

SUPPLEMENTARY LEGISLATIVE CONSENT MEMORANDUM (MEMORANDUM NO.3)

THE LEVELLING-UP AND REGENERATION BILL

1. This supplementary legislative consent memorandum (“SLCM”) is laid under Standing Order (“SO”) 29.2. SO29 prescribes that a legislative consent memorandum (“LCM”) 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 for any purpose within, or which modifies the legislative competence of the Senedd.
2. The Levelling-up and Regeneration Bill (“the Bill”) was introduced in the House of Commons on 11 May 2022. I laid an [LCM on the Bill as introduced on 28 September](#), [a revised LCM on 25 November](#) and an [SLCM on 30 November 2022](#).
3. On 13 March the UK Government tabled amendments for consideration at House of Lords Committee stage. One amendment affects provisions contained within the Bill as introduced that fall within the legislative competence of the Senedd. I apologise for the delay in laying this SLCM. I have addressed amendments to the Bill where they have been notified to us, however I did not receive the letter from the UK Government until 27 March, which informed me of other amendments that had been tabled, including those within this SLCM.
4. The tabled amendments can be found at: <https://bills.parliament.uk/bills/3155/publications> and are yet to be agreed. The clauses referred to in this supplementary LCM are as set out in the Bill as brought from the Commons dated 19 December 2022. This version of the Bill can be found at: <https://bills.parliament.uk/publications/49177/documents/2671>.

Policy Objectives

5. The UK Government’s stated policy objective is to reverse geographical disparities between different parts of the UK by spreading opportunity more equally.

Summary of the Bill

6. The Bill is sponsored by the Department for Levelling Up, Housing and Communities.
7. The Bill as introduced made provision for the setting of levelling-up missions and reporting on progress in delivering them; about local democracy; about town and country planning; about Community

Infrastructure Levy; about the imposition of Infrastructure Levy; about environmental outcomes reports for certain consents and plans; about regeneration; about the compulsory purchase of land; about information and records relating to land, the environment or heritage; for the provision for pavement licences to be permanent; about governance of the Royal Institution of Chartered Surveyors; about vagrancy and begging; and for connected purposes.

8. Further information about the Bill can be found within the first LCM laid <https://senedd.wales/media/5gdfx1u1/lcm-ld15356-e.pdf>

Update on position since the publication of the first and revised Legislative Consent Memorandum

9. I laid an LCM on 28 September, based on the Bill as introduced into the UK Parliament (House of Commons) on 11 May. That LCM stated it was the view of the Welsh Government that it is not appropriate to deal with the majority of the provisions, as drafted on introduction, in this UK Bill. The LCM also identified certain areas the Welsh Government considered could be supported and areas we considered could be supported subject to amendments.
10. The Local Government and Housing Committee (LGHC) and the Legislation, Justice and Constitution Committee (LJCC) in their letters to me of 1 and 2 November respectively, sought further information and clarification on a number of areas in relation to the Bill and the Welsh Government's position. The LJCC suggested an LCM be laid to address the comments it had raised. [A revised LCM was laid to address these points on 25 November](#). The revised LCM was based on the Bill as introduced.
11. A [SLCM](#) was laid on 30 November 2022 to deal with amendments made by the UK Government that were laid at Commons Report stage. The Legislation, Justice and Constitution Committee laid its [report](#) on the Legislative Consent Memoranda for the Levelling-up and Regeneration Bill on 24 February 2023 and requested a response from me. That response was issued on 25 April.

Amendments tabled to the Bill for consideration at House of Lords Committee Stage for which consent is required

12. On 13 March the UK Government tabled government amendments to the Bill for consideration at Lords Committee stage. The following government amendments affect clause 139 of Part 6 of the Bill, Environmental Outcomes Reports (EOR), that were contained within the Bill, as introduced to the House of Lords, and which fell within the legislative competence of the Senedd.

13. As currently drafted clause 139, (clause 117 as introduced) allows the Secretary of State to make regulations requiring that an EOR is prepared as a requirement to proceed with relevant plans or grant consent to relevant projects. Subsection (4) (a) captures the need of an EOR to demonstrate how the plan or consent would affect the delivery of specified environmental outcomes as defined in regulations. Subsection (4) (b) reflects that, in addition, an EOR must assess any steps proposed to avoid, mitigate, remedy or compensate effects relation to the delivery of a specified environmental outcome. This is known as the mitigation hierarchy.

The following Government amendments have been tabled which amend clause 139:

Amendment 373A

14. This amendment is consequential to amendment 373B. It inserts a provision which is equivalent to the sub-paragraph removed by amendment 373B from clause 139(4)(b).

Amendment 373B

15. This amendment removes sub-paragraph (i) from subsection (4)(b) of clause 139, so that subsection (4)(b) better reflects the “mitigation hierarchy” which is currently often applied as part of an environmental assessment.

Amendment 373C

16. This amendment removes sub-paragraph (iv) from subsection (4)(b) of clause 139, so that subsection (4)(b) better reflects the “mitigation hierarchy” which is currently often applied as part of an environmental assessment.

17. The effect of amendments 373B and 373C are that the mitigation hierarchy would become avoidance, then mitigation, then compensation for an environmental impact.

Amendments 373D, 373E and 373F

18. These amendments are consequential upon the other amendments (373C and 373A) detailed above to clause 139.

19. The intended collective effect of amendments 373A to 373F is to remove the word ‘remedy’ as it is not a term generally used in the mitigation hierarchy and moves subsection 139(4)(b)(i) (increase delivery of outcomes) to a separate subclause to emphasise that making environmental enhancements should not mean that the hierarchy can be disapplied.

20. It is UK Government’s view that these minor changes to the wording of the clause will ensure that the mitigation hierarchy set out in the Bill is consistent with the hierarchy as is generally understood, as well as the

precautionary principle, the prevention principle, and the principle of rectification at source.

Welsh Government position on the Bill as amended

21. The Welsh Government acknowledges the above amendments laid by the UK Government for consideration during Lords Committee stage. It also notes that the amendments are yet to be agreed.

22. In line with our position to date as set out in the LCM and revised LCM, I recommend withholding consent for the provisions relating to EOR. I maintain my line that if regulation making powers were reflective of devolved interests in relation to EOR, we would re-consider our position. Negotiations in relation to the EOR provisions remain ongoing.

Financial implications

23. There are no financial implications for Wales in relation to the amendments. The financial impact of the Bill as affects Wales is summarised in the LCMs laid on 28 September and 25 November.

Conclusion

24. I continue to recommend that the Senedd withholds consent for the provisions relating for clause 139 along with the remainder of Part 6 on EOR.

Julie James MS
Minister for Climate Change
27 April 2023