



Llywodraeth Cymru
Welsh Government

Statute Law (Repeals) (Wales) Bill

CONSULTATION DOCUMENT



Date of issue:
7 October 2022

Action required:
Responses by 6 January 2023

“And by the common counsel and agreement ... they examined the old laws, and some of them they allowed to continue, others they amended, others they wholly deleted, and others they laid down anew.”

Book of Iorwerth 1240

Overview

The Welsh Government has developed a Statute Law (Repeals) (Wales) Bill and is now consulting upon the draft of the Bill.

How to respond

Please use the questionnaire at the back of this document, or the online form, or write to the Legislative Codes Office (email and address below). We welcome responses on single points in the consultation or on all the matters raised.

Further information and related documents

Large print, Braille and alternative language versions of this document are available on request.

Contact details

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This document is also available in Welsh: <https://llyw.cymru/bil-cyfraith-statud-diddymiadau-cymru>

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The Welsh Government will be data controller for any personal data you provide as part of your response to the consultation. Welsh Ministers have statutory powers they will rely on to process this personal data which will enable them to make informed decisions about how they exercise their public functions. Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about or planning future consultations. Where the Welsh Government undertakes further analysis of consultation responses then this work may be commissioned to be carried out by an accredited third party (e.g. a research organisation or a consultancy company). Any such work will only be undertaken under contract. Welsh Government's standard terms and conditions for such contracts set out strict requirements for the processing and safekeeping of personal data.

In order to show that the consultation was carried out properly, the Welsh Government intends to publish a summary of the responses to this document. We may also publish responses in full. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. If you do not want your name or address published, please tell us this in writing when you send your response. We will then redact them before publishing.

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Data Protection Officer:
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The contact details for the Information
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Wycliffe House
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Contents

Terms and abbreviations used in this consultation	6
Purpose of a Statute Law (Repeals) Bill	10
Purpose of this consultation	10
Proposed content of the Bill	11
Proposals relating to the simplification and modernisation of planning law in Wales....	11
Rural Development Boards.....	12
Enterprise zone areas	14
Housing Action Trusts	16
Local plans and structure plans: transitional arrangements.....	19
Energy policies in development plans.....	20
Offence of removal of soil without consent.....	22
Reorganisation of local government	24
Social services committees	24
Residuary Body for Wales	24
Decentralisation schemes and joint working.....	25
Statements of special educational needs	26
National Park Planning Boards	28
Welsh Development Agency	30
Development Board for Rural Wales	31
Land Authority for Wales	32
Unrecorded public rights of way	33
The Government of Wales Acts of 1998 and 2006.....	35
Miscellaneous amendments relating to the Government of Wales Act 1998	35
Transitional provision in the Government of Wales Act 2006.....	37
Welsh Elections (Coronavirus) Act 2021	40
Other possible matters for inclusion in a Statute Law (Repeals) Bill	41
Proposed next steps.....	41
Consultation response form.....	43

Terms and abbreviations used in this consultation

1953 Act	Agricultural Land (Removal of Surface Soil) Act 1953
1967 Act	Agriculture Act 1967
1972 Act	Local Government Act 1972
1976 Act	Development of Rural Wales Act 1976
1977 Act	National Health Service Act 1977
1979 Act	Industry Act 1979
1980 Act	Local Government, Planning and Land Act 1980
1986 Act	Disabled Persons (Services, Consultation and Representation) Act 1986
1988 Act	Housing Act 1988
TCPA 1990	Town and Country Planning Act 1990
1994 Act	Local Government (Wales) Act 1994
1995 Act	Environment Act 1995
1995 Order	National Park Authorities (Wales) Order 1995 (SI 1995/2803)
1997 Act	Welsh Development Agency Act 1997
GoWA 1998	Government of Wales Act 1998
1999 TFO	The National Assembly for Wales (Transfer of Functions) Order 1999 (SI 1999/672)
2000 Act	Countryside and Rights of Way Act 2000
PCPA 2004	Planning and Compulsory Purchase Act 2004
2005 Order	The Planning and Compulsory Purchase Act 2004 (Commencement No. 6, Transitional Provisions and Savings) Order 2005 (SI 2005/2847)
GoWA 2006	Government of Wales Act 2006
2008 Act	Planning and Energy Act 2008
2014 Act	Social Services and Well-being (Wales) Act 2014
2021 Act	Welsh Elections (Coronavirus) Act 2021

the Bill	The Statute Law (Repeals) (Wales) Bill, the subject of this consultation
commenced, commencement	<p>A provision of legislation does not have effect until it has been commenced; commencement is the process by which, and the point at which, provisions take effect. If legislation has been passed or made but not yet commenced, it is considered ‘not yet in force’.</p> <p>In general use, the terms ‘commencement’, ‘coming into force’, ‘taking effect’, ‘coming into effect’ and ‘coming into operation’ tend to be used interchangeably. This consultation document uses the terms ‘commenced’ and ‘not commenced’</p>
consequential amendment	An amendment that is required as a consequence of other modifications of the law, for instance to ensure that other provisions continue to operate correctly after that modification
Corporate Joint Committees (CJCs)	Introduced through the Local Government and Elections (Wales) Act 2021, CJCs are regional corporate bodies. The Welsh Ministers have made Regulations establishing four CJCs, each comprised of individual local authorities, which, together, cover all of Wales. The four CJCs are responsible for strategic development planning, regional transport planning and promoting the economic well-being of their area
enactment	An Act or a provision of an Act
LDPs	Local Development Plans (see paragraph 44 of the consultation paper)
NDF	National Development Framework for Wales (see paragraph 45 of the consultation paper)
(provision) no longer of practical utility/effect	<p>A provision which, in practice, circumstances have rendered the irrelevant or unnecessary.</p> <p>The Llywydd’s guidance on consolidation Bills¹, explains this could include provisions “<i>which are no longer necessary as legal provision is available elsewhere ... which has an equivalent legal effect.</i>” It can also include “<i>provisions that were never commenced and there is no likelihood that they ever will be commenced in Wales; or if the</i></p>

¹ Senedd Business (2021) *Guidance to support the operation of Standing Order 26C on Consolidation Bills*: Issued by the Llywydd under Standing Order 26C.3 following consultation with the Business Committee (see paragraph 9) [available at: [Guidance to support the operation of Standing Order 26C on Consolidation Bills: Issued by the Llywydd under Standing Order 26C.3 following consultation with the Business Committee \(senedd.wales\)](https://www.senedd.wales/guidance-to-support-the-operation-of-standing-order-26c-on-consolidation-bills-issued-by-the-llywydd-under-standing-order-26c.3-following-consultation-with-the-business-committee)]

	<i>provision was commenced but never used and there is no prospect of the provision being used in Wales; or it was commenced and used, but has not been for a significant period and there is no expectation of future use; or the provision may have been superseded by other Acts, provisions or circumstances”</i>
obsolete (provision)	An obsolete provision is one which is out-of-date. The Llywydd’s guidance on consolidation Bills notes that this could be <i>“because it is about bodies, persons or things which are no longer in existence or use”</i>
repeal	The ending of a law so that it no longer has (or could have) effect
SDPs	Strategic Development Plans (see paragraph 45 of the consultation paper)
spent (provision)	A spent provision is one which applies to a situation which can no longer exist, such as a provision conferring a function which cannot be used again. The Llywydd’s guidance on consolidation Bills gives examples where <i>“the original legislation provided for one action to be taken and this has been done, or the conditions for use can no longer be met”</i>
transitional provisions	Special provisions may be required in relation to matters which straddle the period between one legislative system ending and another beginning. Sometimes the effect of the old law is maintained, sometimes the new law is applied, but in either event modifications may be necessary to achieve the smooth operation of such matters. These are dealt with in legislation referred to as <i>“transitional provisions”</i>
Transfer of Functions order (TFO)	A statutory instrument which transfers functions from one public authority to another (see, in particular, the 1999 TFO - above)
UDPs	Unitary Development Plans (see paragraph 43 of the consultation paper)
Welsh Consolidated Fund	The consolidated fund is the UK Government’s central bank account. The proceeds of taxation and other government receipts are paid into the consolidated fund and used to fund public expenditure. In Wales, the equivalent central bank account is the Welsh Consolidated Fund. All monies received by the Welsh Ministers, First Minister or Counsel General, the Wales Audit Office, the Public Services Ombudsman for Wales and the Senedd

Commission are paid into the Welsh Consolidated Fund and used to fund public services in Wales

WDA

Welsh Development Agency

Purpose of a Statute Law (Repeals) Bill

1. The Welsh Government has a programme to improve the accessibility of Welsh law². This programme seeks to tackle problems with the complexity of the law and the disorganised state of our vast and sprawling statute book. The problems are caused not only by the sheer volume of legislation but also because that legislation has been amended, re-amended and re-made in inconsistent ways over time. Sometimes those changes can result in legislative provisions which are no longer necessary. Provisions can also fall out of use or are never commenced (often because other circumstances have rendered them unnecessary).
2. Removing unnecessary provisions from the statute book can help to “declutter” it and amending provisions so that they no longer apply in relation to Wales helps to bring clarity about what law is relevant to Wales.
3. If the unnecessary provisions are found in Acts (of the UK Parliament or of Senedd Cymru) it is usually the case that further primary legislation is needed to remove them. Rather than wait for a suitable Bill dealing with other changes to that area of the law, a Bill which simply repeals or disapplies legislative provisions from across the statute book can be brought forward. These Bills are typically known as ‘Statute Law (Repeals)’ Bills. Approximately 20 Statute Law (Repeals) Bills have been enacted by the UK Parliament, but none have yet been considered by the Senedd.
4. This type of Bill helps to improve accessibility of Welsh law by modernising and simplifying the law, reducing the size of the statute book and making it easier to navigate. This saves the time of lawyers and other users of legislation, helps to avoid unnecessary costs and stops people being misled by obsolete laws. It is anticipated a Bill such as this will feature in most Welsh Government programmes to improve the accessibility of Welsh law.

Purpose of this consultation

5. The Welsh Government has developed a Statute Law (Repeals) (Wales) Bill and is now consulting on it. The purpose of the consultation is twofold -
 - a. firstly, in relation to the individual proposals in the Bill (see paragraphs 12 to 129 below, we want to know if the repeals are helpful, and whether there are any consequences of repeal that we need to be aware of;
 - b. secondly, we want to know if there are any other provisions we should consider including in this or a future Bill (whether relating to our current proposals or other legislation).
6. Individual questions are asked on the proposals, and all of the questions are listed in the consultation response form at the end of this document. Responses are welcome

² Available at: [The future of Welsh law: accessibility programme 2021 to 2026 | GOV.WALES](#)

on individual proposals, all of the Bill, or any other aspect of repealing provisions on the statute book.

Proposed content of the Bill

7. The proposed repeals and amendments in this Bill have been selected on the basis that they deal with provisions which -
 - a. are obsolete, spent or otherwise no longer of practical utility;
 - b. are unlikely to be commenced, having remained un-commenced for a period of time over which the original context has changed; or
 - c. are otherwise unnecessary (for example, where the end is met by some other means).
8. The proposed repeals and amendments are explained below.

Proposals relating to the simplification and modernisation of planning law in Wales

9. One of the key projects within the Government's programme to improve the accessibility of Welsh law is tackling the complexities and inefficiencies of planning law in Wales. The Government will, in this Senedd term, bring forward a Bill to simplify and modernise planning law in Wales. The need for the Bill is long standing and was clearly demonstrated when the Law Commission's report on *Planning Law in Wales*³ concluded that it is an area of law needing urgent attention. Their report highlighted the detrimental impacts the inaccessibility, quality and complexity of the law are having on the operation of the planning system - findings which have been accepted by the Government.
10. Ahead of a Planning Bill being brought forward, the proposed Statute Law (Repeals) (Wales) Bill will remove certain redundant provisions in existing legislation that relate or connect to planning legislation. This will allow some of the decluttering of the statute book in relation to planning to go ahead earlier than would otherwise happen and will avoid provisions relating to those repeals being included in the Planning Bill. As much as possible we would like the Planning Bill to stand as the substantive statement on planning law in Wales, and provisions that are spent, unnecessary or obsolete will simply add to the length and complexity of that Bill unnecessarily.
11. The draft Statute Law (Repeals) (Wales) Bill therefore repeals provisions relating to:
 - a. Rural Development Boards (see Part 1 of the Schedule to the Bill);
 - b. Enterprise zone areas (see Part 2 of the Schedule to the Bill);

³ Available at: [Planning Law in Wales | Law Commission](#)

- c. Housing action trusts (see Part 3 of the Schedule to the Bill);
- d. Local plans and structure plans (see Part 4 of the Schedule to the Bill);
- e. Energy policies in development plans (see Part 5 of the Schedule to the Bill);
and
- f. Soil removal for development without consent (see Part 6 of the Schedule to the Bill).

Further detail on each of these elements is set out below.

Rural Development Boards

12. The aim of Part 3 of the Agriculture Act 1967 (the 1967 Act) was to promote the better use of hill lands. In their consideration of Part 3 the Law Commission outlined⁴ that this meant:

...in particular, the use of land in such areas for agriculture and forestry, improving public services, and the preservation of amenity and scenery there.

13. Amongst other matters, Part 3 of the 1967 Act provided Ministers with powers to set up Rural Development Boards which could draw up programmes to deal with the “special problems ... of rural areas of hills and uplands, and the special needs of such areas” (section 45(1)). Schedule 5 to the 1967 Act prescribes the mechanism for establishing such a Board and its constitution. The functions of establishing Rural Development Boards in relation to Wales now sit with the Welsh Ministers⁵.

14. No Rural Development Boards have been established in relation to Wales under the 1967 Act. In their consideration of planning law in Wales, the Law Commission explained that⁶:

... only one board was ever set up, in the north of England, in 1969; it was dissolved two years later. A second proposed board, in mid-Wales, was the subject of campaigns by the National Farmers’ Union, which resisted it as a foreign implant from London. It never came into existence.

15. The Law Commission therefore provisionally proposed⁷ the amendment of Part 3 of and Schedule 5 to 1967 Act so that they no longer apply in relation to Wales. This was because they considered the “...possibility of this statutory scheme ever being used in the future seems vanishingly small.”

⁴ Law Commission (2017) *Planning Law in Wales* Consultation Paper Law Com No 233, paragraph 16.90 [available at: [Planning Law in Wales | Law Commission](#)]

⁵ This has taken place through a series of “transfer of functions orders” relating mainly to the devolution settlement for Wales

⁶ Law Commission (2017) *Planning Law in Wales* Consultation Paper Law Com No 233, paragraph 16.91

⁷ Law Commission (2017) *Planning Law in Wales* Consultation Paper Law Com No 233, consultation question 16-12.

16. In their final report, *Planning Law in Wales*, the Law Commission noted that of the 23 consultees who responded to this suggestion, all but one were in agreement. This led to them making Recommendation 16-12:

We recommend the amendment of Part 3 of and Schedule 5 to the Agriculture Act 1967 (rural development boards) and related legislation so that they no longer apply in relation to Wales.

17. The Welsh Government's response to the report⁸ accepted this recommendation, noting at the time:

While we consider other regeneration tools should be retained to support the Welsh Ministers' leadership role in implementing its national strategy, rural development boards are of little relevance given its limited use and opposition received to the only proposed board in Wales.

Along with the stigma attached to such boards, a rural development board may use powers which could be deemed to be imposed on such areas. This conflicts with the supporting role advocated by Prosperity for All: the national strategy to address the special issues rural areas face.

18. The original aim of the 1967 Act overall was to support farming and the use of agricultural land. This remains an important priority for the Welsh Government, and in *Sustainable Farming and our Land*⁹ and the *Agriculture (Wales) White Paper*¹⁰ the Government set out how the principles of Sustainable Land Management will provide the long-term framework for future agricultural policy and support. This approach is designed to ensure the economic, environmental, and social outcomes from land management practice can be delivered for the long-term benefit of the nation. The Agriculture (Wales) Bill, introduced into the Senedd on 26 September 2022 seeks to ensure the Welsh Ministers have the powers necessary to continue supporting farmers in Wales for adopting practices that contribute to Sustainable Land Management. The Sustainable Farming Scheme¹¹, which is being developed with farmers and others with an interest in the land, will be the main source of future Government support for farmers in Wales.

19. Paragraph 1 of the Schedule to the Bill therefore amends the 1967 Act so as to disapply provisions in Part 3 of that Act to Wales, and to amend the relevant

⁸ Welsh Government (2020) *Table of responses to each recommendation*, response to recommendation 16-12 [available at: [Detailed response to the Law Commission report on planning law in Wales | GOV.WALES](#)]

⁹ Welsh Government (2019), available at: [Sustainable Farming and our land \(gov.wales\)](#)

¹⁰ Welsh Government (2020), available at: [Agriculture \(Wales\) White Paper \(gov.wales\)](#)

¹¹ For more information see *Sustainable Farming Scheme: Outline Proposals for 2025* issued by the Welsh Government (July 2022) and available at: [Sustainable Farming Scheme: outline proposals for 2025 | GOV.WALES](#)

interpretation provisions so as to remove references to Wales that would no longer be required. Schedule 5 to the 1967 Act is introduced by section 45(5) of that Act, and therefore disapplying that section to Wales means also that Schedule 5 does not apply.

20. In consequence of the proposed amendments to the 1967 Act, the Bill also repeals the amendment made to the 1967 Act by the Local Government (Wales) Act 1994, which is now spent, and removes the reference, in Schedule 3A to the Government of Wales Act 2006, to a function exercisable under the 1967 Act which falls away as a result of the substantive repeal.
21. As the Government has already accepted the Law Commission's recommendation that Part 3 of, and Schedule 5 to, the 1967 Act should no longer apply in relation to Wales, views on that are not sought as part of this consultation. Instead, we would like to understand whether there are any consequences of amending the 1967 Act in this way that we have not identified but we need to be aware of.

Question 1 - Are there any consequences of amending Part 3 of the Agriculture Act 1967 so that it no longer applies in relation to Wales that should be considered further?

Enterprise zone areas

22. The Local Government, Planning and Land Act 1980 (the 1980 Act) introduced powers to establish 'enterprise zones' to see how the relaxation of planning control, exemption from non-domestic rates and certain other fiscal incentives, could help with the regeneration of run-down and derelict urban areas.
23. In the following decades, some 35 orders were made, between them designating just over 100 zones. Of those, four orders designated 15 zones in Wales¹². These schemes operated from the early 1980s until the early 1990s but the powers have not been used since. In its 2018 report, *Planning Law in Wales*, the Law Commission noted¹³ that:

No order has been made since 1996, and none in Wales since 1985. It follows that no enterprise zone has existed under the 1980 Act in Wales for over 20 years.

24. A second type of enterprise zone was subsequently introduced into the Capital Allowances Act 2001 by the Finance Act 2012; these aim to encourage economic

¹² Swansea (under SI 1981/757), 13 on the shores of the Milford Haven Waterway (1984/443 and 1984/444) and the Lower Swansea Valley (1985/137)

¹³ Law Commission (2020) *Planning Law in Wales* Law Com 383, at paragraph 16.74 [available at: [Planning Law in Wales | Law Commission](#)]

growth and investment. There are currently eight enterprise zones¹⁴ operational in Wales, each specialising in a specific business sector. The recognition of this type of enterprise zone has no direct implications for the planning system, and the enabling legislation under which they operate is still in use and not expected to be included within the planning consolidation project currently under way. The draft Statute Law (Repeals) (Wales) Bill does not affect this second type of enterprise zone.

25. However the Law Commission recommended that the 1980 Act be amended so that the first type of enterprise zone no longer applies in relation to Wales. This is because they have observed that “... *no more enterprise zones [are] likely to be designated under the powers in the 1980 Act*” and suggest that¹⁵:

..no purpose would be served by retaining the possibility of such designations. Further, the existence of two incentive regimes with the same title but set up under quite different legislation only goes to emphasise the need to remove redundant provisions from the statute book.

26. They consulted on the proposal in 2017, and of the 24 consultees who responded to this suggestion, all but one were in agreement. Carmarthenshire County Council took the view that retaining these powers provided a greater numbers of options to local authorities. The Law Commission did not agree with that view and recommended¹⁶:

...the amendment of Part 18 of and Schedule 32 to the Local Government, Planning and Land Act 1980 (enterprise zones) ... so that they no longer apply in relation to Wales.

27. The Welsh Government’s response to the report¹⁷ accepted this recommendation.
28. Paragraph 4 of the Schedule to the Bill amends Schedule 32 to the 1980 Act to disapply these provisions in relation to Wales¹⁸. This has the effect of removing the Welsh Ministers’ power to designate enterprise zones under the 1980 Act.
29. The Bill also makes consequential amendments to the Local Government (Wales) Act 1994 and Mobile Homes (Wales) Act 2013, which relate to the removal of the Welsh Ministers’ power to designate enterprise zones under the 1980 Act.
30. We note that limiting Schedule 32 to the 1980 Act so that it only applies to England has the consequential effect of changing the meaning of enterprise zone wherever enterprise zone within the meaning of Schedule 32 to the 1980 Act appears in

¹⁴ For more information see: [Enterprise Zones Wales | Business Wales - Enterprise Zones Wales \(gov.wales\)](#)

¹⁵ Law Commission (2020) *Planning Law in Wales* Law Com 383, at paragraph 16.77

¹⁶ Law Commission (2020) *Planning Law in Wales* Law Com 383, recommendation 16-8

¹⁷ Welsh Government (2020) *Table of responses to each recommendation*, response to recommendation 16-8 [available at: [Detailed response to the Law Commission report on planning law in Wales | GOV.WALES](#)]

¹⁸ Part 18 does nothing more than introduce the Schedule, and so it does not require amending.

legislation. For example, paragraph 19(2) of Schedule 5 to the Local Governance Finance Act 1988 exempts a hereditament¹⁹ situated in an enterprise zone from local domestic rating.

31. Another effect of designating an enterprise zone under the 1980 Act is to confer planning permission for development described in the scheme (under sections 88 and 89 of the Town and Country Planning Act 1990 (the TCPA 1990)). The enterprise zone authority (which may be the county or county borough council, an urban development corporation or a new town corporation) may also be given local planning authority functions in relation to the zone (under section 6 of the TCPA 1990). The Law Commission recommended²⁰ amending the provisions which enabled enterprise zone authorities (as well as Housing Action Trusts (see below) and urban development corporations) to be local planning authorities in relation to Wales. This recommendation was also accepted by Welsh Government. The Government's view on this recommendation explained²¹:

...The purpose of these area based bodies are to promote the regeneration or improvement of the areas in which they cover. Given the important role existing planning authorities play in place making, it is our view these bodies should work in partnership with them to ensure sustainable and vibrant places are created for our communities. Removing the ability for such bodies to be planning authorities in their own right will assist in creating this partnership approach.

This Bill does not deal with the proposed changes for planning authorities, as this work is being undertaken in the proposed consolidation of planning law.

32. As the Government has already accepted the Law Commission's recommendation that Schedule 32 to the 1980 Act should no longer apply in relation to Wales, views on that are not sought as part of this consultation. Instead, we would like to understand whether there are any consequences of amending the 1980 Act in this way that we have not identified but we need to be aware of.

Question 2 - Are there any consequences of amending Schedule 32 to the Local Government, Planning and Land Act 1980 so it no longer applies in relation to Wales that should be considered further?

Housing Action Trusts

¹⁹ An item of property (land, a building, or an item such as a rent) that can be inherited.

²⁰ Law Commission (2020) *Planning Law in Wales* Law Com 383, recommendation 5-12

²¹ Welsh Government (2020) *Table of responses to each recommendation*, response to recommendation 5-12 [available at: [Detailed response to the Law Commission report on planning law in Wales | GOV.WALES](#)]

33. Part 3 of the Housing Act 1988 (the 1988 Act) made provision about ‘Housing Action Trust Areas’. The Law Commission explains²² that these were:

...areas in which the living conditions of local residents and the social conditions and general environment could be improved by a specially designated “housing action trust”.

Such trusts could be designated as the local planning authority in its area (under section 8 of the TCPA 1990).

34. The function of designation was originally conferred on the Secretary of State, but the transfer of functions as a consequence of devolution means that this responsibility now sits with the Welsh Ministers in relation to Wales.
35. Between 1991 and 1994 six areas were designated housing action trust areas, all of which were in England. None of the trusts were designated a local planning authority and all were wound up at various dates between 1999 and 2005. No housing action trust areas have been designated in Wales.
36. On the basis that the Law Commission concluded there seemed to be no prospect of such areas being designated in Wales, they consulted on a proposal to amend Part 3 of the 1988 Act so as to only apply to England. In their report, *Planning Law in Wales*, they set out the findings of the consultation²³:

Of the 24 consultees who responded to this suggestion, all but one were in agreement. The [Royal Town Planning Institute] and the National Trust both supported the proposed change, in the following terms:

Housing is now a devolved power, and the Housing (Wales) Act 2014 aims to improve the quality and standards of housing in Wales. No Housing Action Trust Areas have been designated in Wales; and regeneration policy funded via the [Vibrant] and Viable Places programme and the recently launched targeted regeneration investment policy are the appropriate mechanisms for tackling areas with serious housing and other social problems. Stock transfer of local authority housing and the release of subsidy to bring homes up to the Welsh Housing Quality Standard have been largely successful across Wales.

37. The Law Commission therefore recommended²⁴:

... the amendment of (1) Part 3 of the Housing Act 1988 (housing action trust areas), ... so that they no longer apply in relation to Wales.

²² Law Commission (2020) *Planning Law in Wales* Law Com 383, at paragraph 16.90

²³ Law Commission (2020) *Planning Law in Wales* Law Com 383, at paragraph 16.93

²⁴ Law Commission (2020) *Planning Law in Wales* Law Com 383, recommendation 16-11

38. The Welsh Government's response to the report²⁵ accepted this recommendation, noting that:

The aim of [Housing Action Trusts] HATs is to take over local authority housing within a designated area for a limited period, repair and modernise the housing held by it, secure improvement of the general environment of the area and following this regeneration, increase the diversity of tenancy through transferred ownership to other social landlords. The 1987 white paper, which supported the introduction of HATs suggested they be established in inner-city areas with serious housing and social problems and in areas where there is a predominance of Council housing.

No HAT has been established in Wales and this legislation appears to have outlived its purpose as other initiatives have been undertaken in Wales which have secured the improvements to housing stock and increased diversity of tenancy.

39. Paragraph 7 of the Schedule to the Bill amends Part 3 of the 1988 Act so that it applies only in England, and makes consequential amendment to Schedule 8 to the same Act. In consequence of the proposed changes to the 1988 Act, amendments are also required to:
- a. remove relevant references to housing action trusts in Wales in the Planning (Hazardous Substances) Act 1990; Local Government (Wales) Act 1994; Government of Wales Act 1998; and Police and Justice Act 2006;
 - b. make clear in section 20(1) of the Anti-social Behaviour, Crime and Policing Act 2014 that the reference to a Housing Action Trust applies in relation to England only;
 - c. remove a spent reference in the Government of Wales Act 2006 and a spent amendment in the Deregulation Act 2015.
40. As noted earlier in this consultation document, the Law Commission also recommended²⁶ removing the provisions which enabled housing action trusts to be local planning authorities. This recommendation was accepted by Welsh Government, but this aspect of the recommendation is being undertaken in the proposed consolidation of planning law, not in this Bill.
41. As the Government has already accepted the Law Commission's recommendation that Part 3 of the 1988 Act should no longer apply in relation to Wales, views on that are not sought as part of this consultation. Instead, we would like to understand whether there are any consequences of amending the 1988 Act in this way that we have not identified but we need to be aware of.

²⁵ Welsh Government (2020) *Table of responses to each recommendation*, response to recommendation 16-11 [available at: [Detailed response to the Law Commission report on planning law in Wales | GOV.WALES](#)]

²⁶ Law Commission (2020) *Planning Law in Wales* Law Com 383, recommendation 5-12

Question 3 - Are there any consequences of amending Part 3 of the Housing Act 1988 so that it no longer applies in relation to Wales that should be considered further?

Local plans and structure plans: transitional arrangements

42. The planning system in Wales is development plan-led, which means development plans are the starting point when making planning decisions. Once a development plan has been adopted, decisions on planning applications will be made in accordance with the development plan, unless other material considerations indicate otherwise. The development plan system in Wales is made up of three tiers with plans prepared at national, regional and local levels.
43. The primary legislation on the formulation of development plans used to be in Part 2 of TCPA 1990. That provided that generally there should be for each area a structure plan (usually prepared by the county council for a whole county) and a series of local plans (each prepared by the relevant district council, covering all or part of its area). The TCPA 1990 also provided, where there was a single-tier system of borough councils, for Unitary Development Plans (UDPs). As a single-tier system of local government was introduced in Wales under the Local Government (Wales) Act 1994 (the 1994 Act), UDPs came to be adopted under that system also.
44. Part 6 of the Planning and Compulsory Purchase Act 2004 (PCPA 2004) then introduced for Wales a new nation-wide Wales Spatial plan, to be prepared by the (then) National Assembly for Wales. It also introduced Local Development Plans (LDPs) which, when adopted, replaced UDPs. LDPs are produced by single-tier planning authorities which have to have regard to the Wales Spatial Plan. LDPs have now been adopted by all of the planning authorities in Wales (including the three National Park authorities) with the exception of Wrexham and Flintshire which continue to have UDPs²⁷.
45. More recently, the Planning (Wales) Act 2015 amended the PCPA 2004 by introducing the concept of the National Development Framework for Wales (NDF), which became part of the development plan and replaced the Wales Spatial Plan (as of 24 February 2021). It also provided for Strategic Development Plans (SDPs) to be produced at a regional level, with the Local Government and Elections (Wales) Act 2021 requiring their production by Corporate Joint Committees (see glossary).
46. Essentially therefore the progression over time has been local/structure plans (up to 1996); UDPs (1996-2005); LDPs, SDPs and the NDF (2005 onwards). Each time the system has changed the amending legislation has provided for transitional arrangements, which allowed authorities preparing plans under one system to continue to do that and only move to the new system once the old plan had been

²⁷ See: [Development plan coverage | GOV.WALES](#)

completed. When the PCPA 2004 came into force there were still authorities in Wales with local plans under the pre-1996 system as well as those with UDPs under the pre-2004 system. In fact, until 2011 there were still authorities with local or structure plans adopted under the pre-1996 system.

47. The 1994 Act provided for transitional arrangements about the status of local and structure plans that applied until authorities adopted UDPs. The last UDP was adopted in 2011, and therefore those provisions are now spent and can be repealed. The draft Statute Law (Repeals) (Wales) Bill therefore omits:
 - a. Part 1A of Schedule 2 to the TCPA 1990; and
 - b. section 20(2), (3)(b) and (c) together with Parts 2 and 3 of Schedule 5 and paragraphs 16 and 17 of Schedule 17 to the 1994 Act.
48. Those transitional amendments had in turn been amended through the Planning Act 2008, which also dealt with the move from UDPs to LDPs. Therefore the Bill also makes the necessary consequential changes to those amendments in the Planning Act 2008.
49. Part 2 of the TCPA 1990 was subsequently repealed (see the Planning and Compulsory Purchase Act 2004 (Commencement No 6, Transitional Provisions and Savings) Order 2005²⁸). The Order effecting the repeal included a transitional saving for section 28A of the TCPA 1990, which is now no longer needed. The Bill therefore also amends the 2005 Order to remove this saving.

Question 4 - Do you agree that the transitional arrangements relating to local plans and structure plans can be repealed in the Town and Country Planning Act 1990, the Local Government (Wales) Act 1994, and the Planning Act 2008?

Question 5 - Are there any consequences of omitting the transitional provisions relating to local plans and structure plans that should be considered further?

Energy policies in development plans

50. The Planning and Energy Bill was introduced into the UK Parliament as a Private Members Bill in Session 2007-08. At its second reading, the Bill's sponsor, the Rt. Hon Michael Fallon MP, explained²⁹ the Bill set out:

...that councils can—not must, but can—set a minimum requirement for local energy generation and energy efficiency standards that are higher than the minimum.

²⁸ SI 2005/2847

²⁹ See Hansard, HC Deb. vol. 470, cols.1734, 25 Jan 2008

51. The Bill was therefore aimed at encouraging micro-generation and more energy efficient buildings, rather than introducing a requirement for bodies to implement new obligations. On the Bill receiving Royal Assent, the Planning and Energy Act 2008 (the 2008 Act) came into force on 13 November 2008.

52. The Law Commission considered whether such provisions should be set out in guidance “as they encourage and permit the inclusion of such policies, rather than to impose any stricter obligations on planning authorities.”³⁰ In their final report, the Law Commission explained that³¹:

...Of the 33 consultees who submitted a response to this consultation question, 31 agreed with this suggestion.

Amongst those in agreement, there was a difference of view between those, like Carmarthenshire [County Council], who suggested that the provisions were of no remaining value whatsoever, and others, like Newport City Council, who suggested that they had some remaining value, but should be included in the form of guidance...

53. The Law Commission concluded that the subject of the 2008 Act should be more appropriately dealt with in guidance, leading to recommendation 6-2 in their 2018 report: “We recommend that: (1) the provisions currently in the Planning and Energy Act 2008 should be repealed...”

54. The Welsh Government’s response to the report accepted this recommendation, on the basis that Planning Policy Wales sets out that these matters are specific considerations for the preparation of a Strategic and Local Development Plan. Planning Policy Wales sets out the Welsh Government’s expectations in relation to planning authorities in relation to:

- a. setting policies for development to use energy from local renewable and low carbon sources³²;
- b. including policies to set energy efficiency standards to exceed the requirements in building regulations for strategic development sites³³.

And therefore, there is little difference in policy effect between what the 2008 Act seeks to achieve and Planning Policy Wales. However, because a planning authority

³⁰ Law Commission (2020) *Planning Law in Wales* Law Com 383, at paragraph 6.13

³¹ Law Commission (2020) *Planning Law in Wales* Law Com 383, at paragraphs 6.13 and 6.14

³² Welsh Government (2021) *Planning Policy Wales* (ed 11), paragraph 5.9.11 [available at - [Planning Policy Wales - Edition 11 \(gov.wales\)](#)]

³³ Welsh Government (2021) *Planning Policy Wales* (ed 11), paragraph 5.8.5 [available at - [Planning Policy Wales - Edition 11 \(gov.wales\)](#)]

must have regard to the policies in Planning Policy Wales, the view of the Government was³⁴:

...this places a greater requirement than the [2008] Act on [planning authorities] by requiring them to having regard to these matters in preparing their [local development plans].

This is also the case for Corporate Joint Committees, as introduced by the Local Government and Elections (Wales) Act 2021, who must have regard to the policies in Planning Policy Wales when producing Strategic Development Plans.

55. Part 5 of the Schedule to the draft Statute Law (Repeals) (Wales) Bill therefore amends the 2008 Act so that it will no longer apply in relation to Wales. It also makes consequential amendments to the Planning (Wales) Act 2015 and the Local Government and Elections (Wales) Act 2021.
56. As the Government has already accepted the Law Commission's recommendation in respect of the 2008 Act, views on that are not sought as part of this consultation. Instead, we would like to understand whether there are any consequences of amending the 2008 Act in this way that we have not identified but we need to be aware of.

Question 6 - Are there any consequences of amending the Planning and Energy Act 2008 so that it no longer applies in relation to Wales that should be considered further?

Offence of removal of soil without consent

57. The Bill which became the Agricultural Land (Removal of Surface Soil) Act 1953 (the 1953 Act) was introduced to tackle the problem of topsoil being stripped off agricultural land, for commercial gain, leaving the land unable to be used for further cultivation. When the Bill was sent to the House of Lords, after being considered first in the Commons, Lord Llewellyn explained³⁵ the Bill was limited in scope and intended to:

...enable more speedy and effective action to be taken against those people who, for quick profits, strip the top soil from good agricultural land and leave it derelict... First, it applies only where the people intend to sell the soil. Secondly, the removal of the soil must constitute development under the Town and Country Planning Act [1947], and, thirdly, it must have been carried out without planning permission under that Act. In fact, the only people who will, I hope, be affected by

³⁴ Welsh Government (2020) *Table of responses to each recommendation*, response to recommendation 6-2 [available at: [Detailed response to the Law Commission report on planning law in Wales | GOV.WALES](#)]

³⁵ See Hansard, 10 July 1952 vol 177 cc1005-10

the Bill are those who try, through a weakness in the procedure under the Town and Country Planning Act, to make quick profits by despoiling one of our greatest national assets, our agricultural land.

58. The 1953 Act remains in force. Under section 1 it is an offence to remove more than five cubic yards³⁶ of soil from agricultural land in any three-month period with a view to sale, but only where such an activity constitutes “development” under the Town and Country Planning Act 1990³⁷ (TCPA 1990) and has not received planning permission. A person committing an offence under the 1953 Act can be prosecuted and, on summary conviction, punished by a fine of up to Level 3 or even by imprisonment³⁸ (see section 2), but a prosecution can only be brought with the consent of the Attorney-General or the Director of Public Prosecutions (see section 3)³⁹.
59. Where a person is undertaking development without planning permission, it can be dealt with by the relevant planning authority by undertaking enforcement action. If it is expedient that unauthorised development should be stopped immediately, yet the planning authority requires time to arrange an effective enforcement response, a “temporary stop notice” under section 171E of the TCPA 1990 can be issued. This requires an activity which is a breach of planning control to be stopped immediately. During the maximum 28 days in which a temporary stop notice can stop the unauthorised development, enforcement action could be taken by issuing:
- a. an “enforcement warning notice” under section 173ZA of the TCPA 1990, or
 - b. an “enforcement notice” under section 172 of the TCPA 1990, which can be accompanied by a “stop notice” under section 183 of TCPA 1990 to ensure the unauthorised development cannot resume before the expiry of the compliance period specified in the enforcement notice.
60. Breaches of enforcement action can result in prosecution under sections 171G, 179 and 187 of TCPA 1990; conviction may result in an unlimited fine, but not imprisonment. The powers to quickly stop unauthorised development, such as stop notices, were originally introduced in the Town and Country Planning Act 1968, with effect from 1 January 1969. Temporary stop notices were introduced later through the Planning and Compulsory Purchase Act 2004. It is understood that very few, if any, prosecutions have been brought under the 1953 Act since 1969. Certainly, practice today is to tackle breaches of the requirements for planning permission through the TCPA 1990.

³⁶ which is 3.822 cubic metres

³⁷ Originally it was the Town and Country Planning Act 1947, but this was subsequently amended to the 1990 Act by the Planning (Consequential Amendments) Act 1990

³⁸ the Criminal Justice Act 2003 will amend the 1953 Act to abolish the liability to imprisonment (see paragraph 34 of Schedule 34 and Part 9 of Schedule 37 to that Act), but at the time of this consultation that amendment has not yet been brought into force

³⁹ the Law Commission recommended the abolition of the requirement for consent to be obtained for prosecution (see para 6.58 of *Consents to Prosecution* (1998) available at: [LC255CON.PDF \(lawcom.gov.uk\)](#)). This recommendation has not yet been implemented.

61. As a result, we consider that the 1953 Act, so far as it applies in Wales, is no longer of any practical utility. The Bill therefore disapplies the 1953 Act in relation to land in Wales (leaving the Act in operation for land in England only).

Question 7 - Do you agree that the Agricultural Land (Removal of Surface Soil) Act 1953 should no longer apply in relation to Wales?

Question 8 - Are there any consequences of removing the application of the 1953 Act to agricultural land in Wales that should be considered further?

Reorganisation of local government

62. From 1 April 1996 local government in Wales no longer operated on a two-tier structure of counties and districts but moved to a single tier of unitary authorities. All 22 Welsh councils are unitary authorities, although they are described as city councils, county councils and county borough councils. They exercise functions in relation to many areas of public life including education, housing, planning, highways and parking, social services, taxes (council tax and business rates collection), benefits (housing and council tax benefit), waste collection and disposal, as well as leisure and culture, elections, transport (such as public transport and bus shelters), environmental health and licensing, and registration of births, deaths and marriages.
63. The move to unitary authorities was given effect by the Local Government (Wales) Act 1994 (the 1994 Act) which abolished the eight local government counties and 37 districts that had been formed in 1974.

Social services committees

64. Section 101(10A) of the Local Government Act 1972 (the 1972 Act), which made provision in relation to social services committees, cross-refers to a provision which was repealed by the Children's Act 2004 and should also have been repealed at that time. The Bill therefore omits section 101(10A) of the 1972 Act, and the provision in the 1994 Act which originally inserted subsection (10A) into section 101 of the 1972 Act.

Residuary Body for Wales

65. The 1994 Act established the Residuary Body for Wales to hold the assets of abolished authorities which could not easily be transferred to a new authority as part of the 1994 Act reorganisation of local government in Wales. The Residuary Body disposed of those assets by 1998, and the Body itself has since been abolished⁴⁰, so these provisions are now spent.

⁴⁰ See the Residuary Body for Wales (Winding Up) Order 1998 (SI 1998/2859)

66. Some of the provisions in Part 5 of the 1994 Act address the transfer or redundancy of staff of abolished authorities. Section 41 concerns continuity of employment of staff; section 42 concerns transfers of staff to the new councils or the Residuary Body; section 43 concerns compensation for loss of employment arising because of the Act; section 44 concerns redundancy payments; and section 45 concerns other compensation payments related to contracts of employment terminated as a result of the 1994 Act. While the Bill provides for some minor amendments to these provisions related to the abolition of the Residuary Body, it is not clear whether any existing employment or other arrangements are in any way reliant on the current operation of these provisions. If that is not the case, these provisions could be repealed in full, or at least, could be repealed subject to savings or transitional provision.
67. Paragraph 27 of the Schedule to the Bill omits the spent provisions relating to the Residuary Body. Further consequential amendments, omitting references to the Residuary Body, are made to the:
- a. Rent Act 1977;
 - b. Local Government (Miscellaneous Provision) Act 1982;
 - c. Housing Act 1988;
 - d. Town and Country Planning Act 1990;
 - e. Local Government Finance Act 1992;
 - f. Environment Act 1995;
 - g. Housing Act 1996;
 - h. Government of Wales Act 1998; and the
 - i. Local Government Act 2003.

Decentralisation schemes and joint working

68. Part 3 of the 1994 Act provided for decentralisation and joint working. Under these arrangements, new principal councils could establish area committees to discharge functions of the council by way of a 'decentralisation scheme', and the Secretary of State could give certain directions relating to joint working arrangements and related information to principal councils.
69. Applications for decentralisation schemes had to be made by 1 January 1996 (being approved by the Secretary of State no later than 1 July 1996), and joint working directions could only be made by the Secretary of State until 31 March 1999 - so each of these arrangements is now spent.⁴¹ The Bill therefore omits Part 3 of the 1994 Act, and makes consequential amendments including to the Education Act 1996.

Question 9 - Do you agree that the amendments relating to social services committees should be made?

⁴¹ Equivalent arrangements are now provided for, in respect of Corporate Joint Committees, by the Local Government and Elections (Wales) Act 2021.

Question 10 - Do you agree the spent provisions relating to the Residuary Body for Wales should be repealed?

Question 11(a) - Is there any reason why sections 41 to 45 of the Local Government (Wales) Act 1994 cannot be fully repealed?

Question 11(b) - If sections 41 to 45 cannot yet be repealed, is there a point in the future when they will be suitable for repeal (for example, because all contracts of employment to which they might apply will have ceased to exist)?

Question 12 - Do you agree the spent provisions relating to decentralisation and joint working should be repealed?

Question 13 - Are there any consequences to the amendments described in questions 9, 10 and 11 that should be considered further?

Statements of special educational needs

70. Section 5 of the Disabled Persons (Services, Consultation and Representation) Act 1986 (the 1986 Act) makes provision in respect of persons with a disability leaving full-time education under the age of nineteen years and eight months where they have previously received a statement of special educational needs (in Wales) or an education, health and care plan (in England).
71. Section 5 of the 1986 Act requires a local authority which has been notified about the person's departure from full-time education to assess the person's need for services from the authority under "the welfare enactments". Section 5 also contains notification duties. In Wales, "the welfare enactments" means Parts 4 and 6 of the Social Services and Well-being (Wales) Act 2014 (the 2014 Act).
72. The 2014 Act places duties on local authorities to assess the needs of adults and children where it appears those adults or children may need care and support. Section 19 of that Act contains the duty relating to adults and section 21 contains the duty relating to children.
73. These assessment duties apply more widely than the assessment duties in section 5 of the 1986 Act, as they are not limited to persons with disabilities who have received a statement of special needs and who are under a certain age. However, the special position of children with disabilities is specifically recognised by section 21 of the 2014 Act, as an assessment under that section must start from the presumption that children with disabilities need care and support (see section 21(7)). The Code of Practice relating to assessing the needs of individuals under the 2014 Act⁴² sets out a

⁴² Welsh Government (2015) *Social Services and Well-being (Wales) Act. Part 3 Code of Practice (assessing the needs of individuals)* [Available at: [part-3-code-of-practice-assessing-the-needs-of-individuals.pdf \(gov.wales\)](https://gov.wales/part-3-code-of-practice-assessing-the-needs-of-individuals.pdf)]

process for assessing the needs of an individual for care and support and a process of review and re-assessment that will apply to assessments.

74. When an assessment of a person's needs has been carried out under section 19 or section 21 of the 2014 Act, Part 4 of that Act and regulations made under it govern the next steps. Part 6 of the 2014 Act deals with the duties of a local authority towards a child who is in its care or accommodated by it.
75. The Bill disapplies section 5 of the 1986 Act to Wales, to remove the duties of local authorities in Wales to carry out assessments under it. We consider that the role of an assessment under that section is now fulfilled by assessments under sections 19 and 21 of the 2014 Act, which also apply to a wider group of persons. Furthermore, assessments under section 5 of the 1986 Act are linked to Parts 4 and 6 of the 2014 Act in any case.
76. An additional consideration is that section 5 of the 1986 Act is relevant only to persons who have received statements of special educational needs under the Education Act 1996. That system was replaced by the Additional Learning Needs and Education Tribunal (Wales) Act 2018 with a new framework for supporting children and young people with additional learning needs. Therefore, the number of persons who have statements of special educational needs, to whom section 5 of the 1986 Act could potentially be relevant, will gradually decrease as the Additional Learning Needs and Education Tribunal (Wales) Act 2018 becomes fully implemented.
77. The Welsh Government could amend section 5 of the 1986 Act so that it would operate within the context of the Additional Learning Needs and Education Tribunal (Wales) Act 2018. However, for the reasons given above, the Government considers that assessments under the 2014 Act now fulfil the role of assessments under the 1986 Act, and that therefore it is no longer necessary for section 5 of the 1986 Act to apply in relation to Wales.
78. The Bill therefore amends section 5 of the 1986 Act so that it does not apply in relation to Wales (see paragraph 40(d) of the Schedule to the Bill) and makes consequential amendments to section 5 to remove obsolete and subsequently unnecessary references.
79. In consequence of the disapplication of section 5 of the 1986 Act to Wales, the Bill also amends relevant references in the Education Act 1996 and the 2014 Act, as section 5 will no longer contain education or social services functions of local authorities in Wales.

Question 14 - Do you think that there is any continuing need for section 5 of the Disabled Persons (Services, Consultation and Representation) Act 1986 to apply to Wales?

Question 15 - If section 5 of the 1986 Act is disapplied to Wales, do you think that it needs to be temporarily maintained for the potential benefit of the group of persons who have been issued with statements of special education needs under the Education Act 1996?

Question 16 - Are there any other consequences of repealing section 5 of the 1986 Act that should be considered further?

National Park Planning Boards

80. There are three National Parks in Wales: Brecon Beacons, Pembrokeshire Coast, and Snowdonia. These, and the 10 in England, are designated under Part 2 of the National Parks and Access to the Countryside Act 1949.
81. Since the National Parks in Wales were first designated in the 1950s, there have been a number of changes to the administrative arrangements for managing the Parks, including those made by the Countryside Act 1968, Local Government Act 1972, Local Government (Wales) Act 1994 and Environment Act 1995 (the 1995 Act). Before the changes made by the 1995 Act, each National Park in Wales had a National Park Committee⁴³. There were also powers to establish joint planning boards or special planning boards for National Parks⁴⁴, but those powers had not been used in Wales.
82. Section 63 of the 1995 Act gave the Secretary of State the power to make an order establishing a National Park authority where there was an existing authority for a National Park or in connection with designating an area as a new National Park. An existing authority in this context meant a joint or special planning board or a National Park Committee⁴⁵. The National Park Authorities (Wales) Order 1995⁴⁶ (the 1995 Order) established National Park authorities for the Parks in Wales with effect from 23 November 1995. The authorities assumed their substantive functions, and the National Park Committees ceased to exist, on 1 April 1996.
83. Section 64 of the 1995 Act, which only applies to Wales, is mainly about the transition from joint or special planning boards to National Park authorities. Subsections (1) to (5) dealt with the situation where a board had already been established for a National Park, but they never had any effect because no such boards were ever established in Wales. The Bill therefore repeals these provisions, as they are redundant.
84. Section 64(6) and (7) dealt with the situation where steps had been taken towards establishing a board but had not been concluded, and where a National Park authority was instead to be established before 31 March 1997. For example, consultation on establishing the board was treated as consultation on establishing the

⁴³ Established under paragraph 5 of Schedule 17 to the Local Government Act 1972.

⁴⁴ In paragraphs 1 to 3A of Schedule 17 to the Local Government Act 1972 and section 2 of the Town and Country Planning Act 1990.

⁴⁵ See section 79(1) of the 1995 Act.

⁴⁶ 1995/2803

National Park authority. The Bill therefore repeals those subsections, since they would have applied to things done during a period that ended long ago and are now spent.

85. Subsection (9) of section 64 defined terms used in subsections (1) to (7), and section 75(2) made provision for orders under section 64. The Bill therefore also repeals these provisions, which become obsolete on the repeal of the substantive powers.
86. In section 65 of the 1995 Act, subsection (3) makes provision about the functions of a National Park authority during any period between the authority being established and becoming a local planning authority. Subsection (4) modified subsection (3) for Wales, but only in relation to things done before 1 April 1996. Subsection (4) is now spent and can also be repealed.
87. The definition of an “existing authority” in section 79(1) contains references to powers to establish joint and special planning boards for National Parks in Wales that were never used and are no longer available. The Bill therefore repeals these provisions as they are redundant.
88. In Schedule 7 to the 1995 Act, paragraph 2(2)(b) and (4) refer to things done by a joint or special planning board for a National Park in Wales. The Bill repeals these provisions as they never had any effect and can no longer have any effect.
89. In Schedule 10 to the 1995 Act, paragraph 30 amended a provision in Schedule 8 to the Electricity Act 1989. That provision was also amended by paragraph 22 of Schedule 6 to the Local Government (Wales) Act 1994 (“the 1994 amendment”), which was not in force when the 1995 Act was passed. Paragraph 30 of Schedule 10 therefore contained different amendments for the situations where it came into force before, after or at the same time as the 1994 amendment. In fact, paragraph 30 came into force before the 1994 amendment, so the amendments for the other situations were never needed⁴⁷. The Bill therefore repeals these provisions, contained in paragraph 30(4) and (5) of Schedule 10.
90. In Schedule 23 to the 1995 Act, paragraphs 7, 11 and 15 were transitional provisions for cases where joint and special planning boards had been established for National Parks in Wales. Those paragraphs were not brought into force. The situation to which they applied never arose, and even if it had arisen the paragraphs would now be spent, so the Bill repeals them.

Question 17 - Do you agree that the Statute Law (Repeals) Bill should repeal the provisions in the Environment Act 1995?

⁴⁷ Paragraph 30 was brought into force by article 2(1) of SI 1995/2950 on 23 November 1995; the 1994 amendment was brought into force by article 3 of SI 1996/396 on 1 April 1996.

Question 18 - Are there any consequences of amending the 1995 Act that should be considered further?

Welsh Development Agency

91. Statute Law (Repeals) Bills have been regularly considered by the UK Parliament, usually following a report made by the Law Commission. In the Law Commission's most recent report⁴⁸ proposing such a Bill, in 2015, they noted that:

The Welsh Development Agency Act 1997 was a short Act passed to increase the financial limits of the Welsh Development Agency. This was achieved by amendment to the Welsh Development Agency Act 1975. The Agency was, however, abolished in 2005 and its functions transferred to the [National] Assembly before being transferred to Welsh Ministers. The provisions of the 1975 Act that were amended by the 1997 Act have also been repealed. The 1997 Act thereupon became spent and it may therefore now be repealed as obsolete.

92. The Welsh Development Agency (WDA) was responsible for encouraging business development and investment in Wales, clearing derelict land and encouraging the growth of local businesses. As noted by the Law Commission, the WDA was abolished in 2006 and its functions were transferred to the Welsh Ministers⁴⁹ and the Welsh Government is now responsible for supporting and encouraging business development and investment in Wales.
93. The Law Commission's 2015 draft Bill has not yet been taken forward by the UK Government, but in preparing this draft Statute Law (Repeals) (Wales) Bill consideration has been given to the Law Commission's proposal. The Welsh Government agrees the Welsh Development Agency Act 1997 is spent, and therefore paragraph 45 of the Schedule to the Bill repeals that Act.
94. The Industry Act 1979 (the 1979 Act) raised the borrowing limits of the National Enterprise Board, the Scottish Development Agency and the WDA. Along with the WDA, the other two bodies have also ceased to exist. The 1979 Act has been repealed already insofar as it applies to the National Enterprise Board and the Scottish Development Agency. It remains unrepealed only in relation to the WDA. Since this body no longer exists, the 1979 Act is also now obsolete. Paragraph 44 of the Schedule to the Bill therefore also repeals the 1979 Act.
95. The Bill also (at paragraph 46) amends the Government of Wales Act 1998 in relation to the abolition of the WDA:

⁴⁸ The Law Commission and The Scottish Law Commission (2015) *Statute Law Repeals: Twentieth Report - Draft Statute Law (Repeals) Bill* Law Com No 357; Scot Law Com No 243 [available at: [Statute Law Repeals: Twentieth Report - Draft Statute Law \(Repeals\) Bill](#)]

⁴⁹ This transfer was effected by the Welsh Development Agency (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (SI 2005/3226), and subsequently to the Welsh Ministers through the Government of Wales Act 2006

- a. firstly, omitting spent provisions from Part 1 of Schedule 14 to that Act which had amended the Welsh Development Agency Act 1975;
- b. secondly, omitting spent provisions from Part 2 of Schedule 14 which had amended other enactments in relation to the WDA.

Question 19 - Do you agree that the Industry Act 1979 and the Welsh Development Agency Act 1997 should be repealed?

Question 20 - Are there any consequences of repealing the 1979 and 1997 Acts that should be considered further?

Development Board for Rural Wales

96. The Development of Rural Wales Bill was introduced into the UK Parliament in the spring of 1976, with the (then) Lord Chancellor explaining⁵⁰ the Bill's general purpose as:

...the promotion of the economic and social wellbeing of the people of rural Wales. Its particular purpose is the welfare of that part of rural Wales - Mid-Wales - which has suffered so severely from rural depopulation in past generations.

97. The Bill was passed and the Development of Rural Wales Act 1976 (the 1976 Act) established the Development Board for Rural Wales. Amongst other matters, that Board took over the work of the Mid-Wales Development Corporation and the Development Commission.
98. As part of its consideration of the legislation relating to urban regeneration and rural development, the Law Commission noted⁵¹ that the

...Welsh Development Agency Act 1975 and the [1976 Act] set up the Welsh Development Agency ("WDA") and provided further powers for regeneration in Wales. The powers of the WDA under the 1975 Act were extended by the Government of Wales Act 1998, and have now been passed to the Welsh Ministers. The 1998 Act also abolished the Development Board for Rural Wales, the Land Authority for Wales, and Housing for Wales.

99. Most of the provisions of the 1976 Act are already repealed (mostly by the Government of Wales Act 1998 (GoWA 1998), leaving only sections 23, 26 and 35. As the Development Board for Rural Wales ceased to exist in 1998, these last remaining

⁵⁰ See Hansard, HL Deb. vol. 370, col. 651, 6 May 1976

⁵¹ Law Commission (2017) *Planning Law in Wales* Consultation Paper Law Com No 233, paragraph 1.37 [available at: [Planning Law in Wales | Law Commission](#)]

provisions are now considered to be no longer of practical utility and are spent. It therefore appears appropriate to remove them from the statute book, together with the provisions in the 1998 Act which abolished the Development Board.

100. The Bill therefore repeals the 1976 Act (which has the effect of repealing the last remaining provisions) and amending GoWA 1998 so as to:
- a. omit sections 129(1), 130(1) and (3) to (5), 131(2) to (4) and section 133 - which relate to the cessation of the Development Board,
 - b. amend section 154 to remove the then redundant references to sections 130 and 133, and
 - c. omit a now spent amendment made by GoWA 1998 to the Parliamentary Commissioner Act 1967.

Question 21 - Do you agree that the Development of Rural Wales Act 1976 should be repealed?

Question 22 - Are there any consequences of repealing the 1976 Act that should be considered further?

Land Authority for Wales

101. The Land Authority for Wales was established in 1976 under the Common Land Act 1975. Its role was to buy land on behalf of the UK Government for industrial or other forms of development to encourage economic growth. As the Law Commission explained (see quote under paragraph 98 above), its functions for Wales were transferred to the WDA in 1998 and then abolished. The functions of the WDA were subsequently transferred to the Welsh Ministers following the abolition of the WDA.
102. The transfer of its functions and the ceasing of the operation of the Land Authority was achieved through the Government of Wales Act 1998 (GoWA 1998). Some of those provisions in GoWA 1998 are no longer required. Therefore paragraph 49 of the Schedule to the Bill amends GoWA 1998 as explained below:
- a. section 134 ended the operation of the Land Authority and as that has now happened this provision is spent and can therefore be omitted;
 - b. section 135(1) describes a connection between sections 134 and 135. The Bill will omit this as it has the potential to mislead once section 134 is omitted;
 - c. section 136 made provision about the transfer of staff, property, etc. from the Land Authority for Wales to the WDA. Now that the Land Authority for Wales and WDA have both ceased to exist, most of the section is spent. The Bill therefore omits section 136(1) and (3) to (5). Section 136(2) is to be retained as it provides assistance in establishing evidence of property transfers;
 - d. section 137 deals with savings and transitional provisions. The cross-reference to section 134 in subsection (1) can be omitted as the Bill is repealing section

- 134, and subsections (2) to (4) are spent transitional provisions which can now also be omitted;
- e. section 139 provided a power to the Secretary of State to direct the Land Authority ceased to exist. This power has been exercised⁵² and therefore this section is spent. It will be omitted by the Bill; and
 - f. the Secretary of State exercised the power under section 139 (Abolition etc.) to direct that the Land Authority for Wales ceased to exist so this section is spent and can be omitted. The references to section 139(3) in section 154 of GoWA 1998 (which makes provision regarding how orders and directions under the Act may be exercised) can therefore also be omitted. As can references to powers in section 136(4).

Question 23 - Do you agree that the provisions in the Government of Wales Act 1998 relating to the Land Authority for Wales should be repealed?

Question 24 - Are there any consequences of amending the Government of Wales Act 1998 in relation to the Land Authority for Wales that should be considered further?

Unrecorded public rights of way

103. The Countryside and Rights of Way Act 2000 (the 2000 Act) was enacted to improve public access to the open countryside and registered common land while recognising the legitimate interests of those who own and manage the land concerned, including by amending the law relating to rights of way.
104. Sections 53 to 56 of the 2000 Act have never been commenced (and are therefore not in force). They prescribe a cut-off date (1 January 2026) for the recording on definitive maps⁵³ of footpaths and bridleways created before 1949 (with certain exceptions). The provisions provide that public rights of way over such footpaths and bridleways which have not been recorded by the cut-off date would be extinguished. Section 56 of the 2000 Act provides that the cut-off date can be extended by regulations made by the Welsh Ministers (in respect of Wales). No such regulations have been made by the Welsh Ministers as sections 53 to 56 have never been brought into force.
105. Since 2001 the Welsh Government has been implementing provisions under the 2000 Act, but certain provisions have yet to be implemented, particularly those are which are no longer pertinent or considered in keeping with the Welsh Government's priorities for access. These include provisions that are no longer necessary or are

⁵² see the Land Authority for Wales (Abolition) Order 1999 (SI 1999/372)

⁵³ Surveying authorities (in Wales this means the 22 local authorities) are required to prepare and keep under review their definitive map and statement(s). These form the legal record of public rights of way in their area. For more information on definitive maps and statements see [Natural Resources Wales / Definitive Map and Statement](#)

resource intensive for local authorities. In 2017 the Welsh Government consulted upon *Taking Forward Wales' Sustainable Management of Natural Resources*⁵⁴. This included proposals to develop a coherent system for outdoor recreation, to allow for a broad range of non-motorised recreation on paths, open country and inland water. Proposal 25 of the consultation sought views on the repeal of

...unwanted provisions in the [2000 Act]. In particular those relating to the 2026 cut-off date for historical routes under sections 53 - 56 of the [2000 Act].

106. Responses to the overall consultation were received from individuals, representative organisations and a number of organised campaigns. On proposal 25 the analysis of responses showed that:

Individual responses			Campaign responses		
Agree	Disagree	Not sure	Agree	Disagree	Not sure
102	10	2	4,047	0	

107. The consultation summary report⁵⁵ explained that:

Proposals to repeal ... certain provisions under the Countryside and Rights of Way Act 2000..., in particular, those which set a cut off date for recording historical rights, were supported by most of those who responded to them. However, some respondents, sought clarity over other [2000 Act] provisions under consideration for repeal.

108. The draft Statute Law (Repeals) (Wales) Bill therefore amends sections 53, 54, 55 and 56 of the 2000 Act, so those provisions apply to land in England only. This will mean that those provisions of the 2000 Act will not apply to Wales, and therefore there will not be a cut-off date by which historic footpaths and bridleways must be included on definitive maps, nor for the extinguishment of certain rights of way which have not been claimed by the cut-off date. This is the current position in law (as the 2000 Act provisions have not been commenced) and the change made by this Bill removes the prospect of the current position changing without new legislative provision being made.

Question 25 - Do you agree that the sections 53 to 56 of the Countryside and Rights of Way Act 2000 should be amended to apply to England only?

Question 26 - Are there any consequences of amending the 2000 Act in this way that should be considered further?

⁵⁴ Available at: [170728-consultation-document-en.pdf \(gov.wales\)](https://gov.wales/170728-consultation-document-en.pdf)

⁵⁵ Welsh Government (2018) *Consultation - summary of response* (available at: [sustainable-management-summary-of-responses.pdf \(gov.wales\)](https://gov.wales/sustainable-management-summary-of-responses.pdf))

The Government of Wales Acts of 1998 and 2006

109. As noted above, the Bill repeals provisions in the Government of Wales Act 1998 (GoWA 1998) and the Government of Wales Act 2006 (GoWA 2006) as a consequence of other repeals being made in the Bill. In addition the Bill also makes other amendments to those Acts, as set out below.

Miscellaneous amendments relating to the Government of Wales Act 1998

110. GoWA 1998 provided for the establishment of the National Assembly for Wales. Unlike the devolution arrangements put in place at the same time in Scotland and Northern Ireland, GoWA 1998 did not provide for a separation between the legislature and the executive. Instead, the National Assembly was established as a single corporate body, which exercised its functions on behalf of the Crown. This meant that one organisation, the National Assembly, was responsible for discharging both legislative and executive functions.
111. The Assembly assumed the statutory powers and duties which the Secretary of State for Wales had previously exercised. Provision was made for Orders in Council to transfer these mostly executive responsibilities to the Assembly and subsequent Acts of Parliament conferred additional powers on the Assembly.
112. The Assembly could only make secondary legislation, such as orders and regulations, in devolved areas. It could not make primary legislation for Wales, which remained the UK Parliament's responsibility in both devolved and reserved areas.
113. In June 2005, the Secretary of State for Wales published a White Paper, *Better Governance for Wales*⁵⁶, which included proposals to effect a formal separation between the executive and legislative branches of the Assembly, reform existing electoral arrangements and increase the legislative powers of the Assembly. GoWA 2006 gave effect to the broad policy objectives contained in the White Paper proposals. Although it repealed the majority of GoWA 1998, certain provisions continued to be in force.
114. The Bill makes a number of changes to the remaining provisions of GoWA 1998 to remove references to obsolete bodies, remove spent transitional provisions and update certain references to other bodies. The Bill also removes certain amendments that GoWA 1998 made to other enactments because these are no longer needed as a result of repeals and substitutions by later Acts.
115. In particular:
- a. Reform of other Welsh public bodies -
 - i. section 28 of GoWA 1998 provides a power to the Welsh Ministers to order the transfer of one or more of the functions of bodies listed in

⁵⁶ Available at: <https://www.gov.uk/government/publications/better-governance-for-wales>

Schedule 4 to the 1998 Act. Section 28 is therefore amended to remove reference to Part 2 of Schedule 4, because advisory committees for Wales were provided for by the National Health Service Act 1977, which was repealed with effect from 1 March 2007. Part 2 of Schedule 4 itself is also omitted, for the same reason.

- ii. The Bill also amends Part 1 to Schedule 4 to GoWA 1998 to omit public bodies that no longer exist or, in the case of the reference to the Care Council for Wales, to reflect the change in name of that body to Social Care Wales⁵⁷.
- b. Schedule 10 to GoWA 1998 makes consequential amendments to the Health Service Commissioners Act 1993. As most of these have been superseded, the Bill will omit those.
- c. Schedule 12 to GoWA 1998 deals with minor and consequential amendments to legislation.
- i. the amendment by the Bill to paragraph 17 omits provision amending the Local Government Act 1974 because the amended provision in that Act was repealed by the Public Services Ombudsman (Wales) Act 2005;
 - ii. the words inserted by paragraph 22 into section 134(3) of the Mental Health Act 1983 were substituted by Public Services Ombudsman (Wales) Act 2005, and paragraph 22 is therefore omitted;
 - iii. similarly, the words inserted by paragraph 36(b) were substituted by the Public Services Ombudsman (Wales) Act 2005 and can now be omitted.
- d. Schedule 16 to GoWA 1998 deals with amendments that arise in consequence of the abolition of Housing for Wales. The Bill omits:
- i. paragraph 1 because it amends the Friendly and Industrial and Provident Societies Act 1968, which was repealed by the Co-operative and Community Benefit Societies Act 2014.
 - ii. paragraph 12 because it amends section 157(4) of the Housing Act 1985 but this subsection was omitted by virtue of the Housing Act 2004.
 - iii. paragraphs 56 and 57 because they amend the Income and Corporation Taxes Act 1988. The relevant provisions of the 1988 Act were repealed by the Corporation Tax Act 2010.
 - iv. paragraph 68 because it amends the Housing Act 1988 but the relevant provision was omitted by the Regulation of Registered Social Landlords (Wales) Act 2018.

⁵⁷ Section 67(1) of the Regulation and Inspection of Social Care (Wales) Act 2016 provides that section 54 of the Care Standards Act 2000 is repealed. Section 67(2) provides that the body corporate called the Care Council for Wales (established by section 54) is to continue in existence; section 67(3) provides that it is to be renamed, and is to be known as, Social Care Wales.

- v. paragraph 84 because it amends section 9 of the Housing Act 1996 but this was substituted by the Regulation of Registered Social Landlords (Wales) Act 2018.
- vi. paragraph 96 because it amends various provisions in Schedule 1 to the Housing Act 1996, which have since been substituted or repealed.
- vii. paragraphs 98 to 100 because they amend the Audit Commission Act 1998. That Act was repealed by the Local Audit and Accountability Act 2014.

116. Part 14 of the Schedule to the Bill also repeals certain paragraphs in Schedule 10 to GoWA 2006. Those paragraphs amended GoWA 1998 to provide for the transfer of certain functions in relation to forestry and the environment from the (then) National Assembly to the Welsh Ministers. Those functions subsequently fell away upon the creation of the Natural Resources Body for Wales, and the underlying provisions of GoWA 1998 were repealed⁵⁸. The provisions being omitted by the Bill are therefore spent.

Transitional provision in the Government of Wales Act 2006

117. Under GoWA 2006, the powers and functions of the Assembly, including the power to make subordinate legislation, were transferred to the Welsh Ministers, who became accountable to the Assembly.

118. GoWA 2006 created a system for granting the Assembly the ability to pass Assembly Measures (i.e. primary laws) in 20 defined areas through Legislative Competence Orders, which required the consent of both Houses of Parliament and the Secretary of State for Wales.

119. It also granted the Assembly primary law-making powers, subject to a referendum. This referendum was held in 2011 and, following the affirmative referendum result, the Assembly assumed new powers to pass primary legislation (Acts of the National Assembly for Wales) without recourse to Parliament in specified areas.

120. The Wales Act 2014 transferred further powers to the National Assembly for Wales, and the subsequent Wales Act 2017 made further changes to GoWA 2006 and the Wales Act 2014, notably moving from a “conferred” to a “reserved” model of devolution in Wales. On 6 May 2020 the National Assembly for Wales became Senedd Cymru or the Welsh Parliament following changes introduced by section 2 of the Senedd and Elections (Wales) Act 2020.

121. Over and above the amendments to GoWA 2006 which have already been set out in this paper, Part 15 of the Schedule to the Bill makes changes to Schedule 11 to GoWA 2006.

⁵⁸ See the Natural Resources Body for Wales (Functions) Order 2013 (S.I. 2013/755) and the Natural Resources Body for Wales (Consequential Provision) Order 2013 (S.I. 2013/1821)

122. Schedule 11 contains transitional provisions to cover the transfer in May 2007, when the first Assembly election took place after GoWA 2006, from the legal and governmental regime created by GoWA 1998 to the regime set out in GoWA 2006. It sets out detailed provisions dealing with the arrangements necessary to ensure an effective transition. As the transition has happened a number of those provisions are no longer required, and the Bill will remove these from the statute book.

123. The amendments to Schedule 11 are to:

- a. Paragraphs 3 to 7 (dealing with elections) -
 - i. paragraph 3 provides for the date of the first meeting of the National Assembly returned after the 2007 election to be set by order made by the 'old Assembly' (which had been constituted under GoWA 1998). This is spent now that the first meeting after the 2007 election has taken place.
 - ii. paragraph 4 provides for the date of the first ordinary Welsh general election held after 2007 to be calculated by reference to the 2007 election, which had the effect that the next general election would be held in 2011. This is spent now that the 2011 election has taken place.
 - iii. paragraphs 5 and 6 are also spent because they amended sections 5 and 7 of GoWA 1998, which were both repealed by Schedule 12 to GoWA 2006.
 - iv. paragraph 7 is spent because it modified section 11 of GoWA 2006 until the first general election and related to Senedd by-elections before the 2011 election.
- b. Paragraph 9, which made transitional provision about the term of office of Assembly Members returned at the 2007 election and is therefore now spent.
- c. Paragraph 11, which disqualifies a Lord of Appeal in Ordinary from being a member of the Senedd. Lords of Appeal in Ordinary, or Law Lords, were judges appointed under the now-repealed Appellate Jurisdiction Act 1876 to the British House of Lords, as a committee for the house. They exercised the House of Lords' judicial functions, which included acting as the highest court of appeal for most domestic matters. The House of Lords lost its judicial functions upon the establishment of the Supreme Court of the United Kingdom in October 2009. Lords of Appeal in Ordinary then in office automatically became judges of the Supreme Court of the United Kingdom⁵⁹. Section 16 of GOWA 2006 (as amended by the Senedd and Elections (Wales) Act 2020) disqualifies the office holders set out in the table in Part 2 of Schedule 1A to GOWA 2006 from being a Member of the Senedd and from being a candidate to be a Member of the Senedd. These include the holders of certain judicial offices including a Justice of the Supreme Court. Paragraph 11 is therefore no longer required.

⁵⁹ see section 24 of the Constitutional Reform Act 2005

- d. Paragraphs 14 to 19 - these are spent provisions relating to arrangements following the 2007 general election to the National Assembly, and the ‘initial period’. That is, the period beginning at the start of polling day 2007 (when all members of the existing Assembly, including Assembly Ministers, would normally cease to be able to exercise those functions) and ending with the appointment of a First Minister.
- i. Paragraph 14 ensured that the Assembly (constituted under GoWA 2006) was responsible for publication of information about remuneration of Assembly members in relation to the financial year 2006-07 (i.e. relating to the last year of the ‘old Assembly’ and its members).
 - ii. Paragraph 15 ensured that a determination made under section 34A of GoWA 1998, which was in force immediately before the repeal of that section, continued to have effect in relation to the Assembly.
 - iii. Paragraph 16 ensured that the holding of the 2007 election triggered the duty of the Assembly to elect a Presiding Officer and Deputy Presiding Officer.
 - iv. Paragraph 17 ensured that the person who was the Clerk to the ‘old’ Assembly became the Clerk of the Assembly for the purpose of functions under GoWA 2006.
 - v. Paragraph 18 provided that paragraphs 5 and 6 of Schedule 2 (which authorise the Assembly Commission to promote awareness of the election system and devolved government either directly or by financial support for the Electoral Commission) have effect until the end of the ‘initial period’ as if the reference to the Assembly Commission were a reference to the ‘old’ Assembly.
 - vi. Paragraph 19 ensured that, until the end of the initial period, if Her Majesty made an Order in Council under paragraph 12(1) of Schedule 2 providing for the Assembly Commission to be treated as a Crown body for the purposes of an enactment, the statutory instrument containing the Order may be annulled only by either House of Parliament.
- e. Paragraphs 22 to 25, which ensured that governmental functions of the ‘old Assembly’ could continue to be exercised during “the initial period”. These are spent because they make provision about membership and functions of the Assembly constituted by the 1998 Act during “the initial period”, which ended on 25 May 2007.
- f. Paragraph 28(1) which provided for the continuation of powers conferred upon the “old Assembly” to implement certain European legislation. This is no longer required because of the European Union (Withdrawal) Act 2018.
- g. Paragraph 29 which refers to the first nomination of the First Minister in respect of the Assembly term following the holding of the poll at the 2007 election. This provision is now spent.

- h. Paragraphs 35(3) and 35(4), which deal with procedures for making subordinate legislation and are amended to remove references to subordinate legislation-making powers which have been repealed.
 - i. Paragraphs 50 and 51 which deal with the process for making Legislative Competence Orders. The power to make Legislative Competence Orders has been repealed.
 - j. Paragraphs 53, 53A and 53B, which are spent provisions relating to payments into the Welsh Consolidated Fund.
 - k. Paragraphs 54, 55, 56, 58, 59, 62 and 63 which contain modifications that apply only to the end of the initial period, which ended on 27 May 2007.
 - l. Paragraphs 60 and 61 which modify provisions in their application for only the financial year beginning on 1 April 2007, so they are spent.
 - m. Paragraphs 64, 64B, 64C, 64F and 64G, provisions relating to the Auditor General and Public Services Ombudsman for Wales which are time-limited and spent.
 - n. Paragraph 65 makes provision necessary for the period before the coming into force of section 27(1) the Justice (Northern Ireland) Act 2002. This is spent because section 27 of that Act came into force on 12 April 2010.
 - o. Paragraphs 66 and 67 make provision necessary for the period before the coming into force of section 23(1) of the Constitutional Reform Act 2005. These are spent because section 23(1) of that Act came into force on 1 October 2009.
124. The Bill also repeals paragraph 10 of Schedule 3 to the National Health Service (Consequential Provisions) Act 2006 because it applied only during the initial period, within the meaning of GoWA 2006, which ended on 25 May 2007. The provision is spent as the initial period has ended.

Question 27 - Do you agree with the proposed amendments relating to the Government of Wales Acts 1998 and 2006?

Question 28 - Are there any consequences of amending the 1998 and 2006 Acts that should be considered further?

Welsh Elections (Coronavirus) Act 2021

125. The Welsh Elections (Coronavirus) Act 2021 (the 2021 Act) was enacted to provide for measures relating to protection against coronavirus to apply to Senedd Cymru elections and local government elections due to be held in 2021.

126. The 2021 Act made provision enabling the postponement of the Senedd Cymru general election scheduled for 6 May 2021. The procedure for postponement could only be activated by a proposal of the First Minister setting out that he considered the postponement to be necessary or expedient for reasons relating to coronavirus. The proposal would then be subject to various processes before it would be rejected or approved by the Senedd. These powers were not exercised, and the general election took place, as scheduled on 6 May 2021.
127. The 2021 Act also made provision enabling Senedd or local government by-elections for vacancies that might have arisen to be postponed up to (but not later than) 5 November 2021. Those powers were not exercised, and no by-elections were postponed under the Act.
128. The 2021 Act only applied to the ordinary general election held last year and does not apply to any subsequent elections to Senedd Cymru. Further the Act does not permit by-elections to be postponed past 5 November 2021. Therefore, the Act is now entirely spent. If the coronavirus pandemic, or other circumstances, appeared to potentially impact future general or by-elections new legislative provision would have to be considered.
129. Paragraph 55 of the Schedule to the Bill therefore repeals the 2021 Act in full.

Question 29 - Do you agree that the Welsh Elections (Coronavirus) Act 2021 should be repealed?

Question 30 - Are there any consequences of repealing the Welsh Elections (Coronavirus) Act 2021 (including references to the Act in other legislation) that should be considered further?

Other possible matters for inclusion in a Statute Law (Repeals) Bill

130. If there are other provisions in primary legislation relating to Wales which appear to be suitable for repeal because they are now obsolete, spent, no longer of practical utility or have never been commenced, we would welcome those suggestions. It may be that these could be included in this or a future Bill of this kind.

Response 31 - If you are aware of other areas of the law which could be included in a future Statute Law (Repeals) (Wales) Bill, please provide information.

Proposed next steps

131. At the end of this consultation the Welsh Government will consider the responses received and issue a summary report of those. The draft Bill will be considered in light of the responses received, with a view to a Bill being introduced into the Senedd at a suitable point in the legislative programme.

132. The Government's programme to improve the accessibility of Welsh law originally envisaged a Bill dealing with repeals of statute law would be introduced into the Senedd under the Senedd's Standing Order 26C. We now consider it more appropriate to introduce this Bill under the Senedd's Standing Order 26, which sets out the procedure for law reform Bills.

Consultation response form

Your name:

Organisation (if applicable):

Your email / telephone number:

Your address:

Question 1 - Are there any consequences of amending Part 3 of the Agriculture Act 1967 so that they no longer apply in relation to Wales that should be considered further?

Question 2 - Are there any consequences of amending Schedule 32 to the Local Government, Planning and Land Act 1980 so it no longer applies in relation to Wales that should be considered further?

Question 3 - Are there any consequences of amending Part 3 of the Housing Act 1988 so that it no longer applies in relation to Wales that should be considered further?

Question 4 - Do you agree that the transitional arrangements relating to local plans and structure plans can be repealed in the Town and Country Planning Act 1990, the Local Government (Wales) Act 1994, and the Planning Act 2008?

Question 5 - Are there any consequences of omitting the transitional provisions relating to local plans and structure plans that should be considered further?

Question 6 - Are there any consequences of amending the Planning and Energy Act 2008 so that it no longer applies in relation to Wales that should be considered further?

Question 7 - Do you agree that the Agricultural Land (Removal of Surface Soil) Act 1953 should no longer apply in relation to Wales?

Question 8 - Are there any consequences of removing the application of the 1953 Act to agricultural land in Wales that should be considered further?

Question 9 - Do you agree that the amendments relating to social services committees should be made?

Question 10 - Do you agree the spent provisions relating to the Residuary Body for Wales should be repealed?

Question 11(a) - Is there any reason why sections 41 to 45 of the Local Government (Wales) Act 1994 cannot be fully repealed?

Question 11(b) - If sections 41 to 45 cannot yet be repealed, is there a point in the future when they will be suitable for repeal (for example, because all contracts of employment to which they might apply will have ceased to exist)?

Question 12 - Do you agree the spent provisions relating to decentralisation and joint working should be repealed?

Question 13 - Are there any consequences to the amendments described in questions 9, 10 and 11 that should be considered further?

Question 14 - Do you think that there is any continuing need for section 5 of the Disabled Persons (Services, Consultation and Representation) Act 1986 to apply to Wales?

Question 15 - If section 5 of the 1986 Act is disapplied to Wales, do you think that it needs to be temporarily maintained for the potential benefit of the group of persons who have been issued with statements of special education needs under the Education Act 1996?

Question 16 - Are there any other consequences of repealing section 5 of the 1986 Act that should be considered further?

Question 17 - Do you agree that the Statute Law (Repeals) Bill should repeal the provisions in the Environment Act 1995?

Question 18 - Are there any consequences of amending the 1995 Act that should be considered further?

Question 19 - Do you agree that the Industry Act 1979 and the Welsh Development Agency Act 1997 should be repealed?

Question 20 - Are there any consequences of repealing the 1979 and 1997 Acts that should be considered further?

Question 21 - Do you agree that the Development of Rural Wales Act 1976 should be repealed?

Question 22 - Are there any consequences of repealing the 1976 Act that should be considered further?

Question 23 - Do you agree that the provisions in the Government of Wales Act 1998 relating to the Land Authority for Wales should be repealed?

Question 24 - Are there any consequences of amending the Government of Wales Act 1998 in relation to the Land Authority for Wales that should be considered further?

Question 25 - Do you agree that the sections 53 to 56 of the Countryside and Rights of Way Act 2000 should be amended to apply to England only?

Question 26 - Are there any consequences of amending the 2000 Act in this way that should be considered further?

Question 27 - Do you agree with the proposed amendments relating to the Government of Wales Acts 1998 and 2006?

Question 28 - Are there any consequences of amending the 1998 and 2006 Acts that should be considered further?

Question 29 - Do you agree that the Welsh Elections (Coronavirus) Act 2021 should be repealed?

Question 30 - Are there any consequences of repealing the Welsh Elections (Coronavirus) Act 2021 (including references to the Act in other legislation) that should be considered further?

Response 31 - If you are aware of other areas of the law which could be included in a future Statute Law (Repeals) (Wales) Bill, please provide information.

Question 32 - We would like to know your views on the effects that the Draft Bill would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English.

What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?

Question 33 - Please also explain how you believe the proposed Draft Bill could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

Question 34 - We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them:

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here