

The Welsh Government's Legislative Consent Memorandum on the Fire Safety Bill

June 2020

1. Background

The UK Government's Fire Safety Bill

1. The UK Government's Fire Safety Bill (the Bill)¹ was given its first reading in the House of Commons on 19 March 2020. It is sponsored by the Home Office.
2. The explanatory notes to the Bill state that its purpose is "to ensure the Fire Safety Order is clear in that it applies to external walls (and anything attached to them which includes cladding and balconies) and flat entrance doors of a multi-occupied residential buildings."^{2 3}
3. The Bill is one part of the response to improve building safety following the fire at Grenfell Tower in July 2017.

The Welsh Government's Legislative Consent Memorandum

4. In accordance with Standing Orders 29.1 and 29.2, a Legislative Consent Memorandum is required because provisions within the Bill modify or fall within the Senedd's legislative competence.

¹ [Fire Safety Bill](#) (HC Bill 121), as introduced

² [Fire Safety Bill: Explanatory Notes](#), March 2020

³ The Regulatory Reform (Fire Safety) Order 2005 (known the Fire Safety Order) reformed the law relating to fire safety in non-domestic premises.



5. On 30 April 2020 the Deputy Minister for Housing and Local Government, Hannah Blythyn MS, laid before the Senedd a Legislative Consent Memorandum (LCM)⁴ in respect of the Bill.

6. The Business Committee agreed that the Legislation, Justice and Constitution Committee and the Equality, Local Government and Communities Committee should report on the LCM by 18 June 2020.⁵

Provision for which the Senedd's consent is required

7. Paragraphs 8 and 9 of the LCM set out the Welsh Government's assessment of which provisions require the consent of the Senedd.

8. Annex A to the Bill's explanatory notes lists the clauses which the UK Government believes require consent.

9. The Welsh Government and the UK Government agree that provisions in clauses 1, 2 and 3 require Senedd consent.

Clause 1 (Premises to which the Fire Safety Order ("FSO") applies)

10. This provision makes amendments to the FSO to clarify that it applies, when the premise is a building containing two or more sets of domestic premises, to:

- the building's structure and external walls (which includes doors and windows and anything attached to the exterior walls, such as cladding, insulation, fixings and balconies) and any common parts;
- doors between domestic premises and common parts.

Clause 2 (Power to change premises to which the Fire Safety Order applies) (excluding clause 2(2) and (2(7)))

11. This provision gives power to the "relevant authority" to make regulations to amend the FSO for the purpose of changing or clarifying the premises to which it applies. The use of the power is to be subject to the affirmative resolution procedure. The relevant authority is defined as the Secretary of State in relation to premises in England and the Welsh Ministers in respect of premises in Wales.

⁴ Welsh Government, [Legislative Consent Memorandum, Fire Safety Bill](#), April 2020

⁵ Business Committee, [Timetable for consideration of the Legislative Consent Memorandum on the Fire Safety Bill](#), May 2020

Clause 3 (Extent, commencement and short title)

12. Clause 3(2)(b) allows the Welsh Ministers to make regulations commencing clause 1 of the Bill (which makes the operative amendments to extend the scope of the FSO) in relation to Wales. This enables the provisions to be brought into effect as is considered appropriate for premises in Wales. No procedure applies to such regulations.

13. Paragraphs 10 to 12 of the LCM set out the reasons for making the provisions for Wales in the Bill.

14. The LCM states:

“There is no space in the Welsh Government’s current legislative programme for a Bill making provision for Wales on these matters, nor is there any Bill in the programme to which such provisions could be added.”⁶

15. The LCM concludes:

“It is the view of the Welsh Government that it is appropriate to deal with these provisions in this UK Bill as [it] will make sensible and important changes to fire safety law far sooner than could be achieved by separate legislation for Wales.”⁷

2. Committee consideration

16. We considered the LCM at our meeting on 1 June 2020.⁸

Our view

17. We acknowledge that the Bill is one part of the response to improve building safety following the fire at Grenfell Tower in July 2017.

18. We note the Welsh Government's assessment of the provisions in the Bill which require Senedd consent. We also note the Welsh Government’s reasons as to why, in its view, making provision for Wales in the Bill is appropriate.

19. We welcome the use of the affirmative procedure for the regulation-making power contained within Clause 2.

⁶ Welsh Government, LCM, paragraph 12

⁷ Welsh Government, LCM, paragraph 15

⁸ [Legislation, Justice and Constitution Committee, 1 June 2020](#)