



Llywodraeth Cymru  
Welsh Government

# Statute Law (Repeals) (Wales) Bill

## CONSULTATION SUMMARY REPORT



March 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**

This document provides a summary of the responses received by the Welsh Government to the consultation on a draft Statute Law (Repeals) (Wales) Bill.

**Action required**

This document is for information only.

**Further information and related documents**

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

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

**Additional copies**

This summary of responses and copies of all the consultation documentation are published in electronic form only and can be accessed on the Welsh Government's website.

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## Background to consultation

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1. The Welsh Government's programme to improve the accessibility of Welsh law committed the Government to a number of projects aimed at tackling 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. 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.
2. 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. Traditionally such a Bill is known as a 'Statute Law (Repeals) Bill'. 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.

## Purpose of the consultation

3. The Welsh Government consulted on a draft Statute Law (Repeals) (Wales) Bill:
  - a. firstly, in relation to the individual proposals in the Bill, to understand if the repeals were helpful, and whether there were any particular consequences of a repeal that needed to be considered;
  - b. secondly, to check if there were other provisions that were suitable for repeal in this Bill or a future Statute Law (Repeals) Bill for Wales.

## Consultation responses

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4. The consultation ran from 7 October 2022 to 6 January 2023, and was accessible via the Welsh Government consultation pages on gov.wales. It was drawn to the attention of known stakeholders with an interest in accessibility of the law as well as those with a potential interest in specific elements of the proposals. Reminders of the consultation closing date were periodically sent to the list of potential stakeholders.
5. A total of 8 responses were received: 2 through the online consultation tool and the remainder via e-mail. The responses consisted of:
  - Five responses from or on behalf of organisations:
    - the Children's Commissioner for Wales
    - Open Spaces Society
    - Pembrokeshire Coast National Park Authority
    - Royal Commission on the Ancient and Historical Monuments of Wales
    - Royal Town Planning Institute Cymru (RTPI Cymru)

- Three responses from individuals in a personal capacity:
    - Mr and Mrs Filce
    - Anne Kasica
    - an individual who requested their response and details remain anonymous
6. Two of the respondents answered most or all the questions, but most respondents only commented on one or a few matters of interest to them.
  7. One of the private individual respondents opposed all the proposals - although the person did not provide reasons for several of their responses, some of their concerns relate to their perception that the Welsh Government is not safeguarding rural land and the countryside. Most respondents supported the proposals, occasionally providing remarks on the drafting approach being taken.
  8. Some suggestions related to drafting or minor and technical matters and these have been considered further. Some comments made by respondents related to wider policy matters and these have been brought to the attention of the relevant policy officials within Welsh Government.
  9. We are grateful to all those who considered the consultation as well as those who took the time to respond.

### **A note on the analysis of responses**

10. The purpose of this report is to provide an overview of the responses received to the consultation rather than capturing in detail every point raised by respondents.
11. The report follows the structure of the consultation, and some matters have been grouped together in this report due to the limited number of responses received and issues raised.

## **Summary of consultation responses**

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### **Rural Development Boards**

12. The Draft Bill amends the Agriculture Act 1967 (the 1967 Act) to disapply, in relation to Wales, the provisions relating to Rural Development Boards. No Boards have been established in Wales under the 1967 Act. The Bill also amends references to the 1967 Act in the Local Government (Wales) Act 1994 and the Government of Wales Act 2006.
13. Views were sought on the proposed amendments to the 1967 Act, and three responses were received: one respondent, RTPI Cymru, supported the proposal and one respondent did not. Mr and Mrs Filce identified a potential issue with the clarity

of the drafting and raised a question regarding the geographical extent of the existing legislation.

### **Enterprise zone areas**

14. The Draft Bill amends Schedule 32 to the Local Government, Planning and Land Act 1980 (the 1980 Act) to disapply these provisions in relation to Wales. This has the effect of removing the Welsh Ministers' power to designate enterprise zones under the 1980 Act. The Bill also makes consequential amendments to the Local Government (Wales) Act 1994 and the Mobile Homes (Wales) Act 2013.
15. Views on any consequences of making these amendments were sought. RTPI Cymru supported the change without comment, one respondent did not agree that the changes should be made and Mr and Mrs Filce pointed to a potential issue with the drafting of the Bill. Their concerns arose because of the way earlier amendments had been addressed on legislation.gov.uk which has now been corrected.

### **Housing action trusts**

16. The Draft Bill amends Part 3 of the Housing Act 1988 (the 1988 Act) so that the provisions relating to housing action trusts would only apply in relation to England.
17. Views on any consequences of making these amendments were sought. Two respondents supported the changes, and one did not. No consequences of the repeals were offered in the consultation responses.

### **Local plans and structure plans: transitional arrangements**

18. The Draft Bill repeals spent transitional arrangements relating to local plans and structure plans (which are part of the planning system) in the Town and Country Planning Act 1990, the Local Government (Wales) Act 1994 and the Planning Act 2008.
19. Three responses were received to the question of whether the transitional arrangements could now be repealed: RTPI Cymru and Mr and Mrs Filce were in support, while a further respondent did not agree with the repeal.
20. Mr and Mrs Filce made suggestions for the wording of the Draft Bill as well as making wider comments regarding certain planning authorities. The other respondent who commented shared concerns that those living in the areas of planning authorities in Wales would not be aware of changes.
21. At the time the consultation on the Draft Bill opened two planning authorities had unitary development plans (a point explained in the consultation paper). Since that time Flintshire has now adopted a local development plan, leaving Wrexham as the last authority with a unitary development plan.

## Energy policies in development plans

22. Part 5 of the Schedule to the Draft Bill amends the Planning and Energy Act 2008 so that it will no longer apply in relation to Wales, and makes consequential amendments to the Planning (Wales) Act 2015 and the Local Government and Elections (Wales) Act 2021
23. Three responses were received: RTPI Cymru suggested the amendment was sensible, an anonymous respondent shared concerns over removing the safeguarding of rural land, and the third respondent highlighted wider matters relating to OFGEM and licencing but no direct comments on the drafting of the Bill.

## Offence of removal of soil without consent

24. The Bill disapplies the Agricultural Land (Removal of Surface Soil) Act 1953 (the 1953 Act) in relation to land in Wales, so that the offence of removing topsoil without consent no longer applies in Wales.
25. Four respondents to the consultation gave views on this proposal: three responses agreed that the 1953 Act should no longer apply in Wales, and one was against disappling the Act in relation to Wales.
26. The Royal Commission on the Ancient and Historic Monuments of Wales agreed with the proposals on the basis that there are “*alternative forms of action that can be taken to achieve the same end*”. The respondent who did not agree with the proposals took the view that there would be a removal of safeguarding provisions for areas of outstanding natural beauty.
27. Mr and Mrs Filce considered there could be consequences of the changes for “BMV land” (best and most valuable land), leading them to conclude the “*protection previously afforded under this Act should now be provided by widening the remit of WG ALC to compensate.*” (Welsh Government agricultural land classification.)

## Reorganisation of local government

28. Part 7 of the Schedule to the Draft Bill repeals provisions which are no longer required in relation to:
  - a. Social services committees
  - b. The Residuary Body for Wales, and
  - c. Decentralisation schemes and joint working.
29. In relation to the proposals for social services committees, one respondent agreed and one respondent did not, with no further comments being provided.
30. In agreeing that the spent provisions of the Residuary Body for Wales should be repealed, Mr and Mrs Filce were content “*provided all TUPE arrangements had been*



*fully discharged*” (TUPE being ‘Transfer of Undertaking (Protection of Employment)). A second respondent did not agree with the proposed repeals.

31. Mr and Mrs Filce considered that the views of local authorities should be sought to ascertain any reasons why the amendments in relation to the Residuary Body should not be made. The consultation was drawn to the attention of all county and county borough councils in Wales and the Welsh Local Government Association, amongst others.
32. One respondent agreed with the proposals to repeal spent provisions relating to decentralisation and joint working, and one did not. Again Mr and Mrs Filce took the view that it was for local authorities to comment on the proposals, and the other respondent shared a concern that the Welsh Government was not aware of the long-term consequences of amending and repealing provisions.

### Statements of special educational needs

33. The Draft Bill amends section 5 of the Disabled Persons (Services, Consultation and Representation) Act 1986 (the 1986 Act) to fully reflect the fact that, as that provision stands, local authorities in Wales are not subject to the duty to carry out assessments under it. This is because of changes to the law relating to the provision of education to people in Wales with additional learning needs. Those changes mean that no-one in Wales has a statement under any of the Education Acts of 1981, 1993 and 1996. In Wales, assessments are now carried out under sections 19 and 21 of the Social Services and Well-being (Wales) Act 2014. The Bill also consequentially amends the Education Act 1996 and the 2014 Act.
34. Three responses were received on this part of the Consultation: Mr and Mrs Filce, the Children’s Commissioner for Wales and an anonymous respondent.
35. The Children’s Commissioner for Wales raised a concern that the changes “could mean there will be less obligation on local authorities in Wales to assess individual need and that it will be easier for local authorities not to undertake assessments on the basis of their own judgement rather than assessing because of statutory duty”. Subsequent to the consultation, officials for the Children’s Commissioner have indicated that they are content with the proposals, on the grounds that they mean that the law will better reflect the existing assessments system, and will improve clarity.
36. The anonymous respondent considered there was a continuing need for the provisions of the 1986 Act, and that if section 5 were to be disapplied it should be temporarily maintained in relation to any people who still have a statement issued under the Education Act 1996. No reasons were given.
37. Mr and Mrs Filce suggested that it was for local education authorities to advise on this, and offered no views of their own.

### **National Park Planning Boards**

38. Part 9 of the Schedule to the Draft Bill amends the Environment Act 1995 to repeal redundant provisions relating to joint and special planning boards for National Parks in Wales.
39. This part of the Consultation received three responses: two responses were in agreement, including the response from the Pembrokeshire Coast National Park Authority, and one was not in agreement with the proposals. Pembrokeshire Coast National Park Authority did not raise any concerns but indicated they would wish to comment on the Bill further if it was introduced into the Senedd.
40. Mr and Mrs Filce's raised points relating to the geographical extent of the provisions being amended.

### **Welsh Development Agency**

41. The Welsh Development Agency was abolished in 2006 and its functions transferred to the Welsh Ministers. As a consequence, the Draft Bill proposes repealing the Industry Act 1979 together with spent provisions in the Welsh Development Agency Act 1997 and the Government of Wales Act 1998.
42. One respondent supported this proposal, one did not. No further comments were provided by respondents on this proposal.

### **Development Board for Rural Wales**

43. The Draft Bill addresses the remaining spent provisions of the Development of Rural Wales Act 1976 by repealing that Act in its entirety. It makes related amendments to the Government of Wales Act 1998.
44. One respondent supported this proposal, one did not. No further comments were provided by respondents on this proposal and no consequences identified.

### **Land Authority for Wales**

45. The transfer of the functions of the Welsh Development Agency, and the cessation of the operation of the Land Authority, was achieved through the Government of Wales Act 1998. The Draft Bill amends the 1998 Act to remove related provisions that are no longer required.
46. One respondent supported this proposal, one did not. No further comments were provided by respondents on this proposal.

## Unrecorded public rights of way

47. Part 13 of the Schedule to the Draft Bill amends sections 53 to 56 of the Countryside and Rights of Way Act 2000 (the 2000 Act), so that those provisions apply to land in England only. Those provisions have not been commenced, so this repeal means that it will no longer be possible to bring into force the cut-off date (1 January 2026) by which historic footpaths and bridleways must be included on definitive maps, nor can there be an extinguishment of certain rights of way which have not been recorded by the cut-off date set out in the 2000 Act.
48. Four respondents welcomed the proposal to amend section 53 to 56 of the Countryside and Rights of Way Act 2000 to apply to England only. Those in agreement were the Royal Commission on the Ancient and Historic Monuments of Wales, Pembrokeshire Coast National Park Authority, the Open Spaces Society, and Mr and Mrs Filce.
49. The Open Spaces Society welcomed the proposal but pointed to a possible omission in the draft legislation and made other drafting suggestions.
50. Two of the respondents disagreed. Anne Kasica was of the view that Wales should set a cut-off date for the recording rights of way. She considered there were consequences of the proposals deserving further consideration:

*One of the most important tenets in law is certainty. It is wrong that people who [buy] property believing it to be free of rights of way of any sort can suddenly find campaigning groups or individuals applying [to] re-open paths that have not been used for years or generations. It causes severe distress and affects property values. Wales should also introduce a provision to allow the closure of unused rights of way that have found their way onto the definitive map.*

## The Government of Wales Acts of 1998 and 2006

51. The Draft Bill removes references to obsolete bodies and spent transitional provisions in the Government of Wales Act 1998, together with updating certain references to other bodies and removing certain amendments that the Act made to other enactments which are no longer needed.
52. The Draft Bill also repeals transitional provisions in the Government of Wales Act 2006 and a related provision in the National Health Service (Consequential Provisions) Act 2006, which are now spent or no longer of relevance.
53. One respondent supported these proposals, one did not. No further comments were provided by respondents on the proposals.

## Welsh Elections (Coronavirus) Act 2021

54. The Draft Bill proposed the repeal of the Welsh Elections (Coronavirus) Act 2021, as that Act is now spent.
55. One respondent supported this proposal, one did not. No further comments were provided by respondents on this proposal.

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

56. Consultees were invited to identify other provisions in legislation which could be suitable for repeal in either this or a future Statute Law (Repeals) Bill.
57. Two responses were received, one from Mr and Mrs Filce who were not aware of other areas of law which may be suitable, and one suggestion from the Open Space Society. They recommended that section 28 of the Commons Act 1876 be considered for inclusion, explaining that this:

*...requires triennial-quinquennial reports from managers of allotted recreation grounds, with particulars of rents received. The reports are to be made to the Inclosure Commissioners (whose functions in Wales, we believe are now vested in the Welsh Ministers). No such reports have been required in living memory. Nor is it likely that rents now are received in relation to recreation grounds. The provision is no longer of any use.*

### Welsh language

58. Consultees were invited to set out their views on the effects the Bill would have on the Welsh language, and whether the Bill could be changed to have, or to increase, positive effects on opportunities for using the language.
59. The respondent who wished to remain anonymous shared a general concern on the Welsh Government's position to the Welsh language, but this was not directly linked to the Draft Bill or how it could be improved.

### Any other matters

60. Respondents were able to raise any other matters which they felt had not been specifically addressed in other questions. The Children's Commission had raised a concern that a CRIA (Children's Right Impact Assessment) had not been published alongside the consultation.

## Conclusion and next steps

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61. Overall only a limited number of responses were received, and most only commented on one or two matters. The areas of the Bill of most interest to respondents (with comments from three or more respondents) were:
  - Unrecorded public rights of way

- National Park Planning Boards
- Statements of special education needs
- Offence of removal of soil without consent
- Local Plans and Structure Plans: transitional provisions
- Housing Action Trusts
- Rural Development Boards
- Energy policies in development plans

Most responses on these areas were in favour of making the proposed amendments and repeals.

62. Of the concerns and comments received, many related to minor technical and drafting matters. All of the comments and concerns raised have been considered further and in line with the First Minister's announcement on the legislative programme, a Bill will be introduced into the Senedd in due course.
63. The Open Spaces Society's suggestion for a further matter to be included with a Bill will dealing with redundant provisions will be explored further, with a view to potentially including provision in a future Bill.