

**SUPPLEMENTARY LEGISLATIVE CONSENT MEMORANDUM  
(MEMORANDUM NO. 4)**

**The Water (Special Measures Bill)**

1. This Legislative Consent Memorandum (LCM) is laid under Standing Order (“SO”) 29.2. SO29 prescribes that a legislative consent memorandum must be laid, and a legislative consent motion may be tabled, before Senedd Cymru if a UK Parliamentary Bill makes provision in relation to Wales that has regard to devolved matters.
2. The Water (Special Measures) Bill (“the Bill”) was introduced in the UK Parliament, the House of Lords on 4 September 2024. I laid an LCM on 18 September 2024 and Supplementary LCMs on 4 and 27 November 2024.
3. The latest version of the Bill can be found at [Water \(Special Measures\) Bill \[HL\]](#).

**Policy Objective(s)**

4. The UK government introduced the Water (Special Measures) Bill to strengthen the powers of the regulator and address water pollution issues. The Bill was announced in the King’s Speech on 17 July and reflects the Labour Government’s manifesto commitment on cleaning up our waterways. The Bill is a response to the perceived widespread failures by the water sector in addressing pollution caused by sewage discharges and aging infrastructure. I have agreed that the provisions which relate to the regulation of the water industry should apply to Wales.

**Summary of the Bill**

5. The Bill is sponsored by the Department for the Environment, Food and Rural Affairs. The key provisions of the Bill cover measures which designed to strengthen the powers of water industry regulators, including Ofwat, Natural Resources Wales (NRW) and the Drinking Water Inspectorate (DWI). The changes implemented by the Bill are made by a combination of freestanding provisions and amendments to the Water Industry Act 1991 and the Water Resources Act 1991, which between them comprise a significant proportion of the existing legislation in respect of water.
6. I agreed, in principle, to extend the provision to Wales and sought powers equivalent to those of the Secretary of State for the Welsh Ministers through the Bill.

**Update on position since the publication of the first Legislative Consent Memorandum**

7. Regular engagement between the UK and the Welsh Government has been continuing throughout the Parliamentary passage of the Bill, including the amendments at Lords Report Stage.
8. The Welsh Government sought an amendment to extend Clause 2 (Pollution Incident Reduction Plans) to Wales, which was agreed at the Lords Report Stage, together with other government amendments affecting Clauses 2 and 13.

### **Non-government amendments agreed at Lords Report Stage**

9. In addition to the 34 amendments tabled by government, which were all covered in SLCM No.3 and were agreed by the House, two opposition amendments also passed at Report Stage in the House of Lords. The Amendments affect Clause 1 (Rules about remuneration and governance).
10. Amendment 2 (Clause 1)  
This amendment requires Ofwat, when exercising the rules making power under Clause 1, to try and do so in such a way as to require a relevant undertaker to report annually to the Authority on actual or planned financial structuring, commercial strategy and debt levels, amongst other finance related matters. The intention of the amendment is likely to be assisting regulators (Ofwat) to understand financial pressures and risks individual water companies are facing, allowing them to put in place early measures of intervention, if needed.
11. Amendment 11 (Clause 1)  
Clause 1 amends the Water Industry Act 1991 and specifies additional duties in the new section of 35B on Rules about remuneration and governance under paragraphs 1(5) and 1(6). The amendment was not accompanied by a member's explanatory statement. The likely intention of the clause to be that (a) Ofwat must publish the first rules using the new power within six months of the Bill coming into force (b) when doing so they must pass a copy to the Secretary of State (c) those rules don't come into force until the Secretary of State makes regulations bringing them in and (d) such regulations are subject to the affirmative procedure in Parliament.

### **Welsh and UK Government views on the need for consent**

12. The agreed non-government amendments do not change my view of the requirement for consent for those clauses they amend. This is due to those clauses relating to a devolved matter, namely the water industry.
13. The UK's Government's view is that amendments to Clause 1 require legislative consent from the Senedd. I agree with this assessment.

### **Reasons for making these provisions for Wales in the Water (Special Measures) Bill**

14. The reasoning set out in the previous LCM on this Bill as to why it is appropriate for UK legislation to make provision for Wales in this Bill still stands. I again restate my arguments here for ease of reference.
15. The Bill will bring positive changes and support our overall aim to reduce water pollution in Wales. The Bill legislates on a range of issues and policy matters on which the UK Government and Welsh Government share clear aims and objectives.
16. Water is an inherently cross-border issue, and the issue of environmental impacts of water quality is one we cannot solve alone. Welsh Government has always taken a collaborative approach within Wales to improving water quality and governance in the sector, and this Bill is an opportunity to extend that cooperation cross-border.
17. Some regulations and laws also apply in both England and Wales. A coordinated approach across is essential to ensure regulatory consistency. Some elements of the Bill relate to reserved matters, notably on insolvency, therefore any legislation brought forward by the Senedd would not be as comprehensive as the current proposals.

### **Financial implications**

18. The amendments do not introduce any additional financial obligations for the Welsh Government.

### **Conclusion**

19. In my view it is appropriate to deal with these amendments to this UK Bill via a Legislative Consent Memorandum as the Bill's aims are wholly in line with Welsh Government policy, the matter is an inherently cross-border issue requiring collaboration and coordination between our two Governments.
20. The two amendments detailed were not proposed, developed or supported by Government. They are contrary to the policy objectives of Clause 1 and Amendment 11 and go against our Principles on UK Legislation. Therefore, further engagement is required with UK Government on the development of these amendments. I will provide the Senedd with further updates on the Welsh Government's position in relation to these amendments following that engagement.

**Huw Irranca-Davies MS**

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

**December 2024**