

SUPPLEMENTARY LEGISLATIVE CONSENT MEMORANDUM (MEMORANDUM NO.3)

Environment Bill

1. This legislative consent memorandum 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 for any purpose within, or which modifies, the legislative competence of the Senedd.
2. The Environment Bill (“the Bill”) was introduced in the House of Commons on 30 January 2020. On 26 February 2021 the Bill was made subject to a motion to carry the Bill over into the next UK Parliamentary session which commenced on 11 May 2021. The Bill was reintroduced to the UK Parliament on 26 May 2021, when House of Commons Report Stage and Third Reading concluded. On 20 October the Bill entered ping-pong stage.
3. The Bill as amended at House of Lords Committee stage can be found at: [newbook.book \(parliament.uk\)](http://newbook.book.parliament.uk). The clause references in this memorandum reflect the clause numbering in this version of the Bill unless otherwise specified.

Policy Objectives

4. The UK Government’s stated policy objectives for this Bill are to provide a legal framework for environmental governance and to make provision for specific improvement of the environment, including measures on waste and resource efficiency, air quality and environmental recall, water, nature and biodiversity, and conservation covenants.

Summary of the Bill

5. The Bill is sponsored by the Department for Environment, Food and Rural Affairs (DEFRA).
6. The Bill makes provisions about targets, plans and policies for improving the natural environment; for statements and reports about environmental protection; for the Office for Environmental Protection; about waste and resource efficiency; about air quality; for the recall of products that fail to meet environmental standards; about water; about nature and biodiversity; for conservation covenants; about the regulation of chemicals; and for connected purposes.
7. The clauses with particular relevance to matters within the legislative competence of the Senedd are:
 - Part 1 – Environmental Governance - Clause 21 (Statements about Bills containing new environmental law) and Clause 47 (Meaning of environmental law) in so far as it relates to clause 21.

- Part 3 – Waste and Resource Efficiency – clauses 51 and 52 (Producer Responsibility) and Schedules; clauses 53 – 56 (Resource efficiency), clause 59 (Electronic waste tracking: Great Britain), clause 61 (Hazardous waste England and Wales), clause 64 (Regulations under the Environmental Protection Act 1990), clause 65 (Powers to make charging schemes), clause 67 (Enforcement powers), clause 69 (Littering enforcement), clause 70 (Fixed Penalty notices), clause 71 (Regulation of polluting activities)
- Part 4 – Air quality and Environmental recall – clause 73 (Local air quality management framework), clause 74 (Smoke control areas: amendments of the Clean Air Act 1993)
- Part 5 – Water – clauses 80 and 81 (plans and proposals), clause 86 (Authority’s power to require information), clause 88 (Electronic service of documents), clause 90 (Water quality: powers of Secretary of State), clause 91 (Water quality: powers of Welsh Ministers), clause 94 (Water quality: interpretation), clauses 96 – 98 (Land drainage),
- Part 6 – Nature and Biodiversity – clause 119 (Use of forest risk commodities in commercial activity),
- Part 8 – Miscellaneous and General Provisions – Clause 143 (Amendment of Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) legislation)

Update on position since the publication of the last Legislative Consent Memorandum.

8. Since the laying of the last Supplementary Legislative Consent Memorandum (“Memorandum No 2”) on the Bill on 3 September 2021, the Senedd voted on 28 September to agree consent. Since the Consent Debate, the Welsh Government has sought and the UK Government has agreed an amendment for a purpose within the legislative competence of the Senedd. The proposed amendment relates to clause 56 *Charges for single use plastic items* and schedule 9.

Amendment to Clause 56 – Charges for single use plastic items

9. The Environment Bill, as introduced, included provision to enable charges to be applied to single-use plastic items. This provision applied to England, Wales and Northern Ireland. The clause was included in the Legislative Consent Memorandum laid before the Senedd on 18 June.
10. On 20 October, the UK Government proposed an amendment to Clause 56 to allow for charges to be applied to any single use item, regardless of material, at the point of sale in England. The intention was to extend the current regulation making powers available to the Secretary of State under section 77 and schedule 6 of the Climate Change Act 2008 (CCA 2008) (charging sellers of goods for the supply of single use carrier bags).
11. The single use carrier bag charge is an example of how a levy applied at the point of sale can help drive positive behaviour change and raise awareness of an items’ environmental impact. Due to its success, the Welsh Government has

continued to support the introduction of as broad a charging power as possible, recognising such a legislative tool can help incentivise the shift away from single use items towards more reusable and sustainable alternatives. This is why our Circular Economy Strategy, *Beyond Recycling*, includes a commitment to phase out unnecessary single-use items. This includes a key action to develop options for a tax or charge on disposable plastic cups and food containers in Wales.

12. The Secretary of State for Environment, Food and Rural Affairs has agreed to my request to introduce an amendment, within the current legislative process, to clause 56 of and Schedule 9 to the Environment Bill in respect of powers to charge for single use items, regardless of material. The amendment will ensure Welsh Ministers will have the same powers as the Secretary of State, to charge for all single use items.
13. Clause 56 confers powers on the relevant national authority to make regulations about charges for single use items. Such regulations are subject to the affirmative procedure within the Senedd where they are the first set of such regulations made by the Welsh Ministers, where the regulations contain provision about charging for a new item, where the regulations contain provisions imposing or providing for the imposition of new civil sanctions, or where the regulations increase the maximum amount of a monetary penalty or change the basis on which it is to be determined. Otherwise such regulations would be subject to the negative procedure.
14. As this clause makes provision for waste and environmental protection, a purpose within the legislative competence of the Senedd, it is the Welsh Government's view that consent is required. The clause would be *relevant provision* for the purposes of Standing Order 29.1.

Financial Implications

15. There are no additional financial implications for the Welsh Government or the Senedd as a result of taking these amendments to the bill.

Conclusion

16. I am content to endorse the proposed amendments to the UK Environment Bill.
17. The Legislative Consent Memorandum (Memorandum No. 1) outlined the Welsh Government's view that the Bill is an appropriate vehicle to take forward initiatives requiring a joined up approach. The amendments to the provisions highlighted above are an extension of the provisions already agreed by the Senedd and provide a legislative vehicle to allow the Welsh Government to progress policy on phasing out the use of single use items as stipulated in *Beyond Recycling*. The Welsh Government's view is the provisions remain relevant provision for the purposes of SO29 and require the legislative consent of the Senedd.

Julie James MS
Minister for Climate Change
28 October 2021