

Historic Environment (Wales) Bill

Outcome of Detailed Committee Consideration

March 2023



1. The Bill and the background to Detailed Committee Consideration

On 4 July 2022 Mick Antoniw MS, the Counsel General and Minister for the Constitution (the Counsel General) introduced into the Senedd the first Welsh Consolidation Bill, the Historic Environment (Wales) Bill (the Bill).¹

1. The long title of the Bill is:

“An Act of Senedd Cymru to consolidate certain enactments relating to the conservation of the historic environment of Wales.”

2. The Counsel General states in the Explanatory Memorandum accompanying the Bill:

“Consolidation involves bringing together all or most of the (generally primary) legislation on a specific subject so that it can be easily found, and by modernising the form and drafting of the law to make it easier to understand and apply. Consolidation will often bring together several existing Acts on a subject, updating and harmonising the provisions, to eventually create a new, single, Act.”²

3. The Senedd’s Business Committee referred the Bill to the Legislation, Justice and Constitution Committee on 4 July 2022 for Initial Consideration.³

4. We reported on our initial considerations on 23 December 2022.⁴

¹ Historic Environment (Wales) Bill, as introduced

² Welsh Government, Historic Environment (Wales) Bill, Explanatory Memorandum, July 2022, paragraphs 1 and 2

³ Business Committee, Revised timetable for consideration: The Historic Environment (Wales) Bill, October 2022

⁴ Legislation, Justice and Constitution Committee, Report on the Historic Environment (Wales) Bill, December 2022

5. The Counsel General wrote to us on 12 January 2023 and responded specifically to recommendation 10 in our report.⁵ The Counsel General wrote again on 18 January 2023 and provided a response to the other recommendations in our report.⁶

6. A debate took place in Plenary on 17 January 2023. The motion to agree that the Bill should proceed as a Consolidation Bill was agreed.⁷

⁵ Letter from the Counsel General, 12 January 2023

⁶ Letter from the Counsel General, 18 January 2023

⁷ Plenary, 17 January 2023

2. Detailed Committee Consideration

Following the Senedd's agreement that the Bill should proceed as a Consolidation Bill, Detailed Committee Consideration began on 18 January 2023.

7. We agreed on 16 January 2023, under Standing Order 26C.27, that the order of consideration for Detailed Committee Consideration proceedings would be: sections 2 to 75; Schedules 1 and 3 to 6; sections 76 to 157; Schedules 2 and 7 to 10; sections 158 to 166; Schedule 11; sections 167 to 191; Schedule 12; sections 192 to 213; Schedules 13 and 14; section 1; and the Long title.

8. On 24 January 2023, the Counsel General tabled 45 amendments to the Bill which were published in a Notice of Amendments.⁸ The Counsel General also wrote to all Members of the Senedd providing the detail of the amendments tabled to the Bill, together with an explanation of their purpose and effect, and provided a document illustrating how the Bill would be amended by these proposed changes.⁹

9. On 6 February 2023, a second Notice of Amendments was published, containing seven amendments tabled to the Bill by James Evans MS.¹⁰

10. Detailed Committee Consideration took place on 13 February 2023.¹¹ For Detailed Committee Consideration proceedings, a Marshalled List of Amendments and Grouping of Amendments for debate were produced.¹²

11. We agreed to all 45 amendments tabled by the Counsel General. The amendments tabled by James Evans MS, relating to the protection of sites of historic wrecks, were not agreed.

12. During the debate on the amendments relating to the protection of sites of historic wrecks, the Counsel General agreed to provide details to us on how the

⁸ Historic Environment (Wales) Bill, [Notice of Amendments – 24 January 2023](#)

⁹ [Welsh Government: Purpose and effect table](#) – 25 January 2023; [Welsh Government: Illustration of proposed government amendments](#) – 25 January 2023

¹⁰ Historic Environment (Wales) Bill, [Notice of Amendments – 6 February 2023](#)

¹¹ [Legislation, Justice and Constitution Committee: 13 February 2023](#)

¹² Historic Environment (Wales) Bill, [Marshalled list of amendments – 13 February 2023](#); Historic Environment (Wales) Bill, [Grouping of Amendments – 13 February 2023](#)

Welsh Government will take forward plans to review all the legislation in this area and the anticipated timeframes for undertaking such work.

13. The Counsel General wrote to us on 1 March 2023 and said:

“The Government agrees with recommendation 6 of the Committee’s report on its Initial Consideration of the Bill that a review of the legislative protection afforded to the marine historic environment is needed. Such a review will be a substantial undertaking because of the diverse nature of the historic assets involved, the increasing demands on the marine historic environment and the complex character of the protective frameworks in place. In addition, the management of activities in Welsh waters is split between devolved functions and functions retained by UK Government.

To undertake the review effectively the Welsh Government will need to gather evidence, engage with stakeholders and thoroughly evaluate the existing legislation. Cadw will look to work with the Royal Commission on the Ancient and Historical Monuments of Wales and other public bodies to develop the evidence base to inform the review. Our aim is to assess the effectiveness of the existing legislation by the end of 2024.

The next steps following that review, whether non-legislative or legislative, will need to be considered along with other Welsh Government priorities at that time.”¹³

14. At the end of Detailed Committee Consideration proceedings we asked the Counsel General if he considered there is a need to bring forward further amendments to the Bill. The Counsel General responded that he did not think there is a need.¹⁴

15. The Counsel General also confirmed that, in accordance with Standing Order 26C.37, he would be preparing a revised Explanatory Memorandum which would reflect commitments made during Initial Consideration and amendments made to the Bill during Detailed Committee Consideration.¹⁵

¹³ Letter from the Counsel General, 1 March 2023

¹⁴ LJC Committee, 13 February 2023, RoP [146] and [147]

¹⁵ LJC Committee, 13 February 2023, RoP [139] and [148]

16. The Bill, as amended at Detailed Committee Consideration, was published on 17 February 2023.¹⁶

¹⁶ Historic Environment (Wales) Bill, as amended at Detailed Committee Consideration

3. Recommendation to the Senedd

17. We note that the issues with the Bill identified in our Initial Consideration report¹⁷ have been addressed by the Counsel General during Detailed Committee Consideration.

18. We are content with the information provided by the Counsel General about how the Welsh Government will take forward plans to review all the legislation relating to the protection of sites of historic wrecks and the anticipated timeframes for undertaking such work.

19. We note the Counsel General will be updating the explanatory material accompanying the Bill, including the Explanatory Memorandum and Drafters' Notes.¹⁸

Recommendation to the Senedd

In accordance with Standing Order 26C.36, we consider that the Bill should proceed to Final Stage.

¹⁷ See Report on the Historic Environment (Wales) Bill, paragraphs 299, 300, 305, 306 and 343.

¹⁸ See, for example, Report on the Historic Environment (Wales) Bill, paragraphs 166, 167 and 321.