



Llywodraeth Cymru
Welsh Government

Report on the implementation of Law Commission proposals

2023-2024



February 2024

“And by the common counsel and agreement ... they examined the old laws, and some of them they allowed to continue, others they amended, others they wholly deleted, and others they laid down anew.”

Book of Iorwerth 1240

Introduction

1. The Law Commissions Act 1965, as amended by the Wales Act 2014, places a duty on the Welsh Ministers to report annually to Senedd Cymru on the extent to which they have implemented Law Commission proposals that relate to devolved matters.
2. This is the ninth such report; it covers the period from 15 February 2023 to 14 February 2024, and provides updates on the progress made on a range of issues that have been the subject of Law Commission recommendations. This update and the progress noted demonstrate the value of the Law Commission's proposals to the work of the Welsh Government.

Scope of the report

3. Section 3C of the Law Commissions Act 1965 places a duty on the Welsh Ministers to report annually to Senedd Cymru on the extent to which Law Commission proposals have been implemented that year.
4. As stipulated by the Act, this report covers Law Commission proposals relating to Welsh devolved matters that have been implemented during the year, and proposals relating to Welsh devolved matters that have not been implemented, including plans for implementation and decisions taken not to implement proposals.
5. The report covers the reports of the Law Commission of England and Wales as far as they relate to Welsh devolved matters.

Proposals that have been implemented

Wildlife law ([LC362](#))

6. In 2015 the Law Commission published its report on *Wildlife Law*. Previous reports have detailed the consideration and implementation of some of the proposals in the Law Commission's report.
7. The [Agriculture \(Wales\) Act 2023](#), which was enacted in the reporting period, includes provisions for a complete ban on the use of snares and cable restraints.

This was the subject of consideration and recommendation in the *Wildlife Law* report.

8. Wales is the first country in the UK to introduce a complete ban, which came into force on 17 October 2023. In addition to implementing the Law Commission proposal this fulfils a Programme for Government commitment.

Proposals that have not yet been implemented

Planning law in Wales (LC383)

9. The Law Commission reported on [Planning Law in Wales](#) in 2018, with the central premise being the simplification and modernisation of planning law. The Welsh Government position on each of the recommendations of the report was set out in its [Final Response](#) in 2020. The Welsh Government has [committed](#) to bring forward a Bill to consolidate planning law.
10. Over the reporting period good progress has continued to be made on the production of the Bill. This is a very large, complex and technical project, with the Bill estimated to be approximately 475 pages long (950 pages in both languages). Its production continues to be informed by both the Law Commission's report and the Welsh Government response to that report. The project also continues to benefit from the Law Commission's valuable knowledge through their ongoing involvement in this work.
11. The Counsel General recently announced in his [annual report](#) on the programme to improve the accessibility of Welsh law that the Bill will be introduced to Senedd Cymru during the summer of 2024.

Electoral Law (LC389)

12. The Welsh Government published a [White Paper](#) on electoral administration and reform in October 2022, in which it referenced its longer term goal of modernising electoral law. As an initial step, the Welsh Government is preparing a consolidated and bilingual Conduct Order, to replace the National Assembly for Wales (Representation of the People) Order 2007 that sets out how elections to the Senedd are conducted and has been subject to regular amendment.

Taxi and Private Hire Services ([LC347](#))

13. We continue to make progress with our Programme for Government commitment to 'Legislate to modernise the taxi and private hire vehicle sector and address the problems of cross bordering'. In 2023 we produced a [White Paper](#) in order to consult on proposals for new taxi and private hire vehicle legislation, in the form of a Taxi and Private Hire Vehicle Bill, which will be introduced before the end of this Senedd term.

Residential Leasehold ([LC392](#)) and Right to Manage ([LC393](#))

14. Recommendations from the Law Commission's reports on enfranchisement and the right to manage are being taken forward on an England and Wales basis through the Leasehold and Freehold Reform Bill, which was introduced to the UK Parliament on 27 November 2023. The Welsh Ministers consider it appropriate for such measures to be enacted through UK legislation, and two [Legislative Consent Memoranda](#) have already been laid, with more expected due to further amendments that are likely to be made during the progress of the Bill through Parliament.

Devolved Tribunals in Wales ([LC403](#))

15. As part of the Law Commission's 13th Programme of Law Reform, the Law Commission and the Welsh Government agreed to embark on a Wales-only project on the law relating to devolved Welsh tribunals. The project is now completed, and the Law Commission published its report [Devolved Tribunals in Wales](#) in December 2021. Work to implement the Law Commission's recommendations is ongoing, and the Welsh Government published a White Paper [A New Tribunal System for Wales](#) on 19 June 2023, setting out its proposals for reform. The consultation closed on 2 October 2023, and the [summary of responses](#) to the White Paper was published at the end of January 2024.

16. The Welsh Government plans to develop legislation during this Senedd term to establish a new tribunal system for devolved tribunals in Wales. The timing of the introduction of such legislation is subject to the processes for setting the Legislative Programme.

Regulating Coal Tip Safety in Wales (LC406)

17. The Law Commission's report [Regulating Coal Tip Safety in Wales](#) was published and laid before the Senedd on 24 March 2022. The review found the current legislation relating to coal tip safety, the Mines and Quarries (Tips) Act 1969, does not effectively address the management of disused coal tips. The Welsh Government subsequently published a [Coal Tip Safety \(Wales\) White Paper](#) in Summer 2022 and then a [full response](#) to the report on 22 March 2023. This accepted or accepted in modified form the majority of the recommendations in the Law Commission's report, with most of the modifications allowing for the accommodation of non-coal tips in the proposed regime.
18. As part of the Bill development process further changes are being made to the proposed system, however, the Welsh Government has committed to bring forward legislation during this Senedd term. Work is underway on a Bill, expected to be introduced in 2024, to provide a regulatory framework for the management of disused tips.

Automated Vehicles (LC404)

19. The [Automated Vehicles Bill](#), introduced in the House of Commons on 8 November 2023, implements the recommendations of the joint Law Commission and Scottish Law Commission report on Automated Vehicles, published in January 2022. The joint report included a number of recommendations for a new regulatory framework to govern the introduction and continuing safety of automated vehicles on roads or other public places in Great Britain.
20. The Welsh Government subsequently laid a [Legislative Consent Memorandum](#) on the Bill before the Senedd on 24 November 2023, which has been referred to the Climate Change, Environment and Infrastructure Committee and the Legislation, Justice and Constitution Committee. Both Committees are due to report back to the Senedd by 1 March 2024.

Mental Capacity and Deprivation of Liberty (LC372)

21. The [Mental Capacity \(Amendment\) Act 2019](#) is UK Government legislation that applies to England and Wales. The legislation is designed to introduce the Liberty Protection Safeguards (the 'LPS') – a new system for authorising care, support and treatment arrangements where these amount to a deprivation of liberty and the

cared for person lacks the mental capacity to agree to those arrangements. The LPS were due to replace the existing system – the Deprivation of Liberty Safeguards. The safeguards are necessary procedures in law to safeguard people’s Article 5 (right to liberty) Human Rights. Between March and July 2022, Welsh Government issued draft regulations for Wales for [public consultation](#). These Regulations would have supported the implementation of the LPS in Wales. However, on 5 April 2023, the UK Government announced their intention to delay the implementation of the LPS until the next Parliament. In response, the Welsh Government issued a [Written Statement](#) expressing its deep disappointment at the decision. The Welsh Government published a [summary of consultation responses](#) on the draft Regulations for Wales on 7 June 2023.

Proposals that are not to be implemented

22. No decisions have been taken by the Welsh Government to not implement proposals in a Law Commission report during this reporting period.

Current and future Law Commission projects

23. The Law Commission are currently working on a number of projects, some of which relate to Welsh devolved matters. The Welsh Government remains committed to working with the Law Commission to develop proposals capable of implementation.