

The Welsh Government's Legislative Consent Memoranda on the Illegal Migration Bill

June 2023



1. Background

The UK Government's Illegal Migration Bill

1. The Illegal Migration Bill¹ (the Bill) was introduced into the House of Commons and had its first reading on 7 March 2023. It is sponsored by the Home Office.

2. The Explanatory Notes to the Bill state:

“The purpose of the Bill is to create a scheme whereby anyone arriving illegally in the United Kingdom (“UK”) will be promptly removed to their home country or to a safe third country to have any asylum claim processed. The Bill will build on the Nationality and Borders Act 2022 (“the 2022 Act”), and the measures set out in the New Plan for Immigration, as part of a wider strategy to tackle illegal migration. The purpose of the Bill is to:

- deter illegal entry into the UK;*
- break the business model of the people smugglers and save lives;*
- promptly remove those with no legal right to remain in the UK; and*
- make provision for setting an annual cap on the number of people to be admitted to the UK for resettlement through safe and legal asylum routes.”²*

3. The long title to the Bill states that it is to:

“Make provision for and in connection with the removal from the United Kingdom of persons who have entered or arrived in breach of immigration control; to make provision about detention for immigration purposes; to make provision about unaccompanied children; to make provision about victims of slavery or human trafficking; to make provision about leave to

¹ [Illegal Migration Bill](#), as introduced (Bill 262)

² [Illegal Migration Bill, Explanatory Notes](#), March 2023, paragraph 1

enter or remain in the United Kingdom; to make provision about citizenship; to make provision about the inadmissibility of certain protection and certain human rights claims relating to immigration; to make provision about the maximum number of persons entering the United Kingdom annually using safe and legal routes; and for connected purposes.”³

4. At the time we agreed our report, the Bill was at Committee stage in the House of Lords.

The Welsh Government's Legislative Consent Memorandum

5. Standing Orders 29.1 and 29.2 provide that a legislative consent memorandum is required when a relevant UK Bill makes provision in relation to Wales for any purpose within the legislative competence of the Senedd or which modifies the Senedd's legislative competence.

6. On 31 March 2023, Jane Hutt MS, Minister for Social Justice (the Minister), laid before the Senedd a Legislative Consent Memorandum (the Memorandum) in respect of the Bill.⁴

7. The Business Committee agreed that the Legislation, Justice and Constitution Committee, the Equality and Social Justice Committee, and the Local Government and Housing Committee, should report on the Memorandum by 15 June 2023.⁵

Background

8. The Minister states in the Memorandum that:

“In Wales, we treat all unaccompanied asylum-seeking children as looked after children in line with Part 6 of the Social Services and Well-being (Wales) Act 2014. The Act also provides for a range of assessment functions to help Welsh local authorities to consider the care and support needs of children in their area.”⁶

9. As regards the Bill, the Minister also states in the Memorandum that:

³ Illegal Migration Bill, as introduced (Bill 262)

⁴ Welsh Government, [Legislative Consent Memorandum](#), 31 March 2023

⁵ Business Committee, [Timetable for consideration: Legislative Consent Memorandum on the Illegal Migration Bill](#), April 2023

⁶ Memorandum, paragraph 21

“Clause 3 of the Bill provides the Secretary of State with a power (though not a duty) to make arrangements for the removal of unaccompanied children. Clauses 15 to 20 provide the framework to enable the Secretary of State to utilise this power if desired.

Clauses 15-18 require the Secretary of State to provide accommodation for unaccompanied children and enable the Secretary of State to transfer children from local authority care to the Secretary of State (and vice versa), along with duties upon local authorities to provide information and enforcement provisions.”⁷

10. As regards clause 15, which specifically enables the Secretary of State to provide, or arrange, the provision of accommodation for unaccompanied migrant children in England, the Minister notes that:

“There is nothing within the clause which states a time-limit or particular standards of accommodation required.”⁸

11. Clause 19 confers regulation making powers on the Secretary of State to extend the provisions made by clauses 15 to 18 to Wales (and Scotland and Northern Ireland). The Minister notes that any such extension of these clauses to Wales under clause 19 would be “without the consent of Welsh Ministers or Senedd Cymru.”⁹

12. Clause 20 makes consequential amendments to section 69 of the *Immigration Act 2016* (the 2016 Act). This provides the legislative basis for the National Transfer Service (NTS), which was established to enable the safe transfer of unaccompanied children in the UK from one local authority to another local authority.

13. Clause 20 amends the definition of “relevant child” in the 2016 Act to include “an unaccompanied child within the meaning of [the Bill]”. The effect of this, as explained in the Explanatory Notes to the Bill, is that:

“...once the Secretary of State has transferred responsibility for the care of an unaccompanied migrant child to a local authority under the provisions in Clause 16, that authority may

⁷ Memorandum, paragraphs 15 to 16

⁸ Memorandum, paragraph 18

⁹ Memorandum, paragraph 23

subsequently transfer responsibility for the care of that child to another local authority in UK under the powers conferred by section 69 to 72 of the 2016 Act. This means that a child in the scope of the duty to remove can be transferred from one local authority to another under the NTS.”¹⁰

14. The stated policy intention for this clause, as set out in the Explanatory Notes is to allow:

“...the legal framework with respect to the NTS to continue to work effectively when a child is an unaccompanied child but is not considered to be an unaccompanied asylum-seeking child once their claim is deemed to be inadmissible.”¹¹

Provision for which the Senedd's consent is required

15. The Welsh Government's assessment is that the following provisions in the Bill require the Senedd's consent, as set out in paragraphs 27 to 33 of the Memorandum:

- clause 19 (Extension to Wales, Scotland and Northern Ireland);
- clause 20 (Transfer of children between local authorities).

16. The Minister states that:

“The Senedd has legislative competence in relation to social care in Wales including the exercise of Welsh local authority social care functions. The legislative consent of the Senedd is required for the provisions in clauses 19 and 20 because they make provision with regards to devolved matters in so far as they relate to decisions made by devolved Welsh authorities.”¹²

17. Specifically, as regards clause 19, the Minister notes that the legislative competence test is engaged because:

“...clauses 15-18 will have an effect on the function of Welsh local authorities, and any other devolved authority involved in

¹⁰ Illegal Migration Bill, Explanatory Notes, March 2023, paragraph 114

¹¹ Illegal Migration Bill, Explanatory Notes, March 2023, paragraph 116

¹² Memorandum, paragraph 27

*providing care and support to children under the Social Services and Well-Being Wales (Act) 2014.*¹³

18. The Minister also acknowledges that clause 19 has “a reserved immigration purpose.”¹⁴

19. The Minister also states that clauses 19 and 20 are dual purpose and require the legislative consent of the Senedd “due to the impact on the devolved area of social care”.¹⁵

20. In relation to the financial implications of the Bill, the Minister states:

*“The explanatory notes to the Bill do not provide any information about the financial costs imposed by the unaccompanied children clauses. The UK Government has not yet published a full Explanatory Memorandum with a Regulatory Impact Assessment or Equality Impact Assessment. However, in view of the potential for children to be moved in and out of Welsh local authority care (with the mental health impact on children), there could be significant cost burdens imposed for Welsh local authorities and / or Welsh health bodies, by these clauses and regulations made under them.”*¹⁶

21. Annex B of the Explanatory Notes to the Bill details the UK Government's assessment of the territorial extent and application of the Bill in the UK. The UK Government's opinion is that the Bill relates to immigration (including asylum) and nationality, which are reserved matters in Wales. On this basis, the UK Government considers that the Bill does not relate to matters within the legislative competence of Senedd Cymru and does not, therefore, engage the Senedd's legislative consent process.¹⁷

The Welsh Government's position

22. The Minister states that the Bill's provisions “do not recognise the devolved context”¹⁸ and expresses concern about “any UK Government centralising of

¹³ Memorandum, paragraph 28

¹⁴ Memorandum, paragraph 29

¹⁵ Memorandum, paragraphs 30 and 33

¹⁶ Memorandum, paragraph 34

¹⁷ Illegal Migration Bill, Explanatory Notes, March 2023, Annex B

¹⁸ Memorandum, paragraph 23

processes which could diminish existing Welsh national duties and functions in this space.”¹⁹

23. The Minister also states that the *Social Services and Well-being (Wales) Act 2014* (the 2014 Act):

“...brings into Welsh domestic law compliance with the UN Convention on the Rights of the Child. The Welsh Government has included a commitment in the Programme for Government to ‘continue to support and uphold the rights of unaccompanied asylum-seeking children and young people.’ We are proud to take a ‘child first, migrant second’ which upholds the best interests, rights and entitlements approach to providing care and support to children in Wales.

The Senedd has already legislated accordingly to ensure these needs are met and we do not agree the UK Government should be able to undermine the Senedd legislative competence by requiring the transfer of unaccompanied children to other accommodation or parts of the UK, irrespective of the care and support needs assessed by local authority social services.”²⁰

24. The Minister concludes:

“...I cannot recommend the Senedd gives its consent to these provisions being included in the Bill because I do not consider that it is appropriate for this provision to be made in relation to Welsh social care in this Bill. In any event, I cannot recommend consent is given as the UK Government has failed to confirm that the Bill is compatible with Convention rights and many leading international organisations are concerned it is incompatible.”²¹

¹⁹ Memorandum, paragraph 24

²⁰ Memorandum, paragraphs 25 to 26

²¹ Memorandum, paragraph 36

The Welsh Government's Supplementary Legislative Consent Memorandum (Memorandum No. 2)

25. On 26 May 2023, the Minister laid a Supplementary Legislative Consent Memorandum (Memorandum No. 2) in respect of the Bill following amendments made to the Bill in the House of Commons.²²

26. The Business Committee agreed that the Legislation, Justice and Constitution Committee, the Children, Young People and Education Committee, and the Equality and Social Justice Committee, should report on Memorandum No. 2 by 19 June 2023.²³

Provision for which the Senedd's consent is required

27. The Welsh Government considers that the following clauses in the Bill as amended and introduced to the House of Lords²⁴ require legislative consent:

- clause 3 (Unaccompanied children and power to provide for exceptions), which confers a regulation-making power on the Secretary of State to modify or disapply any provision in an Act or Measure of the Senedd in connection with specifying additional exceptions to the duty to remove in clause 2 of the Bill;²⁵
- new clause 55 (Decisions relating to a person's age);
- new clause 56 (Age assessments: power to make provision about refusal to consent to scientific methods).²⁶

28. In paragraph 32 of Memorandum No. 2, the Minister sets out the reasons why she considers that consent is now required for clause 3, which was included within the Bill as introduced:

“Under the original drafting of this clause, we considered it to be a reserved matter. This is because asylum and the status and capacity of persons in the United Kingdom who are not British citizens are included in Schedule 7A of the Wales Act 2017. However, the

²² Welsh Government, [Supplementary Legislative Consent Memorandum \(Memorandum Number 2\), Illegal Migration Bill](#), 26 May 2023

²³ Business Committee, [Timetable for consideration: Supplementary Legislative Consent Memorandum \(No. 2\) on the Illegal Migration Bill](#), May 2023

²⁴ [Illegal Migration Bill](#), as brought from the Commons (HL Bill 133)

²⁵ Clause 2 (Duty to make arrangements for removal)

²⁶ Memorandum No. 2, paragraph 31

amendments made to clause 3 provide that the regulation making power conferred on the Secretary of State includes a power to make consequential amendments to any Act or Measure of the Senedd.”²⁷

29. The Minister adds that amendments to clause 3:

“... enable the Secretary of State to disapply provisions in Senedd legislation to align with exemptions made at Westminster by Regulations. Such a power could be used progressively or in a restrictive manner.

Although the purpose of this power may be to ensure persons exempted from removal can access services, it could also be used to ensure persons exempted from removal can only access very basic services. In theory, such a power could be used to prevent the Senedd legislating in areas of devolved competence in relation to persons exempted from the duty to remove in clause 2.

The power to amend Senedd legislation in clause 3 would enable the Secretary of State to change decisions taken by the Senedd in respect of those no longer subject to the duty to remove.”²⁸

30. The Minister acknowledges that clause 3 has a “dual purpose”, but states that legislative consent is required “due to the impact on the ability of the Senedd to legislate on matters within devolved competence”.²⁹

31. New clauses 55 and 56 relate to age assessments for persons arriving in the UK in breach of immigration rules.

32. New clause 55 removes the ability for such persons to appeal an age assessment decision made by a relevant authority (such as an immigration officer or the Secretary of State). The clause also states that a judicial review of the decision does not prevent the exercise of the duty (or power) of removal under the Bill.

33. New clause 56 allows the Secretary of State to make regulations about the effect of someone refusing to give consent for a so-called scientific age

²⁷ Memorandum No. 2, paragraph 32

²⁸ Memorandum No. 2, paragraphs 33 to 35

²⁹ Memorandum No. 2, paragraph 36

assessment. The regulations may allow the Secretary of State to consider a non-consenting individual to be treated as an adult.

34. Referring to both new clause 55 and new clause 56, the Minister states:

“Whilst relating to social care and Welsh local authorities, the removal of the right of appeal applies only to persons who are unaccompanied migrant children. Therefore, this clause also has a dual purpose.

It is our view that while the clause has a dual purpose, due to the impact on the devolved area of social care, the legislative consent of the Senedd is required for this provision.”³⁰

The Welsh Government's position

35. The Minister highlights the connection and potential friction between new clauses 55 and 56 and existing legislation made by the Senedd under the 2014 Act.³¹

36. In particular, the Minister raises concerns about the collective effect of new clauses 55 and 56 on the basis of “the very significant detrimental impacts which could be caused by an incorrect decision being reached”³² in relation to age assessments and because of recent reports which “suggest that around two thirds of initial age assessment decisions are later found to be incorrect.”³³

37. The Minister also repeats her concerns about the financial implications of the Bill³⁴ and her reasons for not recommending consent.³⁵

Reports from committees in the UK Parliament

38. On 19 May 2023, the House of Lords Constitution Committee published its report on the Bill.³⁶ In particular, it noted that the Bill provides “an unusual degree of power to the executive”,³⁷ has provisions that have “significant rule of law implications”³⁸ and has clauses with “serious implications for the liberty of an

³⁰ Memorandum No. 2, paragraphs 41 to 42 and 45 to 46

³¹ Memorandum No. 2, paragraphs 37 to 40 and 43 to 44

³² Memorandum No. 2, paragraph 37 and 43

³³ Memorandum No. 2, paragraph 39

³⁴ Memorandum No. 2, paragraph 47

³⁵ Memorandum No. 2, paragraph 49

³⁶ [House of Lords Constitution Committee, 16th Report of Session 2022–23, Illegal Migration Bill](#), HL Paper 200, 19 May 2023

³⁷ House of Lords Constitution Committee, 16th Report of Session 2022–23, Illegal Migration Bill, HL Paper 200, 19 May 2023, paragraph 10

³⁸ House of Lords Constitution Committee, 16th Report of Session 2022–23, Illegal Migration

individual.”³⁹ It also notes that the "cumulative impact of ouster and partial ouster provisions in the Bill gives rise to very considerable constitutional implications.”⁴⁰

39. The Committee also includes the following narrative on devolution:

“Immigration (including asylum) is a reserved matter in Scotland and Wales and an excepted matter in Northern Ireland.

Clause 19(1) allows the Secretary of State to make regulations enabling clauses 15 to 18 (concerning unaccompanied children) to apply in relation to Wales, Scotland or Northern Ireland. The regulations cannot confer functions on devolved ministers or departments but they can amend, repeal or revoke any enactment including legislation passed or made by the devolved institutions.

Regulations under clause 19(1) are subject to the draft affirmative procedure. The Government states that these regulations “will require detailed input from the devolved administrations. It is considered appropriate for this to be done in secondary legislation once the clauses in respect of England have been approved by Parliament.” It is not clear how the Government will seek such input and whether it will seek the consent of the devolved administrations to these regulations.

Clauses 22 to 24 empower the Secretary of State, in effect, to override legislation passed by the devolved legislatures. Clause 22 disapplies certain modern slavery provisions relating to support in the devolved territories to persons in respect of whom the Secretary of State is under the duty to make removal arrangements in clause 2(1) ...

In our report on the Nationality and Borders Bill we said:

“The Sewel convention does not apply to delegated legislation but it would be constitutionally questionable for Parliament to

Bill, HL Paper 200, 19 May 2023, paragraph 10

³⁹ House of Lords Constitution Committee, 16th Report of Session 2022-23, Illegal Migration Bill, HL Paper 200, 19 May 2023, paragraph 16

⁴⁰ House of Lords Constitution Committee, 16th Report of Session 2022-23, Illegal Migration Bill, HL Paper 200, 19 May 2023, paragraph 27. Paragraph 5 of the report states an ouster clause is a clause that removes judicial review over a decision of an administrative body.

circumvent that convention by legislating in a way that foresees or intends delegated legislation to change devolved legislation in areas of devolved competence.”

And:

“Respect for the principle which underlies the legislative consent process for primary legislation should be applied to the exercise of the [delegated law-making] power ... in relation to enactments contained in, or instruments made under, legislation passed by the devolved legislatures.”

International relations are reserved matters under the devolution legislation but observing and implementing international obligations are devolved. We reiterate our conclusion that it would be constitutionally inappropriate for Parliament to circumvent the Sewel convention by allowing for delegated legislation to alter devolved legislation in areas of devolved competence. We recommend that clause 19(1) and clauses 23-24 are amended so that the power to amend devolved legislation may not be exercised without first seeking the consent of the relevant devolved legislature.

While immigration and asylum are reserved matters, the functions and duties of local authorities in respect of unaccompanied children is a devolved matter. In this regard, the powers under clause 19 relate to, and to some extent overlap with, devolved matters. Clause 20 concerns the transfer of children between local authorities, including those within the devolved nations, and therefore also affects areas of devolved competence.

We recommend that the House seek further information from the Government on the steps it has taken to agree an appropriate approach to the treatment of unaccompanied children across the United Kingdom.”⁴¹

⁴¹ House of Lords Constitution Committee, 16th Report of Session 2022-23, Illegal Migration Bill, HL Paper 200, 19 May 2023, paragraphs 42 to 49

40. On 11 June 2023, the Joint Committee on Human Rights published its report on the Bill and concluded that it “breaches a number of the UK’s international human rights obligations and risks breaching others.”⁴²

2. Committee consideration

41. We considered the Memorandum at our meeting on 9 May 2023⁴³ and Memorandum No. 2 at our meeting on 5 June 2023.⁴⁴

42. We also considered correspondence from the British Red Cross at our meeting on 5 June 2023⁴⁵ and from the Bevan Foundation at our meeting on 12 June 2023.⁴⁶

43. We agreed our report on 12 June 2023.

Our view

44. We note the Minister’s assessment in the Memorandum that clauses 19 and 20 of the Bill require the consent of the Senedd as their purpose relates to social care, which is a devolved matter. We also note the Minister’s assessment in Memorandum No. 2 that new clauses 55 and 56 of the Bill require consent on the same basis, and that clause 3 requires consent “due to the impact on the ability of the Senedd to legislate on matters within devolved competence”.

Conclusion 1. We agree with the Minister’s assessment that clauses 3, 19, 20, and new clauses 55 and 56 of the Bill fall within a purpose within the legislative competence of the Senedd, as described in Standing Order 29, and therefore require the consent of the Senedd.

45. We note that clause 19 of the Bill would permit the extension of clauses 15 to 18 to Wales and that, in doing so, it provides a power under subsection (2) to allow the Secretary of State to amend, repeal or revoke legislation made by the Welsh Ministers or passed by the Senedd, without requiring the consent of either. We do not consider this to be acceptable.

⁴² House of Commons House of Lords, Joint Committee on Human Rights, [Legislative Scrutiny: Illegal Migration Bill](#), Twelfth Report of Session 2022–23, HC 1241, HL Paper 208, 11 June 2023

⁴³ Legislation, Justice and Constitution Committee, [9 May 2023](#)

⁴⁴ Legislation, Justice and Constitution Committee, [5 June 2023](#)

⁴⁵ Legislation, Justice and Constitution Committee, [5 June 2023](#)

⁴⁶ Legislation, Justice and Constitution Committee, [12 June 2023](#)

46. We note the Minister's comments that the UK Government has failed to confirm that the Bill is compatible with Convention rights (meaning the rights contained in the European Convention on Human Rights (ECHR)).⁴⁷ Specifically, we note that a section 19(1)(b) statement was made in respect of this Bill by the Home Secretary under the *Human Rights Act 1998*.⁴⁸ The statement declares that the Home Secretary is "unable to make a statement that ... the provisions of the Illegal Migration Bill are compatible with the Convention rights". Such statements are extremely rare, having only been made three times previously.⁴⁹

47. We also note that subsequently on 11 May 2023 the UK Government stated in its updated overarching factsheet, that it:

"is satisfied that the provisions of the bill are capable of being applied compatibly with the Convention rights."⁵⁰

48. Memorandum No. 2, which was laid on 26 May 2023, does not take into account the UK Government statement referred to in their updated overarching factsheet.

Recommendation 1. The Welsh Government should set out its views on the UK Government's position that provisions of the Bill are capable of being applied compatibly with the Convention rights.

49. We note the Minister's concerns that many leading international organisations have expressed concern about the Bill's compatibility with Convention rights.

50. The Minister has not named the international organisations; however, we are aware of concerns having been expressed by several international organisations, in particular the Council of Europe, and the United Nations. We note the letter from the Council of Europe's Commissioner for Human Rights to the UK Parliament stating that the Bill is incompatible with the UK's international obligations, including the ECHR.⁵¹ We also note the Legal Observations published by the United Nations High Commissioner for Refugees, which set out the Bill's

⁴⁷ The ECHR is a treaty of the international organisation, the Council of Europe, of which the United Kingdom is a **founding member**

⁴⁸ Illegal Migration Bill, (Bill 262), front page

⁴⁹ A. Kavanagh, '[Is the Illegal Migration Act itself illegal? The Meaning and Methods of Section 19 HRA](#)', U.K. Const. L. Blog, 10th March 2023

⁵⁰ Home Office, '[Policy paper, Illegal Migration Bill: overarching factsheet](#)', Updated 11 May 2023 [accessed 9 June 2023]

⁵¹ '[Parliamentarians should uphold the United Kingdom's international obligations when scrutinising the "Illegal Migration Bill"](#)', 27 March 2023

incompatibility with international human rights law, international refugee law and international law on stateless persons, including the ECHR.⁵²

51. With regards to our responsibility for the constitutional impacts of UK-EU affairs, we note that the UK-EU Trade and Cooperation Agreement places the UK and EU under specific duties to comply with human rights obligations and their cooperation under the agreement is contingent on “respect for human rights and fundamental freedoms”. The Universal Declaration of Human Rights and ECHR are specifically listed, as is “the importance of giving effect to the rights and freedoms in that Convention domestically.”⁵³

52. During the course of our scrutiny of the Welsh Government's Legislative Consent Memorandum on the Northern Ireland Protocol Bill,⁵⁴ we concluded that:

“A decision by the Senedd to consent to the Bill could contribute to a breach of international law and would mean the Senedd acting incompatibly with international obligations, which would be in contrast to the spirit of the devolution settlement.”⁵⁵

53. The devolution settlement requires the Welsh Ministers to comply with both international obligations and Convention rights.⁵⁶

54. The Welsh Government's Ministerial Code also places specific duties on Ministers to comply with international law and treaty obligations.⁵⁷

55. The UN Convention on the Rights of the Child is also incorporated into Welsh legislation. The Minister states in Memorandum No. 2 that this was achieved by the 2014 Act.⁵⁸ However, the Convention was originally incorporated by the *Rights of Children and Young Persons (Wales) Measure 2011*.⁵⁹

⁵² UNHCR [Legal Observations on the Illegal Migration Bill](#), 2 May 2023

⁵³ [Trade and Cooperation Agreement between UK and EU](#), Article 524 and Article 763

⁵⁴ Welsh Government, [Legislative Consent Memorandum, Northern Ireland Protocol Bill](#), 29 September 2022

⁵⁵ Legislation, Justice and Constitution Committee, [The Welsh Government's Legislative Consent Memorandum on the Northern Ireland Protocol Bill](#), November 2022, Conclusion 7

⁵⁶ *Government of Wales Act 2006*, sections 81 and 82

⁵⁷ [Ministerial code](#), paragraph 1.3

⁵⁸ Memorandum No, 2, paragraph 30

⁵⁹ *Rights of Children and Young Persons (Wales) Measure 2011*, section 1

56. We note the Welsh Government's commitment in its Programme for Government to "continue to support and uphold the rights of unaccompanied asylum-seeking children and young people."⁶⁰

57. We note the correspondence received from the British Red Cross and Bevan Foundation on the Bill and welcome their engagement with us on the issues raised by the Bill and the Memoranda.

58. We also note the comments of the Constitution Committee of the House of Lords regarding the impact of the Bill on devolution, and the conclusion of the Joint Committee on Human Rights. We draw these matters to the attention of the Senedd.

Conclusion 2. We share the concerns of the Minister, as well as those expressed by bodies referred to in this report, about the compatibility of the Bill with the European Convention on Human Rights.

Conclusion 3. We reiterate our position, that a decision by the Senedd to consent to this Bill could contribute to a breach of international law and would mean the Senedd acting incompatibly with international obligations, which would be in contrast to the spirit of the devolution settlement.

⁶⁰ Memorandum No. 2, paragraph 30