

Legislation, Justice and Constitution Committee

Monitoring report

July 2022

Contents

1.	Introduction	2
2.	UK-EU relations	2
3.	UK-EU divergence	3
4.	Intergovernmental relations.....	5
5.	UK Internal Market Act.....	5
6.	Common frameworks	6
7.	Legislation	6
8.	Coronavirus	8
9.	Constitution Commission	8
10.	Senedd reform	8
11.	Justice	9
	Annex: Glossary	11



1. Introduction

The Legislation, Justice and Constitution Committee has a broad remit covering a wide range of areas. This monitoring report is intended to provide Members of the Committee with an update on key policy developments related to the Committee's remit. The report covers the period to **7 July 2022**.

The Committee will consider these issues and any actions that it wishes to take in response. This report is being published to inform stakeholders of some of the issues currently under consideration by the Committee.

A glossary of key terms is included as an Annex.

2. UK-EU relations

Northern Ireland Protocol Bill

The UK Government published the Northern Ireland Protocol Bill on 13 June alongside a [summary of its legal position](#). According to the UK Government, the Bill is needed to address a number of issues that have arisen as a result of the Protocol, including trade diversions and serious societal and economic difficulties. The UK Government said its preference was for a negotiated solution with the EU and called on Member States to renew the EU's negotiating mandate with a view to amending the Protocol.

The [Bill](#) would change the effect of the Northern Ireland Protocol and related legislation, including other parts of the Withdrawal Agreement. [Senedd Research's article](#) provides an early synopsis of what the Bill would do, if passed.

The EU considers the Bill to be illegal and damaging to UK-EU trust and respect. [Its response](#) on 15 June states that "there is no legal, nor political justification whatsoever for unilaterally changing an international agreement. Opening the door to unilaterally changing an international agreement is a breach of international law as well. Let's call a spade a spade: this is illegal." The EU has renewed infringement proceedings against the UK and added that the Bill creates deep uncertainty and casts a shadow over UK-EU overall cooperation. A [press release](#) and [fact sheet](#) accompanied the response.

Two weeks later, on 29 June, European Commission Vice-President, Maroš Šefčovič, delivered a speech entitled '[High time to get Brexit done](#)'. Using quotes from former UK Prime Minister, David Cameron, throughout, he directly addresses the UK Government, including questioning if it "is surely the moment to abandon the chronic trend of non-implementation and unilateral surprises that has emerged from the UK side".

The European Parliament debated the Bill on 6 July, with [the debate](#) focusing on “the UK Government’s unilateral introduction of the Northern Ireland Protocol Bill and respect for international law”.

The UK Government said that it will seek the consent of the Senedd. The Bill contains provisions which intersect with the competence of the Welsh Government and Senedd. The Minister for Economy, Vaughan Gething, set out the Welsh Government’s position in a [letter to the Llywydd](#), dated 27 June – namely that the Bill is of “grave concern”.

The Minister for Economy has said there was a “complete absence of meaningful engagement by the UK Government” ahead of the Bill’s introduction and that, given “the complexity of the issues raised in the Bill, it has not yet been possible to consider properly the devolution consequences of what is being proposed.” In a [written statement](#) on 29 June, he also warned that the Bill poses a risk to the UK’s international reputation, UK-EU relations and could lead to a failure to fulfil the UK’s [international obligations](#), described as a “major concern” in his letter to the Llywydd.

Trade and Cooperation Agreement

Meetings of the Trade and Cooperation Agreement have continued. Some meetings attended by the Welsh Government, such as the [Specialised Committee on Fisheries](#), have agreed to meet more often than is required, with a further four meetings planned before autumn 2022. Others, such as TCA [Trade Specialised Committees](#), have not met since autumn 2021. The Committee continues to monitor the Trade and Cooperation Agreement, including the Welsh Government’s attendance at meetings.

Other developments

- [Borderlex](#) reported that the EU has dropped its [case against the UK at the World Trade Organisation](#), as described in [May’s monitoring report](#). The [UK Government provided](#) more information to the EU following consultations in May;
- **On Russia’s invasion of Ukraine**, the [EU said](#) on 29 June that “it is clearer than ever before that the EU and UK are natural allies” who “will continue to stand side by side in the name of peaceful democracy”. This followed the [Twelfth WTO Ministerial Conference](#), held in mid-June in Geneva, where the UK attended an EU event showing solidarity with Ukraine.

3. UK-EU divergence

Divergence between the UK and EU has already begun, as shown on UK in a Changing Europe’s latest [divergence tracker](#).

Senedd Research has produced an [interactive map](#) showing different post-Brexit scenarios and what they mean for divergence and alignment between the four UK nations and the EU.

The UK Government has said that it planned to introduce a Brexit Freedoms Bill soon to make it easier to change or repeal retained EU law (REUL) and to remove the special status it has in UK law. This could lead to more UK-EU divergence. On 14 June, the [Guardian reported](#) on UK Government plans to expire all remaining EU law by 23 June 2026 to mark the 10th anniversary of the Brexit referendum.

The UK Government launched its [interactive REUL dashboard of 2,400 pieces of legislation spanning 300 policy areas](#) on 22 June, which the [Welsh Government says](#) went ahead without the inclusion of information requested by it relating to devolved areas. The dashboard shows REUL by UK Government department, with the most (570) falling within scope of both the Department for Environment, Food and Rural Affairs and devolved areas. The [Counsel General appeared](#) before the Committee on 20 June to discuss REUL and the Bill.

On devolution and the Bill, Minister for Brexit Opportunities and Government Efficiency, [Jacob Rees-Mogg](#), explained how:

Obviously where there are devolved consequences from laws coming back from the European Union, the power to amend will be with the devolved authorities. We have already seen a great flow of power from Brussels to the devolved Administrations so that the Scottish Government have received powers.

The United Kingdom Internal Market Act 2020 provided a great swathe of extra powers to the devolved authorities, and that will continue under this Bill and will provide benefits for all the devolved authorities to take back control for themselves.

We will indeed ask for legislative consent motions, which is the habit of this Government. I cannot promise whether they will be granted.

The UK Government has declined to share the Brexit Freedoms Bill instructions with the Scottish Government, or provide any settled certainty of its policy intentions, [according to Scotland's Cabinet Secretary](#) for Constitution, External Affairs and Culture, Angus Robertson, speaking in the Scottish Parliament on 22 June. The Bill, he said, will put its policy of aligning with EU standards at risk.

European Commission Vice-President, [Maroš Šefčovič](#), [has since warned](#) that **UK statements on “slashing EU regulation”, framed as a benefit of Brexit by the UK Government, has resulted in increased EU vigilance of UK developments.** He added that divergence carries:

more cost and will further deepen the barriers to trade between the EU and the UK. Because more divergence means more friction and less trade – simple as that.

4. Intergovernmental relations

Ministers continued to notify the Committee of meetings of interministerial groups under the Inter-Institutional Relations Agreement.

The Interministerial Standing Committee met on 29 June. Ministers discussed ways of working on UK legislation, including the importance of early engagement, and progress in establishing interministerial groups. They also discussed cost of living pressures.

The next Interministerial Standing Committee was expected to be held in September and chaired by a Welsh Government minister.

The Minister for Finance and Local Government chaired a meeting of the Finance Interministerial Standing Committee on 15 June.

The inaugural meeting of the Interministerial Group for Housing, Communities and Local Government was held on 24 May.

The UK Government reported on intergovernmental relations for the first quarter of 2022.

5. UK Internal Market Act

Single use plastics

The UK Government made regulations to exclude a specific list of single use plastics from the scope of market principles in the UK Internal Market Act (UKIMA) 2020.

The Minister for Climate Change said that she had given her consent to regulations.

On 5 July, the First Minister announced that the Welsh Government would bring forward a bill to ban or restrict the sale of certain single-use plastics. He said that he hoped the bill would support the Welsh Government's legal challenge to the UK Internal Market Act, and that the Welsh Government would seek agreement from the Business Committee to expedite the progress of the bill.

The Genetic Technology (Precision Breeding) Bill

The UK Government has introduced a Bill that will exclude plants and animals produced using precision breeding technologies from the scope of the current GMO authorisation process in England.

Although the Bill's provisions relate to England only, the market access principles in the UKIMA mean that any plants or animals authorised under these different standards in England will be able to be sold in Wales and Scotland, even if the standards there remain the same.

On 27 June, the Minister for Climate Change wrote to the Llywydd raising concerns that the UK Government had not engaged meaningfully with the Welsh Ministers on the Bill, or taken it through any common framework. She indicated that the Welsh Government would assess the implications of Bill for devolution and might then lay a legislative consent memorandum.

6. Common frameworks

Senedd committees continued to carry out scrutiny of provisional common frameworks.

- The Health and Social Care Committee wrote to the Welsh Government with conclusions on the common framework for food compositional standards and labelling.
- The Public Accounts and Public Administration Committee wrote to the Welsh Government with conclusions on the common frameworks for public procurement and late payment (commercial transactions).
- The Economy, Trade and Rural Affairs Committee published correspondence with the Welsh Government on common frameworks within its remit.

No further common frameworks have been published for scrutiny following the elections to the Northern Ireland Assembly.

7. Legislation

Welsh Government legislation

There are three bills currently at various stages of Senedd scrutiny, and one bill that has now passed all its stages:

- The Welsh Tax Acts etc. (Power to Modify) Bill went through Stage 3 proceedings on 5 July. Stage 4 is scheduled to take place on 12 July.
- The Social Partnership and Public Procurement (Wales) Bill was introduced on 7 June, and is currently going through Stage 1 scrutiny.
- The Historic Environment (Wales) Bill was introduced on 4 July. This is a consolidation bill that aims to bring together Welsh Law on the historic environment, including listed buildings and scheduled monuments. It is part of the Welsh

Government’s programme to make Welsh law more accessible. Consolidation bills have special Senedd procedures to follow, set out in the Standing Orders.

- The Tertiary Education and Research (Wales) Bill passed its final Senedd stages on 28 June.

On 5 July, the First Minister announced the Welsh Government’s legislative programme for the second year of this Senedd. Five bills will be introduced, all of which focus on climate change and the environment. These include:

- a bill to ban or restrict the sale of single use plastics, expected to be introduced in September;
- a Clean Air Bill to improve air quality; and
- an Agriculture Bill that will focus on “sustainable food production and rewarding farmers who take action to protect the environment”, and is expected to be introduced in September.

The First Minister also said that a Senedd Reform Bill will be introduced early in the third year of this Senedd (see section 10).

UK legislation

Several UK bills that could have a significant impact on Wales have now begun their UK parliamentary stages.

These include:

- Bill of Rights Bill: introduced in the Commons on 22 June;
- Northern Ireland Protocol Bill: second reading in the Commons on 27 June; and
- Procurement Bill: began committee stage in the Lords on 4 July.

The Welsh Government has expressed concern about some of these UK bills, including the Northern Ireland Protocol Bill (see section 2 above) and the Bill of Rights Bill (see section 11 below).

Legislative consent

Legislative consent memorandums (LCMs) have now been published for the following UK bills:

- Online Safety Bill;
- Trade (Australia and New Zealand) Bill;

- [Procurement Bill](#); and
- [UK Infrastructure Bank Bill](#).

An LCM is expected following an amendment to the [Schools Bill](#). Further SLCMs are expected following extensive amendments tabled to the Procurement Bill.

Future LCMs are also expected for the Bill of Rights Bill, the Northern Ireland Protocol Bill and the Levelling-up and Regeneration Bill, as well as for other upcoming UK Bills [outlined in the Counsel General's statement](#) on the current UK Government's legislative programme.

8. Coronavirus

The terms of reference for the UK Covid-19 Inquiry were finalised on 28 June, marking the official launch of the inquiry. [The First Minister welcomed](#) the final terms of reference, and confirmed that he had had the opportunity to comment on them. The First Minister said he was:

“satisfied that the terms of reference now ensure that the Inquiry will cover the actions taken in Wales and the interrelationship between decisions made across the UK.”

9. Constitution Commission

The Independent Commission on the Constitutional Future of Wales [published a progress report on 9 May 2022](#).

The Commission has heard evidence from a number of individuals and groups, and has held technical workshops on the current devolution settlement, fiscal devolution and engagement.

On 13 June, the Counsel General [announced the appointment](#) of a panel of experts to advise the Commission.

10. Senedd reform

The Senedd [voted to endorse the proposals of the Special Purpose Committee on Senedd Reform on 8 June](#).

The Welsh Government is expected to bring forward a Senedd Reform Bill to implement the Committee's recommendations by July-September 2023.

Further information about the Committee's proposals can be found in the Senedd Research [article](#) and [glossary](#).

11. Justice

UK Government

The UK Government introduced the Bill of Rights Bill to Parliament. This Bill would repeal and replace the Human Rights Act 1998.

In a statement, the Counsel General and the Minister for Social Justice confirmed the Welsh Government's opposition to the Bill and raised concerns that it would undermine the European Convention on Human Rights. A legislative consent memorandum is expected in due course.

The UK Government introduced the Public Order Bill to Parliament.

This Bill would create new protesting offences, give the police further stop and search powers, and introduce a new kind of court order aimed at people who have repeatedly participated in disruptive protests. The Bill completed committee stage in the House of Commons on 21 June.

The Ministry of Justice responded to its consultation on delivering justice for victims and published a draft Victims Bill.

The UK Government's view is that two clauses of the draft Bill would require Senedd consent. The clauses would define the roles of an Independent Sexual Violence Advisor and an Independent Domestic Violence Advisor, and empower the Secretary of State to issue guidance about these roles.

The Ministry of Justice published a draft Mental Health Bill for pre-legislative scrutiny.

This followed an independent review and white paper on reforming the Mental Health Act 1983. Most clauses of the draft Bill would require Senedd consent.

Welsh Government

The Welsh Government published the paper Delivering Justice for Wales and an associated work programme in May.

The paper confirms the Welsh Government's support for the devolution of justice. It also says that the Welsh Government and the Ministry of Justice have agreed to review all the recommendations of the Thomas Commission that do not require devolution of justice, with a view to identifying recommendations to be taken forward in partnership.

The work programme sets out the Welsh Government's plans for justice policy, across:

- **the legal sector and access to justice**, including evaluating the Single Advice Fund, identifying priorities for supporting the legal sector, commissioning an analysis of the

case for solicitor apprenticeships, and taking forward a working group on developing the public law Bar;
















- **equality and human rights**, including incorporating the UN Convention on the Rights of Disabled People (UNCRPD) and the Convention on the Elimination of all Discrimination against Women (CEDAW) into Welsh law, and considering the case for a Welsh Human Rights Bill;
- **civil and administrative justice**, including taking forward the Law Commission's recommendations on the Welsh Tribunals;
- **family justice**, including exploring reform of services for looked-after children and evaluating the Family Drug and Alcohol Court pilot;
- **criminal justice and policing**, including supporting prevention and early intervention, supporting women and young people in the criminal justice system, and supporting prisoners.

The Minister for Social Justice also updated the Senedd on progress with the blueprints for female offending and youth justice. She noted that a site for the planned Residential Women's Centre near Swansea had now been confirmed.

The Welsh Government published the minutes of the April meeting of the Cabinet Subcommittee on Justice.

Annex: Glossary

Post-Brexit framework: key terms

International obligations		International duties and commitments of the UK
Trade agreements		Establish new trading arrangements between the UK and other countries
International agreements		Agreements between the UK and other countries or organisations
UK-EU Trade & Cooperation Agreement		Establishes the new UK-EU relationship
UK-EU Withdrawal Agreement		Sets the terms of the UK's exit from the EU
Protocol on Ireland-Northern Ireland		Part of the Withdrawal Agreement to avoid a hard border on the island of Ireland
EU (Withdrawal) Act 2018		Converted EU law to domestic law, stops new EU laws having automatic effect in the UK and gives Ministers powers to correct the statute book after leaving the EU
EU (Withdrawal Agreement) Act 2020		Implements the Withdrawal Agreement
EU (Future Relationship) Act 2020		Implements the Trade & Cooperation Agreement
Internal Market Act 2020		Establishes rules for the regulation of goods, services and qualifications across the UK
Common Frameworks		Set up UK-wide frameworks for some areas previously governed by the EU
Implementing regulations	 	Regulations passed in the Senedd or UK Parliament to implement the new arrangements
Correcting regulations	 	Regulations passed in the Senedd or UK Parliament to make EU laws retained after leaving the EU workable in a domestic context

