

Jane Hutt AC / AM
Y Gweinidog Cyllid ac Arweinydd y Ty
Minister for Finance and Leader of the House



Llywodraeth Cymru
Welsh Government

Eich cyf/Your ref
Ein cyf/Our ref MB/JH/2117/12

Rosemary Butler AM,
Presiding Officer,
National Assembly for Wales,
Cardiff Bay
Cardiff
CF99 1NA

17 May 2012

Dear Rosemary,

Queen's Speech 2012

As you will be aware, the Queen announced the UK Government's legislative programme for 2012 – 2013 in Her Speech to both Houses of Parliament on 9 May. I am writing to advise you of the anticipated implications of the proposed legislative programme for business in the National Assembly for Wales.

The Welsh Government recently confirmed, in its response to the Constitutional and Legislative Affairs Committee's report on its inquiry into powers granted to Welsh Ministers in UK laws, that it would be happy to adopt the practice of writing to the Presiding Officer, following a Queen's Speech, regarding the content of the UK Government's new legislative programme and its implications for the Assembly. This is, therefore, the first letter honouring this commitment.

The Legislative Programme announced by Her Majesty on 9 May is for the Second Session of the UK Coalition Government's term, due to last for approximately 11 months. This is considerably shorter than the Government's First Session, which lasted almost 2 years.

We will be liaising with the UK Government to ensure that decisions on legislation made at Westminster take account of Welsh interests, and that the Devolution Guidance Notes and Memorandum of Understanding requirements are adhered to. The UK Government has agreed that it will not normally take forward legislation in relation to Wales on subjects where the Assembly has legislative competence without the consent of the National Assembly for Wales. This is an important principle, and has quickly become established as an important convention underpinning our devolution settlement, and according the Assembly proper respect as a fully fledged legislature which has the democratic mandate of the people of Wales.

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CF99 1NA

Wedi'i argraffu ar bapur wedi'i ailgylchu (100%)

English Enquiry Line 0845 010 3300
Llinell Ymholiadau Cymraeg 0845 010 4400
Correspondence: Jane.Hutt@wales.gsi.gov.uk
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In general, the Welsh Government takes the view that primary legislation in devolved areas should be enacted by the Assembly. However, as the First Minister's written evidence to the Constitutional and Legislative Affairs Committee's recent inquiry made clear, there are circumstances in which it is sensible and advantageous to make provision for Wales, which would otherwise be within the Assembly's competence, in UK Parliamentary Bills. In such cases, the Assembly's consent to the UK Parliament legislating on these issues for Wales is sought by means of a Legislative Consent Motion laid before the Assembly, in accordance with Standing Orders.

In the Queen's Speech, it was announced that the UK Government intends to take forward 15 Bills and 4 Draft Bills in the Second Session of Parliament. A number of the Bills will apply and have effect in Wales in non-devolved areas of policy, where the Assembly's consent is not required – for example, the European Union (Approval of Treaty Amendment Decision) Bill which has recently been introduced in Parliament. However, some will make provision relating to Wales which is within the Assembly's competence, giving rise to the need for Legislative Consent Motions to be laid in the Assembly. Between four and eight Bills seem likely to contain such provisions, although the need for consent will be kept under review and may change once we have been able to scrutinise the texts of individual Bills.

The following Bills have currently been assessed as likely to contain provisions for Wales which may require the consent of the Assembly. 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.

Energy Bill

The UK Government has announced that this Bill would provide for reform of the electricity market to enable large-scale investment in low-carbon generation capacity in the UK and deliver security of supply. While generation, transmission, distribution and supply of electricity are not devolved in Wales, aspects of environmental protection policy are devolved and therefore it is possible that related measures within this Bill will require a Legislative Consent Motion.

Draft Water Bill

The UK Government has said that this draft Bill would implement a package of water and sewerage market reforms, and improve Ofwat's ability to regulate water companies as competition develops in the market. It is likely that a Legislative Consent Motion will be required for all proposals within the draft Water Bill because of the way the water and sewerage industry operates across Wales and England.

Enterprise and Regulatory Reform Bill

The UK Government has announced that this Bill would aim to create the right conditions for economic recovery by strengthening the business environment, reducing regulatory burdens and improving business and consumer advice. Some of the repeals of unnecessary legislation, and other possible proposals in the Bill, may give rise to the need for a LCM.

Children and Families Bill

The UK Government has said that the purpose of this Bill is to break down barriers stopping parents and carers getting the support they need – making it easier for parents to share caring responsibilities; giving families more choice and control over specialist special educational needs care; and supporting the most vulnerable children, including those in care or whose parents have separated. The Bill contains a mixture of devolved and non-devolved policy provisions. Most of the provisions in areas devolved to Wales, such as in relation to Special Educational Needs, will apply in England only. The UK Government has

indicated it will discuss with Welsh Ministers whether provisions relating to adoption should apply in Wales as well. The Welsh Government has its own agenda for adoption reform, which we intend to take forward through our own Social Services legislation. However, we will also need to consider the implications of any overlap between this UK Bill and the Welsh Government's proposed Social Services legislation, particularly in relation to cross-border issues relating to adoption. This Bill may therefore give rise to the need for a LCM.

Draft Care and Support Bill

The purpose of this draft Bill would be to set out what support people in England could expect from the UK Government and what action the UK Government would take to help them plan, prepare and make informed choices about their care. The aim would be to provide greater clarity and access to care and support. While the Bill applies to England only, we would need to consider the cross-border aspects, in terms of care being provided on either side of the Wales-England border to people living or travelling from the other side of the border. Again, there is the potential for overlap between the provisions of this draft UK Bill and the Welsh Government's proposed Social Services legislation, specifically in relation to cross-border arrangements.

Once each Bill has been introduced into the UK Parliament, we will give it full consideration and the Welsh Government will table any necessary LCMs in order that they can 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 inevitably instances where amendments to Bills are laid late in the Parliamentary process, and in those circumstances we will endeavour to ensure that any amendments with consent implications for the Assembly are brought to the Assembly's attention as soon as practicably possible.

It is likely that, as the detailed content of the UK Government's proposed Bills becomes clear, we will identify additional opportunities to legislate for Wales, or provisions which fall wholly or partly within the competence of the Assembly and which therefore require the consent of the Assembly. The Welsh Government will work closely with the UK Government to evaluate such opportunities. 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.

Bert Hutt,
Jane

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