

Huw Irranca-Davies AS/MS
Y Dirprwy Brif Weinidog ac Ysgrifennydd y Cabinet dros
Newid Hinsawdd a Materion Gwledig
Deputy First Minister and Cabinet Secretary for Climate
Change and Rural Affairs



Llywodraeth Cymru
Welsh Government

Ein cyf/Our ref: HIDCC/PO/0313/24

The Rt. Hon. Elin Jones
Llywydd
Welsh Parliament
Cardiff Bay
Cardiff
CF99 1SN

6 November 2024

Dear Elin,

I am writing to let you know about several minor and consequential legislative provisions relevant to the Senedd Commission that the Welsh Government proposes to take forward (please see attached table).

We intend to ask the UK Government to make such changes by way of an order under section 150 of the Government of Wales Act 2006 (“the 2006 Act”).

A s. 150 order enables the Secretary of State to make any provision in legislation (subject to some qualifications) which is considered appropriate in consequence of Welsh legislation and where it would be outside the legislative competence of the Senedd to do so. A s. 150 order may be required either because the provisions relate to reserved matters and/or because the proposed changes require UK-wide extent.

Senedd and Elections (Wales) Act 2020

The attached table sets out various provisions of the Senedd and Elections (Wales) Act 2020 (“SEWA 2020”) which the Welsh Government proposes seeking a s. 150 order in relation to. We would welcome any comments you have on this list.

I would also like to draw the following specific issues to your attention:

Retrospectivity: We are of the view that, due to the constitutionally significant nature of the changes made by SEWA 2020, the provisions identified for inclusion in the order should have retrospective effect. There is specific power in s. 150(4) of the 2006 Act to make provision retrospectively. However, whether or not the order is made with retrospective effect is a matter for the UK Government.

Canolfan Cyswllt Cyntaf / First Point of Contact Centre:
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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.

We have not identified any specific issues in the potential retrospective effect of these provisions; however, it is our intention to seek an appropriate 'savings' provision to ensure that any act done in reliance on the provision/s as amended by SEWA 2020 prior to the s. 150 order (i.e., before the extent of the provision is broadened) would not be affected by the subsequent retrospective effect of the s. 150 order. Again, whether or not this is included would also ultimately be a decision for the UK Government.

If you are aware of any issues as a result of the retrospective effect of these proposed amendments, we would be grateful if you could bring these to our attention.

s. 36 Timing of first meeting of the Senedd after a general election: This section contains amendments to sections 3, 4, and 5 of the 2006 Act. S. 36 currently only extends to England & Wales and therefore amendments made by s. 36 have only become part of the law of England & Wales.

We do not propose to include this section in the list of provisions for inclusion within the s. 150 order, but we would welcome your views on whether you consider it necessary to ensure the amendments made by this section also extend to the whole of the United Kingdom by seeking its inclusion.

s. 37 Powers of the Senedd Commission: provision of goods and services: This section contains amendments to Schedule 2 paragraph 4(4) of the 2006 Act. This amendment inserts a specific power – sub-para. (4A) – to allow the Senedd Commission to charge for goods and services. This specific power did not previously exist.

As with s. 36, s. 37 currently only extends to England & Wales and therefore the amendments made by s. 37 have only become part of the law of England & Wales. Whilst the change of name across the 2006 Act from 'National Assembly for Wales' to 'Senedd Cymru' will extend to the whole of the United Kingdom by virtue of paragraph 2 of Schedule 1 of the 2020 Act being included in the list of provisions for inclusion within the s. 150 order, the specific amendment to paragraph (4) and (4A) of Schedule 2 will not.

We would therefore welcome your views in respect of s. 37 of the 2020 Act and whether it is necessary for this section to be included in the s. 150 order to ensure the amendment made to paragraph (4) and (4A) also extend to the whole of the United Kingdom.

Public Services Ombudsman (Wales) Act 2019

As the Public Services Ombudsman (Wales) Act 2019 ("PSOW 2019") was a committee sponsored Bill, I would like to also make you aware of two minor legislative amendments we have identified as appropriate in consequence of that Act. The first (amendment to the Public Services Ombudsman Act (Northern Ireland) 2016) is appropriate for inclusion in the proposed s. 150 order. The second (amendment to the Scottish Public Services Ombudsman Act 2002) is for discussion with the Scottish Government as it falls within the competence of the Scottish Parliament.

In the spirit of the Welsh Government's commitment to improving the accessibility of Welsh law as set out in 'The Future of Welsh Law Programme 2021 – 2026', these minor legislative amendments have been identified to ensure references to the current legislative framework are accurate. The Public Services Ombudsman for Wales has been made aware of these proposals and is content with the potential amendments.

I am copying this letter to the Chairs of the Legislation, Justice, and Constitution Committee, and the Finance Committee.

Yours sincerely,

A handwritten signature in black ink, consisting of several fluid, overlapping strokes that form a stylized representation of the name.

Huw Irranca-Davies AS/MS

Y Dirprwy Brif Weinidog ac Ysgrifennydd y Cabinet dros Newid Hinsawdd
a Materion Gwledig

Deputy First Minister and Cabinet Secretary for Climate Change and Rural Affairs

Section 150 Order GoWA 2006 – Summary of Proposals 2023 – Senedd Commission
Public Services Ombudsman (Wales) Act 2019 & Senedd and Elections (Wales) Act 2020

1.	2.	3.
Senedd¹ legislation: title and provision/s	Principal Legislation: provision that is affected by Senedd legislation	Brief explanation as to why a s. 150 order is needed i.e. ‘Extent: requires UK wide extent’.
Senedd and Elections (Wales) Act 2020 (“SEWA”) Part 2 (Renaming of the NAW etc.)	GOWA 2006: s. 1(1) s. 107(1) s. 1 (2A) new sub-section (2A) created by s. 4 SEWA s. 26(2) s. 27(1)	Extent: requires UK wide extent. The textual amendments made to the GOWA by the SEWA e.g. change of name to Senedd Cymru, currently only extend to England and Wales. <i>Consider making provision with retrospective effect in reliance on s. 150(4) due to the constitutionally significant nature of these amendments.</i>

¹ Prior to 6 May 2020 read as National Assembly for Wales.

<p><u>Schedule 1</u></p> <p>Para. 1</p>	<p>Freedom of Information Act 2000 (c 36) Part 6 of Schedule 1</p>	<p>Extent: requires UK wide extent.</p> <p>The textual amendments made by SEWA to the FOIA 2000 only extend to England & Wales. The FOIA 2000 has UK wide extent and these amendments are included in the s. 150 Order so that they can 'extend' to Scotland and Northern Ireland.</p> <p><i>Consider making provision with retrospective effect in reliance on s. 150(4) due to the constitutionally significant nature of these amendments.</i></p>
<p>Para. 2</p>	<p>Government of Wales Act 2006 (c 32)</p>	<p>Extent: requires UK wide extent.</p> <p><i>Consider making provision with retrospective effect in reliance on s. 150(4) due to the constitutionally significant nature of these amendments.</i></p>
<p>Para. 5</p>	<p>Legislation (Wales) Act 2019</p>	<p>Extent: requires UK wide extent.</p> <p><i>Consider making provision with retrospective effect in reliance on s. 150(4) due to the constitutionally significant nature of these amendments.</i></p>
<p>Part 3 (Elections) Schedule 2</p>	<p>Amendment to para 14(1)(c) of Schedule 1 to the Political Parties, Elections and Referendums Act 2000 to change the name from NAW to Senedd.</p>	<p>Extent: requires UK wide extent to give effect to the name change beyond England and Wales.</p> <p><i>Consider making provision with retrospective effect in reliance on s. 150(4) due to the constitutionally significant nature of these amendments.</i></p>

<p>Part 5 (Miscellaneous)</p> <p>s. 36 Timing of first meeting of the Senedd after a general election</p>	<p>Ss 3, 4, and 5 GOWA 2006.</p>	<p>Extent: May require UK wide extent</p> <p>Not currently included in the draft order</p> <p><i>If provision is included - consider making provision with retrospective effect in reliance on s. 150(4) due to the constitutionally significant nature of these amendments.</i></p>
<p>s.37 Powers of the Senedd Commission: provision of goods and services</p>	<p>Schedule 2, para. 4(4) GOWA 2006.</p>	<p>Extent: May require UK wide extent</p> <p>Not currently included in the draft order</p> <p><i>If provision is included - consider making provision with retrospective effect in reliance on s. 150(4) due to the constitutionally significant nature of these amendments.</i></p>
	<p>House of Commons Disqualification Act 1975 Schedule 1</p>	<p>Reserved matter</p> <p><i>Insert "Senedd Commissioner for Standards"</i></p>
	<p>Employers' Liability (Compulsory Insurance) Regulations 1998 Schedule 2 paragraph 20</p>	<p>Reserved matter and extent</p> <p><i>For "The National Assembly for Wales Commissioner for Standards" substitute "The Senedd Commissioner for Standards".</i></p>

	<p>Scottish Parliament (Disqualification) Order 2020 Schedule 1 Part 1</p>	<p>Reserved matter and extent</p> <p>The 2020 Order is an Order in Council made under the Scotland Act 1998 which is an Act of the UK Parliament with UK wide extent, however it is classified as a Scottish SI.</p> <p><i>Insert "Senedd Commissioner for Standards"</i></p>
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<p>Public Services Ombudsman (Wales) Act 2019</p> <p>No provision made but required in consequence of the 2019 Act.</p>	<p>Public Services Ombudsman Act (Northern Ireland) 2016 s.51 (co-operation with other ombudsmen).</p>	<p>Reserved matter and extent: Textual amendment required. S.51(4)(d) to ensure the NI PSO can consult and co-operate with the PSOW replace reference to the 2005 Act with the 2019 Act.</p> <p>Out of date reference to - <i>"Public Services Ombudsman for Wales under the Public Services Ombudsman (Wales) Act 2005"</i>.</p>
	<p>Scottish Public Services Ombudsman Act 2002 section 21(1)(c)</p>	<p>Devolved to Scotland and outside SoS's powers under s. section 150(3) of GOWA 2006 <i>("An order under this section may not make provision with respect to matters within the legislative competence of the Scottish Parliament")</i>.</p> <p>Out of date reference to - <i>"Public Services Ombudsman for Wales under the Public Services Ombudsman (Wales) Act 2005"</i>. <i>The Scottish Government may wish to amend.</i></p>