

SUPPLEMENTARY LEGISLATIVE CONSENT MEMORANDUM (MEMORANDUM NO. 6)

The Water (Special Measures Bill)

1. This Legislative Consent Memorandum (LCM) 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 that has regard to devolved matters.
2. The Water (Special Measures) Bill (“the Bill”) was introduced in the UK Parliament, the House of Lords on 4 September 2024. I laid an LCM on 18 September 2024 and Supplementary LCMs on 4 and 27 November, 4 December 2024 and, 10 January 2025.
3. The latest version of the Bill can be found at [Water \(Special Measures\) Bill \[HL\]](#).

Policy Objective(s)

4. The UK government introduced the Water (Special Measures) Bill to strengthen the powers of the regulator and address water pollution issues. The Bill was announced in the King’s Speech on 17 July and reflects the Labour Government’s manifesto commitment on cleaning up our waterways. The Bill is a response to the perceived widespread failures by the water sector in addressing pollution caused by sewage discharges and aging infrastructure. I have agreed that the provisions which relate to the regulation of the water industry should apply to Wales.

Summary of the Bill

5. The Bill is sponsored by the Department for the Environment, Food and Rural Affairs. The key provisions of the Bill cover measures which designed to strengthen the powers of water industry regulators, including Ofwat, Natural Resources Wales (NRW) and the Drinking Water Inspectorate (DWI). The changes implemented by the Bill are made by a combination of freestanding provisions and amendments to the Water Industry Act 1991 and the Water Resources Act 1991, which between them comprise a significant proportion of the existing legislation in respect of water.
6. I agreed, in principle, to extend the provision to Wales and sought powers equivalent to those of the Secretary of State for the Welsh Ministers through the Bill.

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

7. Regular engagement between the UK and the Welsh Government has been continuing throughout the Parliamentary passage of the Bill.
8. The UK Government has tabled further technical amendments at Commons Report stage to Clauses 10 (Charges in respect of Environment Agency and NRW functions) and 15 (Extent, commencement, transitional provision and short title). This SLCM addresses these UK Government amendments.

Provisions tabled by the UK Government for consideration at House of Commons Report Stage for which consent is required

9. Amendment Gov 4 affects Clause 10 (page 15, leaving out lines 6 and 7 and inserting— “(a) sections 205A and 205B of the Water Industry Act 1991 (pollution incident reduction plans and implementation reports). This amendment updates clause 10 to reflect amendments made to Clause 2 in the House of Lords. This will ensure that the cost recovery powers for NRW under this Clause also cover enforcement of the new implementation reports and plans entirely or mainly in Wales in relation to pollution incident reduction plans.
10. Amendment Gov 5 affects Clause 15, in relation to the commencement of Clause 1 on Rules about remuneration and governance. This amendment brings Clause 1 into force on Royal Assent.
11. Amendments Gov 6 and Gov 7 are consequential to the above amendment.

Welsh and UK Government views on the need for consent

12. The UK Government amendments do not change my view of the requirement for consent for those clauses they amend. This is due to those clauses relating to a devolved matter, namely the water industry.
13. The UK’s Government’s view is that amendments to Clauses 10 and 15 require legislative consent from the Senedd. I agree with this assessment.

Reasons for making these provisions for Wales in the Water (Special Measures) Bill

14. The reasoning set out in the previous LCM on this Bill as to why it is appropriate for UK legislation to make provision for Wales in this Bill still stands.
15. The Bill will bring positive changes and support our overall aim to reduce water pollution in Wales. The Bill legislates on a range of issues and policy matters on which the UK Government and Welsh Government

share clear aims and objectives.

16. In response to the report of the Legislation, Justice and Constitution Committee, this LCM replaces the reference to 'water as an inherently cross-border issue' in previous LCMs. It is the case that some of our iconic rivers, such as the Severn, the Dee and the Wye, cross national borders. What happens upstream in England impacts downstream in Wales and vice versa and so cooperation is key. In addition, regulators such as Ofwat, the DWI and the Consumer Council for Water the organisation which champions the interests of consumers, operate with both Wales and England remits. A coordinated approach across is essential to ensure regulatory consistency. Some elements of the Bill relate to reserved matters and therefore any legislation brought forward by the Senedd would not be as comprehensive as the current proposals.

Financial implications

17. The amendments do not introduce any additional financial obligations for the Welsh Government.

Conclusion

18. In my view it is appropriate to deal with these amendments to this UK Bill via a Legislative Consent Memorandum as the Bill's aims are wholly in line with Welsh Government policy, the matter requires collaboration and coordination between our two Governments. Therefore, I recommend that the Senedd supports the proposals and gives its consent.

Huw Irranca-Davies MS

Deputy First Minister and Cabinet Secretary for Climate Change and Rural Affairs

January 2025