 September in respect of the Fluorinated Greenhouse Gases (Amendment) Regulations 2023.

I welcome the feedback of the Legislation, Justice and Constitution Committee (LJC Committee) on this matter and have responded to your questions in the attached annex to this letter.

Yours sincerely,

A handwritten signature in blue ink that reads "Julie James". The signature is written in a cursive, flowing style.

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

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Annex

1(i). Please would you confirm and provide details of the consent process which has been followed in respect of the Regulations.

The UK Government has committed to not using powers set out in the legislation to make provisions that could be made by a devolved Government without their consent. As you are aware from my letter to the LJC Committee of 1 September, these Regulations make provisions that could be made by Welsh Ministers in exercise of their own powers. Specifically, the enabling powers under Section 14(2) of the REUL Act allow a National Authority (as defined in the Act) to legislate either individually or jointly to revoke any secondary retained EU law and replace it with a provision as it considers to be appropriate. The consent of the Welsh Ministers was sought on this basis.

In this instance, the Welsh Ministers were given a very tight timeframe to consider consent, in the context of UK Government plans to lay the Regulations. My officials worked with their counterparts in UK Government to understand consequences and implications of withholding consent, or not consenting in time, as well as the various scenarios which might follow. If Welsh Ministers had refused consent, or not confirmed their decision in the requested timescales, the Regulations would not have been laid before the UK Parliament.

Consequently, reference values for 2024-26 would have been calculated based on 2021 data, in accordance with the legislation, and the amount of quota available to businesses significantly reduced. This severe, premature and unexpected phasedown could have resulted in potential supply issues for critical sectors, with insufficient time for alternatives to be deployed.

1(ii). Please would you confirm that the Welsh Ministers were consulted on the terms of the Regulations as part of the relevant common framework structures, as is suggested in the draft Explanatory Memorandum to the Regulations

I can confirm that Welsh Ministers were consulted on the terms of the Regulations through the Ozone-Depleting Substances and Fluorinated Greenhouse Gases UK Common Framework. The detail in the draft Explanatory Memorandum provides an accurate explanation of the process followed.

2(i). Please would you confirm our understanding that the Regulations do not result in the revocation or replacement of REUL or its assimilation into the domestic statute book.

As you rightly set out in your letter, these Regulations were made under section 14(2) of the REUL Act. Reference, in my letter of 1 September, to the Regulations being made under paragraph 5(5) of Schedule 5, was to the parliamentary process through which the Regulations were proposed to be scrutinised and agreed. Regulations made under section 14(2) of the REUL Act are subject to these requirements.

I can confirm the Regulations amend Article 16(3) of the retained EU F-Gas Regulation ((EU) No 517/2014 on fluorinated greenhouse gases. This does not result in the complete replacement of the original EU Regulation. That Regulation continues to be regarded as retained EU law until the end of 2023 at which point such law will be known as 'assimilated law' (see, section 5 of the REUL Act 2023). Assimilated law will be stripped of certain features of EU law which influence how such law is interpreted and applied by domestic

courts. These features include the principle of EU law supremacy, consistent interpretation, direct effect and directly effective rights, and general principles of EU law (see, sections 2 - 4 of the REUL Act 2023).

2(ii). Before making a decision to consent to the Regulations, did the Welsh Government undertake any assessment of the specific power in the REUL Act being used to make the Regulations?

An assessment was made of the nature of the proposed enabling powers contained in section 14(2) of the REUL Act. Consideration was given to the possibility of making a Wales-only SI. However, as set out in my previous letters, it was considered appropriate for the substance of the amendments made by the UK SI to apply to Wales as there was no policy divergence between the Welsh and UK Government (and Scottish Government) on this matter.

The REUL Act did not come into force until 29th June, after which time consideration was given to the applicability of the enabling powers contained therein. Subsequently, there was insufficient time to prepare and lay a Welsh SI and have it in force in Wales by 31 October. Consequently, failure to make a Welsh SI in that scenario would have potentially resulted in the GB systems for quota allocation becoming inoperable.

2(iii). Our understanding is that paragraph 5(5) of Schedule 5 to the REUL Act gives a UK Minister the option of using the draft affirmative or made negative procedure. Before making a decision to consent to the Regulations, did the Welsh Government undertake any assessment of the choice of scrutiny procedure being followed by the UK Government?

The precise route with which UK Parliament makes regulations is a matter for UK Government and UK Ministers. However, I can confirm that both draft affirmative and made negative procedures were considered as part of routine discussions held under the common framework arrangements.

The affirmative resolution procedure was proposed by the UK Government as the preferred option due to timescale requirements for the Regulations needing to come into force by 31 October, and as the safer route for avoiding any potential future delays. Officials supported the draft affirmative procedure as it provides greater scrutiny through parliamentary debates.

2(iv). You will be aware that the powers in section 14 of the REUL Act are constrained to revocation or replacement of the law that a relevant national authority considers does not increase the regulatory burden in a particular subject area. Before making a decision to consent to the Regulations, did the Welsh Government's consideration of the Regulations include an assessment of how they comply with this constraint and if there is any potential increase to the regulatory burden? If so, would you share it with the Committee?

As set out in my letter of 1 September, these Regulations are solely intended to correct a technical error made by a previous amending instrument (SI 2020/1616). This relates to the date from which data can be used to recalculate the quantities of hydrofluorocarbons that can be lawfully placed on the GB market from 2024. The amendment realigns the GBs phase-down of hydrofluorocarbons with previous commitments made under the Montreal protocol and current policy ambitions.

As set out in the Explanatory Memorandum to the Regulations, the agreed intention when leaving the EU was to retain the substance of the F-gas Regulation following Exit, including

the process to calculate HFC reference values, quota and the pace of phasedown set out in the EU F-gas Regulation. The technical amendment made by the Regulations realigns the GB with that policy intent.