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Y Gweinidog Cyllid a Busnes y Llywodraeth
Minister for Finance and Government Business



Llywodraeth Cymru
Welsh Government

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Jane Rosemary

Her Majesty the Queen announced the UK Government's legislative programme for 2015–2016 in Her Speech to both Houses of Parliament on 27 May. I am writing to inform you of the anticipated implications of the proposed legislative programme for business in the National Assembly for Wales.

In writing to you I am fulfilling the Welsh Government's commitment given in our response to the Constitutional and Legislative Affairs Committee's report "Inquiry into powers granted to Welsh Ministers in UK Laws 2012".

The Welsh Government strives to identify and protect Welsh interests in UK legislation. We will be liaising with the UK Government to ensure to the best of our ability Parliamentary legislation takes account of Welsh interests, and adheres to Devolution Guidance Notes and Memorandum of Understanding requirements.

In general, the Welsh Government believes primary legislation in devolved areas should normally be enacted by the Assembly. However, occasionally, there is a case for legislating for Wales in an area of devolved legislative competence through a UK Parliamentary Bill.

The Welsh Government considers all such cases, and any UK Government proposals which appear to modify the Assembly's legislative competence, very carefully before coming to a view as to whether to support the inclusion of provision for Wales in the UK Bill. For Bills where the Welsh Government decides to support inclusion of the provision, the Assembly's consent to the UK Parliament legislating on these issues for Wales is sought by means of a Legislative Consent Motion (LCM) tabled before the Assembly, in accordance with Standing Orders.

The Queen's Speech announced 24 new bills and 2 draft bills which the UK Government intends to take forward in the First Session of Parliament. A proposal for a British Bill of Rights to replace the Human Rights Act was also announced, but no further details were provided. Some of these Bills have now been introduced, whereas others will be at different stages of development. This means our knowledge of the proposed provisions varies from bill to bill; and our engagement with the UK Government on individual bills varies, depending on the extent to which provisions on those bills fall within devolved areas of competence or raise cross-border issues. Further, where bills have not yet been published, we are constrained in what we can say at this stage because of the confidentiality of inter-governmental relations.

Having said that, I am able to share with you our initial assessment of the UK Government's legislative proposals. Our initial assessment indicates that there are one bill and two possible draft bills which are likely to require a Legislative Consent Motion, once the bills have been introduced in Parliament, either because they make provision within the Assembly's competence or modify the Assembly's legislative competence.

Proposals to repeal the Human Rights Act and establish a Bill of Rights (consultation and possible draft bill)

A number of the bills in the UK Government's programme are highly significant in terms of the constitution of Wales and of the UK more widely. The European Union Referendum Bill, and possible repeal of the Human Rights Act and proposals for a British Bill of Rights, could have profound and far-reaching effects for Wales. The Welsh Government will be closely following the progress of these proposals. In our view, any proposal to repeal the Human Rights Act and replace it with a British Bill of Rights would be likely to require the consent of the Assembly by means of a Legislative Consent Motion. However, it is not yet clear what proposals the UK Government will bring forward in this respect.

Draft Wales Bill

We expect this to be published in draft for pre-legislative scrutiny. An LCM will be required when the Bill has been introduced, as we expect it will modify the Assembly's legislative competence by changing the model of devolution to a reserved powers model, and devolving further legislative powers to the Assembly. We also expect executive powers to be transferred to Welsh Ministers, which would require the consent of Welsh Ministers and require a written statement to be laid before the Assembly under Standing Order 30.

Enterprise Bill

The UK Government has said its objective for this bill is to cement the UK's position as the best place in Europe to start and grow a business, by cutting red tape and making it easier for small businesses to resolve disputes quickly and easily. This is a wide-ranging bill and we expect that an LCM will be required for some aspects of it.

The need for consent for all the proposed bills will be kept under review and may change once we have been able to scrutinise the texts of individual bills, and as the details of further bills are finalised.

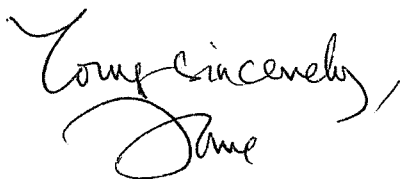
In the case of draft Bills, the Assembly will of course have the opportunity to consider their provisions in detail during the pre-legislative scrutiny period, and provide input on the content of provisions affecting Wales prior to each bill's introduction.

Timing

The Welsh Government will table any necessary LCMs as soon as possible in order for them to be scrutinised appropriately, prior to the National Assembly determining whether to give consent. All consent issues should ideally be considered by the time the Bill has reached its final amending stage in the first House of introduction. However, there are always instances where amendments to bills are laid late in the Parliamentary process, and in those circumstances we will try to ensure any amendments with consent implications for the Assembly are brought to the Assembly's attention as soon as practicably possible. Furthermore, in the specific case of the Wales Bill, it is possible that it will only be introduced into Parliament shortly before the Assembly is dissolved ahead of the 2016 elections, and in that eventuality it will be for consideration at that time exactly how we should manage the LCM process in respect of the Bill.

As the detailed content of the UK Government's proposed bills becomes clear, it is likely we will identify additional areas where there are proposals to legislate for Wales in devolved areas of competence, and where the Welsh Government will decide whether to support the inclusion of those provisions and promote an LCM before the Assembly. There may be further Bills introduced, including Private Members Bills which may require LCMs. Any additional proposals of this kind, together with relevant amendments to the UK Government Bills, will be drawn to the attention of the National Assembly as they arise.

I will continue to provide the Business Committee with regular updates on UK legislation as it affects Assembly Business as the new Parliamentary session proceeds.

A handwritten signature in black ink, appearing to read 'Jane Hutt', with a stylized flourish at the end.

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