# WRITTEN STATEMENT

# BY

# THE WELSH GOVERNMENT

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| **TITLE**  | **The Northern Ireland Protocol Bill**  |
| **DATE**  | **29 September 2022** |
| **BY** | **Vaughan Gething MS, Minister for the Economy** |

The then Foreign Secretary, the Rt Hon. Liz Truss MP, introduced [The Northern Ireland Protocol Bill](https://publications.parliament.uk/pa/bills/cbill/58-03/0012/220012.pdf) (the Bill) in the House of Commons on 13 June.

The Bill was introduced without any prior engagement with the Devolved Governments and contains provisions which initiate the legislative consent process.

I wrote to the Llywydd on 27 June stating that, given the absence of engagement by the UK Government ahead of introduction and the complexity of the issues raised in the Bill, it would not be possible to lay a Legislative Consent Memorandum within the timescales normally assigned to the process.

However, my initial concerns remain with the approach the UK Government has taken in this Bill.

Notable legal commentators have criticised the UK Government’s deployment of the international law defence of ‘necessity[[1]](#footnote-1)’ to justify what it itself says would be the “non-performance of international obligations” if the Bill were to be enacted and implemented, Indeed, the former head of the UK Government Legal Department has described it as “hopeless”[[2]](#footnote-2).

Moreover, a recommendation of consent to this Bill by the Welsh Ministers could call into question their adherence to the Ministerial Code, and “*the overarching duty on ministers to comply with the law, including international law and treaty obligations*”*.* This would apply particularly with regard to the exercise of any regulation making powers (if conferred upon them) under the Bill in compliance with international obligations.

The Welsh Government believes that the UK Government should return to discussions with the European Commission to seek a solution for issues relating to the Northern Ireland Protocol and that if the UK Government proceeds with the Bill it would risk a further escalation of measures by the European Union and, potentially, a trade war. This is not in the best interests of the businesses and people of Wales who depend on trade with the EU. At a time when hardship is already being experienced because of the effects of the cost-of-living crisis, the UK Government’s actions could damage the Welsh economy.

Concerns about the underlying rationale for the Bill, the broad powers it gives to Ministers of the Crown and the potential breach of international law mean that the Welsh Government is recommending that the Senedd withholds consent for the Bill.

A Legislative Consent Memorandum for this Bill has been laid today:

<https://senedd.wales/media/ehfhoqmi/lcm-ld15360-e.pdf>

1. [Northern Ireland Protocol Bill: UK government legal position - GOV.UK (www.gov.uk)](https://www.gov.uk/government/publications/northern-ireland-protocol-bill-uk-government-legal-position/northern-ireland-protocol-bill-uk-government-legal-position) [↑](#footnote-ref-1)
2. Jonathan Jones KC 13 June <https://twitter.com/SirJJKC/status/1536417826034130945> [↑](#footnote-ref-2)