

STATEMENT BY THE WELSH GOVERNMENT

TITLE Consultation on the Draft Legislation (Wales) Bill

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A little over a year ago my predecessor as Counsel General announced that the Government was beginning a ground breaking process to create Codes of Welsh Law. This was the start of a long journey, and it is with great pleasure that I can now announce plans to embark upon an ambitious new leg to that journey.

Today I am launching a public consultation on the Draft Legislation (Wales) Bill. This Bill will impose obligations on the Welsh Ministers and the Counsel General to make Welsh laws more accessible, and also makes bespoke provision about the interpretation of Welsh legislation.

One of our most fundamental roles as a government is to protect the rule of law, and to do so we must ensure that devolved law is accessible and understandable.

We recognise that a clear, certain and accessible statute book is an economic asset. It gives those who wish to do business a more stable and settled legal framework. This in turn should help investment and growth. Public sector bodies and other organisations will more easily understand the legal context within which they need operate. Policy makers within government will have a clearer basis from which to develop new ideas. Legislators will find scrutiny of laws easier. And it would make an enormous difference to those of us who may wish to use the law in Welsh.

But this is first and foremost a question of social justice.

Making the law accessible is vital to enable citizens to understand their rights and responsibilities under the law – something that has become increasingly important since repeated cuts have been made to legal aid and to other services designed to advise those in need of assistance or representation.

We are the custodians of the Welsh “statute book”, made up not only of the laws made by this Assembly and the Welsh Ministers, but also those pre-devolution laws we have inherited. That element of the statute book, in particular, is not in a good state. In recent decades legislation has been allowed to proliferate without pausing to fully rationalise and integrate what is new with what had gone before.

The statute book of thousands of Acts and Statutory Instruments has long been difficult to navigate. But Welsh legislation is even more inaccessible due to our highly complex system of devolution and the absence – because of the single England and Wales legal jurisdiction – of a formal body of distinct Welsh law. It is difficult for the people of Wales to know what the law means and to understand who is responsible for what – which undermines democratic accountability.

This Government is committed to a systemic, ongoing and comprehensive consolidation of legislation within our competence, and the organisation of that law into subject specific Codes. While this will be ground breaking in the UK, at least in modern times, we would be following similar precedents set across the common law world. Jurisdictions in Australia and Canada, for example, have routinely consolidated their legislation since the beginning of the 20th century after inheriting laws of the UK Parliament in not dissimilar circumstances. And the United States went a step further and created a code of law in 1926 that has been maintained ever since.

But we need not only look afar for examples of good practice. The laws of Hywel Dda were organised in codes and the lawyers of the day had access to these laws in one book. So codification is an important part of our legal tradition. Our task now is to make sure it is a part of our legal future. We in Wales have done this before, and I am determined that we will do it again.

Our vision for making the Welsh law more accessible is not confined to rationalising legislation. A well-ordered and clearly drafted statute book must also be effectively published and supplementary material is often needed to set out context and fully explain the practical effect of the law. For this reason further improvements to the legislation.gov.uk website operated by The National Archives and to the “Cyfraith Cymru - Law Wales” website are intended to form part of the programme.

Making bespoke, bilingual provision about how our legislation should be interpreted is also part of our wider ambition to make Welsh law more accessible. An Interpretation Act was first enacted by the UK Parliament in 1850 and this practice has since been replicated in common law jurisdictions across the world, including in Scotland and Northern Ireland.

To date Wales has not had its own Interpretation Act, rather we rely on legislation enacted by the UK Parliament in 1978 and later modified in an attempt to take the existence of Welsh legislation into account. In light of our rapidly developing body of Welsh legislation, I believe it is now time to correct that anomaly and develop our own specific provisions for Wales.

I believe, therefore, as a matter of principle that our legislation should be accompanied by its own provisions on how it should be interpreted. Further, the 1978 Act is now 40 years old and in need of modernisation – which we are taking the opportunity to do in our Bill. Importantly the existing arrangements do not properly take into account the bilingual nature of our legislation, and the equal status of the Welsh and English language texts. The 1978 Act was of course made in English only and defines terms in Welsh legislation in the English language only. This must be

remedied, something I know that was of concern to the Constitutional and Legislative Affairs Committee of the Fourth Assembly and to the Law Commission.

I am sure you will join me in marking this important milestone in the development of devolved government in Wales. The Draft Bill is designed to help make Welsh law fit for the future and will, I'm sure, become a foundation stone for the emerging Welsh legal jurisdiction. It is a Draft Bill both of constitutional significance and practical importance to the people of Wales.

I invite Members to consider not only the Draft Bill that is published today but also the vision for the future that underpins it. And I encourage all interested parties from across Wales and further afield to help shape a Bill that will improve the way Welsh law works and, most fundamentally, will help all those affected by the law to find it and understand it.