

The Lord Gardiner of Kimble  
Chair, Procedure and Privileges Committee  
House of Lords

13 December 2023

Dear Lord Gardiner

## House of Lords procedures in respect of the laying of Welsh language statutory instruments

I am writing regarding a long-standing issue which my Committee has recently decided to consider in detail, and would be grateful if you could help inform our consideration.

You will be aware that some types of statutory instruments – including joint statutory instruments and Orders in Council – are required to be laid for scrutiny in more than one legislature.

My Committee, and its predecessors, have been told by the Welsh Government that a Welsh and English language version of such a statutory instrument cannot be laid in both the Senedd and the UK Parliament. The Welsh Government's reasoning is that no routine parliamentary processes exist by which to lay bilingual instruments before the UK Parliament, and that the UK Parliament will not scrutinise general statutory instruments in languages other than English.

However, in October 2018 the then Chair of the House of Commons Procedure Committee told the then Chair of the Constitutional and Legislative Affairs ("CLA") Committee as follows:

*"House of Commons officials have considered the matter in detail and advise me that there is no bar in the standing orders, resolutions or practice of the House to prohibit the laying of general statutory instruments before the House in a bilingual form. Whether there is a statutory requirement to lay material before the House in both languages, or where the Welsh is required in part of the material, it seems odd to assert, as the Welsh Government seems to, that the House of Commons will*



*not scrutinise such material: the principal purpose of requiring such material to be laid is surely to allow it to be examined by parliamentarians as well as to make it available to the general public."*

The Chair of the CLA Committee drew this statement to the attention of the then First Minister, Carwyn Jones AM. The First Minister made the following observations **in response**:

*"There is an important distinction to make between two types of legislation:*

*1. Legislation which consists of two distinct texts in English and Welsh, where both texts have equal status in law.*

*2. Legislation that consists of a single English text, but within which provisions contain amendments to texts of legislation in the first category above; i.e. to an instrument, Act or Measure which has both English and Welsh versions, and thus contains some Welsh language text.*

*Both categories have been described by some as "bilingual" however, the Welsh Government considers only the first category to be bilingual. I believe the National Assembly shares this view [...]*

*However, we have always understood it was not possible to lay a statutory instrument before Parliament when the primary language was not English – i.e. it would not be possible to lay the Welsh version of a bilingual statutory instrument. Thus, if a joint or composite statutory instrument was drafted bilingually, the Welsh text could not be laid and would not then be scrutinised. [...]*

*Mr Walker's letter refers to the possibility of laying bilingual legislation in the Houses of Commons, however it is not clear what definition of "bilingual" is being applied or the status that would be accorded to the document."*

It is of profound importance to my Committee that legislation which includes provision in devolved areas, and especially legislation made by the Welsh Ministers for scrutiny in the Senedd, is accessible to both parliamentarians and future users of the legislation in both Welsh and English.

Therefore, in light of the above comments, I would be grateful if you could share your understanding of whether any procedural barriers exist which prevent the laying of statutory instruments before the House which take the form of two distinct texts in English and Welsh, where both texts have equal status in law. If such barriers do exist, I would also be grateful to receive your observations on how such barriers may be overcome.

I have written in similar terms to the Chair of the House of Commons Procedure Committee. I have also written on this matter to the Chair of the Secondary Legislation Scrutiny Committee and the Chair of the Joint Committee on Statutory Instruments.

Yours sincerely,

*Huw Irranca-Davies*

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Chair

