

Cynulliad Cenedlaethol Cymru / National Assembly for Wales
Y Pwyllgor Materion Allanol a Deddfwriaeth Ychwanegol / The External
Affairs and Additional Legislation Committee
Bil y Diddymu Mawr / The Great Repeal Bill
EAAL(5) GRB 03
Ymateb gan Cymdeithas Ddysgedig Cymru / Evidence from The Learned
Society of Wales

The [Learned Society of Wales](#) (LSW) is an independent, all-Wales, self-governing, pan-discipline educational charity that was established back in 2010. As Wales's first National Academy of science and letters, the Learned Society of Wales, like similar societies in Ireland and Scotland, brings together the most successful and talented Fellows connected with Wales, for the shared purpose and common good of advancing and promoting excellence in all scholarly discipline across Wales.

1. The Learned Society of Wales welcomes this opportunity to submit comments on the Great Repeal Bill. In doing so, we note the growing participation of Welsh civic society in public debates, and the Society itself is an exemplar of this encouraging and positive trend in Welsh civic life.
2. The need to maintain clarity and stability of law in the United Kingdom after Brexit is both necessary and to be supported. Departure from the European Union requires that the European Communities Act (1972) be rescinded as is provided for in the Bill. However the Bill's title is something of a misnomer as it will also provide that thousands of EU regulations and other provisions which currently apply in the United Kingdom by direct effect, will continue to apply rather than lapse with exit.
3. The range of legal provisions is wide and complex, and covers many areas which have been devolved within the United Kingdom. For EU directives implementation into UK law is the responsibility of the legislature which has competence. In agriculture for example, transcribing EU directives into law within the UK can be the responsibility of up to four legislatures. The provisions of the various Government of Wales Acts therefore raise the question of which legislature should act to implement into the law of Wales existing EU provisions which fall within competences which have been transferred to Wales, and if Westminster is to act, under what conditions.
4. Because of the sheer number of EU decisions involved, individual scrutiny is a particular challenge. The Learned Society notes that HMG proposes

extensive use of delegated powers, which can also permit the amendment of existing primary and secondary legislation. Granting these powers to HMG, or indeed to Welsh Ministers, flies in the face of the argument that Brexit would bring back democratic control of law making in the UK. The Bill raises serious doubts about the opportunity and capacity of legislatures in the UK to exert appropriate scrutiny.

5. This process of delegation may also apply to the need to amend provisions in successive Government of Wales Acts. The Society believes that any changes in the Acts or in competences transferred to Wales should be made by primary legislation after consultation of the National Assembly.
6. HMG has argued that after leaving the EU, it expects increased decision making powers for the devolved administrations. It will follow that, for example in agriculture, the National Assembly will be free to legislate within its competences without a requirement to implement EU policies or to comply with the EU Treaties. But the extent of Wales' competence in agriculture will be unaffected by exit and will continue to be determined by the provisions of the Government of Wales Acts. Professor Thomas Watkin has pointed out that implementation will inevitably increase the body of law which applies in Wales but not in England, thus increasing the differences between the law which applies in Wales and that which applies in England. This will increase the case for a distinct jurisdictional arrangement for Wales.
7. The EU Single Market delivers free movement between and indeed within 28 countries. After exit securing free movement e.g. of animals between the nations of the United Kingdom will require a consistency of law for animal health. This can be achieved either through an Act of Westminster applying throughout the UK, or through mutually compatible arrangements put in place by the different legislatures. This illustrates the overwhelming need to ensure the closest cooperation and consultation between the governments in Belfast, Cardiff, Edinburgh and London in agreeing post Brexit arrangements.
8. The Prime Minister has promised that no decisions by devolved administrations will be changed and that there will be the fullest cooperation. The Learned Society of Wales agree. Failure to consult with the devolved administrations and work through the detail of the Great Repeal Bill would not only undermine its objectives, but would risk raising major constitutional issues.