

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

Bill Summary

November 2024



The Welsh Parliament is the democratically elected body that represents the interests of Wales and its people. Commonly known as the Senedd, it makes laws for Wales, agrees Welsh taxes and holds the Welsh Government to account.

An electronic copy of this document can be found on the Senedd's website:
research.senedd.wales

Copies of this document can also be obtained in accessible formats including Braille, large print, audio or hard copy from:

Welsh Parliament
Tŷ Hywel
Cardiff Bay
CF99 1SN

X: [@SeneddResearch](https://twitter.com/SeneddResearch)
Senedd Research: research.senedd.wales
Subscription: [Newsletter](#)

© **Senedd Commission Copyright 2024**

The text of this document may be reproduced free of charge in any format or medium providing that it is reproduced accurately and not used in a misleading or derogatory context. The material must be acknowledged as copyright of the Senedd Commission and the title of the document specified.

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

Bill Summary

November 2024

Author:

Adam Cooke



Contents

1. Introduction	1
How to use this Bill Summary	1
2. The Bill at a glance.....	2
3. Summary of provisions.....	2
Part 1 - Procedure for making Welsh subordinate legislation	2
Defining Welsh statutory instruments	2
Senedd scrutiny procedures for subordinate legislation.....	3
Road Traffic Orders.....	4
Part 2 - Publication etc. of Welsh legislation.....	4
King's Printer for Wales.....	4
Preservation and publication of Acts of Senedd Cymru.....	5
Preservation and publication of Welsh statutory instruments	5
Publication of subordinate legislation not made by Welsh statutory instrument.....	6
Additional provisions.....	7
Part 3 - Repeals of Welsh legislation.....	7
Repeals and amendments	7
Part 4 - General provisions.....	8

1. Introduction

The **Legislation (Procedure, Publication and Repeals) (Wales) Bill** was introduced on 21 October 2024.

The Counsel General and Minister for Delivery ('the Counsel General'), Julie James MS, is the Member in Charge of the Bill.

The Bill's **Explanatory Memorandum** (EM) states that its purpose is to:

- a. bring together and formalise:
 - i. the procedural arrangements for making Welsh subordinate legislation, and
 - ii. the requirements for publishing Acts of Senedd Cymru and Welsh statutory instruments, and other subordinate legislation that is not made by statutory instrument.
- b. improve the accessibility of Welsh law by:
 - i. repealing, amending and otherwise disapplying in relation to Wales provisions and enactments that are no longer of practical utility or benefit; and
 - ii. making minor amendments to the Legislation (Wales) Act 2019.

A **written statement** on the Bill was published on 21 October and an **oral statement** was delivered by the Counsel General on 22 October.

The **Legislation (Wales) Act 2019 Act** ('the 2019 Act') places duties on the Counsel General and the Welsh Ministers to improve the accessibility of Welsh law.

The Welsh Government **states that** the Bill forms part of its:

...wider programme of improving the accessibility of Welsh law and clarifying and simplifying the operation of Welsh legislation.

The Bill is currently making its way through the Senedd's legislative process. The Counsel General appeared before the Legislation, Justice and Constitution Committee on 4 November 2024. The Committee **launched a consultation** on the Bill, and will be holding further evidence sessions over the coming months.

How to use this Bill Summary

This document isn't an exhaustive summary of every aspect of the Bill. It's designed to be used electronically and signposts to further detail.

In the summary of provisions section, the section number text (e.g., Section 1) links to the relevant section of the Bill.

2. The Bill at a glance

The Bill is made up of eight sections arranged into four Parts, and three Schedules:

- Part 1 - Procedure for making Welsh subordinate legislation
- Part 2 - Publication etc. of Welsh legislation
- Part 3 - Repeals of Welsh legislation
- Part 4 – General provisions
- Schedule 1 lists the various enactments to be repealed or amended.
- Schedule 2 makes minor amendments to the 2019 Act as a result of **a review of the Act** undertaken by the Welsh Government last year and other changes proposed by this Bill.
- Schedule 3 makes consequential amendments arising from the Bill.

The Bill's EM **lists the subordinate legislative powers** included in the Bill and to be inserted into the 2019 Act, and sets out the corresponding scrutiny procedures.

3. Summary of provisions

Part 1 - Procedure for making Welsh subordinate legislation

Section 1 inserts a new Part 2A (which contains sections 37A to 37H) and three new Schedules (1A, 1B and 1C) into the 2019 Act.

Defining Welsh statutory instruments

New Section 37A contains the definition of a “Welsh statutory instrument”.

New Section 37B defines the term “responsible authority” in relation to subordinate legislation contained in a “Welsh statutory instrument”. It also explains how a decision by the responsible authority to classify a Welsh statutory instrument as a “local instrument” is to be made.

What are local instruments?

Local instruments “tend to be limited in their application to a particular area or particular individuals or persons” and do not need to be laid before the Senedd.

Senedd scrutiny procedures for subordinate legislation

New sections 37C to 37H provide for the codification of Senedd scrutiny procedures for Welsh statutory instruments. The new procedures are:

- The “**Senedd approval procedure**”. This procedure means that subordinate legislation can only be made if a draft of the Welsh statutory instrument has been laid before the Senedd and subsequently approved by it. This would replace the existing “draft affirmative” procedure.
- The “**Senedd confirmation procedure**”. This process means that for subordinate legislation to continue to have an effect or come into force, it must be laid before the Senedd as soon as possible and the Senedd must confirm its approval through a resolution. The enactment will set out the period by which the Senedd must give its confirmation. This would replace the existing “made affirmative” procedure.
- The “**Senedd annulment procedure**”. This process means that the Senedd can decide before the end of 40 days (beginning with the date on which the subordinate legislation was laid) to annul the legislation. This would replace the existing “negative” (or “made negative”) procedure.
- A default position for what is to happen in relation to all subordinate legislation made by Welsh statutory instrument that is not subject to one of the procedures set out above. In such cases it must be laid before the Senedd.

New section 37G makes provision about the combination in a single Welsh statutory instrument of subordinate legislation made by a responsible authority using different powers to which different Senedd procedures apply. It ensures that the instrument is subject to the most stringent of the procedures that would otherwise apply. For example, if one power was subject to the Senedd annulment procedure, and another was subject to the Senedd approval procedure, the combined instrument would be subject to the Senedd approval procedure as it allows greater Senedd scrutiny.

Information on existing procedures can be found on the [Senedd website](#).

New section 37H introduces Schedules 1A, 1B and 1C.

The Schedules apply the provisions of new Part 2A to Welsh subordinate legislation that has previously been made, to joint or composite instruments and to Orders in Council.

What are composite or joint statutory instruments?

Some enactments require the Welsh Ministers to make subordinate legislation jointly with another person, for example a Secretary of State. The result is known as a “joint instrument”.

Sometimes the Welsh Ministers and Secretary of State may choose to exercise their powers to make subordinate legislation in a single instrument, with each making it only in respect of their own areas of responsibility and powers. This is known as a “composite instrument”.

What is an Order in Council?

Orders in Council are made by the King acting on advice of the Privy Council. Some are made using powers conferred by an Act, while others are made by virtue of the royal prerogative.

They can be used for a **variety of purposes**, including transferring responsibilities between government departments (or from UK Ministers to devolved Ministers) or where it affects the constitution.

Road Traffic Orders

Section 2 provides that certain temporary road traffic orders are no longer required to be made by Welsh statutory instrument (or statutory instrument). This does not affect the Welsh Ministers’ powers to make these orders and they will continue to be published by the Welsh Government on **its website**.

Part 2 - Publication etc. of Welsh legislation

Section 3 of the Bill inserts a new Part 2B (which contains sections 371 to 3722) into the 2019 Act.

King’s Printer for Wales

New section 371 sets out that new Part 2B of the 2019 Act confers functions on the King’s Printer of Acts of Parliament in respect of Acts of the Senedd, Welsh statutory instruments and related documents. In exercising these functions, the King’s Printer of Acts of Parliament is to be known as the “King’s Printer for Wales”.

What is the King's Printer of Acts of Parliament?

The King's Printer of Acts of Parliament, Government Printer of Northern Ireland and King's Printer for Scotland is responsible for publishing UK legislation.

The existing legislation is silent on the King's Printer's role in the publishing of Welsh legislation, but in practice this is also undertaken by and on behalf of the King's Printer.

Preservation and publication of Acts of Senedd Cymru

New section 37J sets out the numbering requirements of Acts of Senedd Cymru.

New section 37K relates to the official print (the copy of an Act on which the Clerk of Senedd Cymru writes the Royal Assent date, the calendar year, prefix and number) of an Act.

New section 37L imposes an obligation on the National Library of Wales to ensure that the official print of an Act is preserved and available for public inspection at all reasonable times.

New section 37M sets out requirements for the King's Printer for Wales in relation to certified copies of Acts and related documents.

Preservation and publication of Welsh statutory instruments

New section 37N provides that official versions and certified copies of Welsh statutory instruments must be sent to the King's Printer for Wales and National Library for Wales, and sets out the information that must be sent alongside the instrument and how it must be sent.

New section 37O requires the National Library of Wales to hold and make available the certified copies of Welsh statutory instruments it receives from the responsible authority.

New section 37P sets out how the King's Printer for Wales must number Welsh statutory instruments.

New section 37Q requires the King's Printer for Wales to publish Welsh statutory instruments and documents related to an instrument online and deals with the matters it must include when publishing.

The format of statutory instruments

While not included as part of the Bill's provisions, the **Welsh Government confirmed** in the Bill's EM that, **in line with previous commitments**, it intends to move away from the dual-column instrument format, potentially publishing Welsh statutory instruments in the same single-column format as Acts of the Senedd, with separate English and Welsh language versions.

New section 37R sets out requirements for notifying the King's Printer for Wales when a Welsh statutory instrument that is subject to the Senedd confirmation procedure has been confirmed or ceases to have effect.

New section 37S provides a defence to proceedings for an offence of contravening a Welsh statutory instrument if that instrument has not been published by the King's Printer for Wales at the time of the offence.

New section 37T provides that if the responsible authority asks the King's Printer for Wales to publish a draft Welsh statutory instrument, the King's Printer for Wales must publish this online.

New section 37U requires the King's Printer for Wales to publish online tables showing the effects made to enactments by Acts of the Senedd or Welsh statutory instruments.

New section 37V requires the King's Printer for Wales to publish online Welsh legislation as it has been amended by any other enactment.

New section 37W requires the King's Printer for Wales to maintain and publish an online record of basic information regarding each Act of the Senedd and Welsh statutory instrument, including the date upon which it was published.

New section 37Y provides for the King's Printer for Wales to print and sell Welsh legislation and documents associated with Welsh legislation.

Publication of subordinate legislation not made by Welsh statutory instrument

New section 37Z places a duty on the Welsh Ministers to number, classify and publish online all subordinate legislation made by them when it is not in the form of a Welsh statutory instrument.

Additional provisions

New section 37Z1 ensures Welsh statutory instruments may be referred to by their title from the moment they are made and provides that Welsh statutory instruments may be referred to by their prefix, year and number.

New section 37Z2 provides that the King's Printer for Wales may delegate (while remaining responsible) any of the functions conferred on them by Part 2B, and enables the King's Printer for Wales to contract out the printing and selling of Welsh statutory instruments.

Part 3 - Repeals of Welsh legislation

Section 4 of the Bill introduces Schedule 1.

Repeals and amendments

Schedule 1 provides for the repeal and amendment of various enactments. Many provisions to be removed relate to, or are connected with, the planning system.

The Bill's EM **provides a list** of areas subject to repeal or amendment. With regards to planning, the Bill includes provision relating to:

- Rural Development Boards;
- enterprise zone areas;
- housing action trusts;
- local plans, structure plans and unitary development plans;
- energy policies in development plans; and
- soil removal for development without consent.

Aside from planning, the Bill also contains provision relating to:

- reorganisation of local government;
- statements of special educational needs;
- National Park planning boards;
- the Welsh Development Agency;
- the Development Board for Rural Wales;
- the Land Authority for Wales;
- invasive non-native species;

- an unnecessary cross-reference in the Local Government Finance (Wales) Act 2024;
- miscellaneous matters in the Government of Wales Acts of 1998 and 2006, and
- an unnecessary reference in the Local Government Finance (Wales) Act 2024.

It also repeals entirely two pieces of primary legislation:

- the Domestic Fire Safety (Wales) Measure 2011; and
- the Welsh Elections (Coronavirus) Act 2021.

Part 4 - General provisions

Section 5 of the Bill introduces **Schedule 2**, which contains minor amendments to the 2019 Act, mostly arising from **a review of the Act**.

For example, paragraphs 5 to 7 of Schedule 2 bring “Church Measures” within the meaning of “enactment” for the purposes of various sections within the 2019 Act. The Church in Wales cannot make legislation of this kind, but Church Measures made by the Church of England are sometimes relevant to parts of Wales, in particular because there are 18 Church of England parishes partly in Wales.

What are Church Measures?

Church Measures (or more fully, Measures of the Church Assembly or of the General Synod of the Church of England) are legislation relating to the administration and organisation of the Church of England. They have the same effect as an Act of Parliament and may also confer powers to make subordinate legislation.

Section 6 of the Bill introduces **Schedule 3**, which makes consequential amendments.

Section 7 makes provision about when and how the Bill comes into force.

Section 8 sets out the short title of the Bill.