



Llywodraeth Cymru
Welsh Government

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The future of Welsh law: revised accessibility programme 2021 to 2026

Revised version of the Welsh Government's programme to improve the accessibility of Welsh law 2021 to 2026.

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“ 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

Introduction

1. The government's first programme to improve the accessibility of Welsh law, **The Future of Welsh Law: a programme for 2021 to 2026**, was laid before the Senedd on 21 September 2021. Under section 2(6) of the Legislation (Wales) Act 2019 the programme may be revised and, if revised, must be laid before the Senedd.

2. The Welsh Ministers and the Counsel General have revised the programme to now reflect:

- a. that the primary legislation for a code of law on the historic environment is now in place, with further work ongoing on subordinate legislation
- b. a new commitment to create a code of law in relation to planning
- c. details of a new project to improve the publication of subordinate legislation
- d. a commitment to modernise the form and structure of legislation, and
- e. the completion of some elements of the programme.

Summary

3. This revised programme to improve the accessibility of Welsh law contains projects to:

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- a. Prepare a taxonomy of subjects of Welsh law.
 - b. Expand functionality on the legislation.gov.uk site so users may access Welsh law by subject.
 - c. Draft a consolidation Bill to bring the law on planning in Wales together.
 - d. Implement the subordinate legislation necessary to support the consolidation of historic environment and planning law.
 - e. Prepare a Bill to remove provisions that are obsolete, spent, or are no longer of practical utility or benefit in Wales.
 - f. Scope additional subject areas with a view to identifying further consolidation projects.
 - g. Ensure Welsh law is available in an up-to-date form on legislation.gov.uk, and enable the Welsh and English language texts of Welsh legislation to be viewed side by side.
 - h. Expand and improve the [Cyfraith Cymru/Law Wales](https://www.cyfraith.cymru/) website.
 - i. Identify opportunities to improve digital accessibility of legislation.
 - j. Review the Government's approach to developing bilingual legislation.
 - k. Update, as necessary, guidance on drafting legislation as well as preparing and publishing additional guidance on the processes and procedures involved in preparing consolidation Bills.
4. Projects that have been completed from the original programme are listed at the end.

Developing the programme

5. In late 2019 the government published a consultation, "The Future of Welsh Law", which set out the approach we intend to take to improving accessibility of the law. This explained that the following steps need to be taken concurrently for progress to be made:

- a. classification of legislation by subject matter so that we have a structure for

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- future work and a method by which users can locate and use legislation
- b. consolidation of existing law: this is time consuming and complex, but will make the most significant contribution to making the law accessible
 - c. codification of the law will maintain the order we achieve through classification and consolidation
 - d. clarification and communication of the law will see effective publication, up-to-date texts, explanation, guidance and illustrative materials.

6. The Senedd has endorsed the government's ambitions by enacting the Legislation (Wales) Act 2019 ("the 2019 Act"). Under the 2019 Act, the Welsh Ministers and the Counsel General must prepare and lay a programme to improve the accessibility of Welsh law.

7. Each programme must make provision to consolidate and codify Welsh law, maintain codified law, promote awareness and understanding of Welsh law, and facilitate use of the Welsh language.

8. As noted in the introduction to this revised programme, section 2(6) of the 2019 Act provides that the Welsh Ministers and the Counsel General may at any time revise the programme, and if they do so the Counsel General must lay a copy of the revised programme before the Senedd. This is the first revised programme.

Programme

9. In preparing the original and revised programme we have taken account of existing commitments – for example to consolidate the law on the historic environment, and to simplify and modernise planning law – and sought to identify further projects which meet one or more of the following criteria:

- a. the project concerns one of the areas of the law most in need of

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- consolidation due to the complexity of the existing law
- b. the project would have a significant impact on the citizen due to the nature of the law concerned
 - c. the project is feasible taking account of what can be achieved within the context of competing legislative priorities, the availability of resource and the current devolution settlement
 - d. the project is topical or otherwise connected to the expected work of the government over the coming Senedd term.
10. Details of each project in the programme is set out below.

Classification of Welsh law

11. In the 'Future of Welsh law' (2019) the government set out its intentions to organise the legislation applicable to Wales according to its subject matter, and to establish a method whereby users can employ technological solutions to locate Welsh legislation. This form of classification of the law is important firstly to help users find legislation more easily, and secondly to provide an organisational structure for future consolidation and codification work.

12. During this Senedd term we will:

- a. review and revise the existing draft taxonomy of subjects (originally prepared and consulted upon in 2019) so as to establish which enactments in devolved areas of law should belong to each tier of the taxonomy.
- b. work with The National Archives team responsible for [legislation.gov.uk](https://www.gov.uk) to provide additional functionality on that site so that users may access Welsh law by subject.

Consolidation of Welsh law

13. The purpose of consolidating legislation is to revise legislation that has become out-dated, heavily amended and disorganised. Legislation on most subjects has proliferated over time and the sheer number of Acts and Instruments on the subject often makes it hard to find, let alone understand. Consolidation involves bringing together all or most of the (generally primary) legislation on a specific subject so that it can be easily found, and by modernising the form and drafting of the law to make it easier to understand and apply. Consolidation will often bring together a number of existing Acts on a subject, updating and harmonising the provisions, to create a new, single, Act at the end.

14. The primary legislation for the first consolidation project (on historic environment law) has been completed. The Government intends to prepare further consolidation Bills during this Senedd term for scrutiny by Senedd Cymru; if approved they will become Acts of Senedd Cymru.

15. We will develop a consolidation Bill which simplifies and modernises the law on planning:

This Bill forms an important part of wider, longer term improvements needed to the planning system. The need for the Bill is long standing and was clearly demonstrated when the Law Commission's report on Planning Law in Wales concluded that it is an area of law needing urgent attention. Their report highlighted the detrimental impacts and inefficiencies the inaccessibility, quality and complexity of the law is having on the operation of the planning system. The need to consolidate this area of law and the recommended scope of the Bill were accepted by the previous Welsh Government in their [interim response to the report](#) published in May 2019, with a [detailed response published in November 2020](#) setting out the government's position on each of the 192 recommendations in the report.

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The consolidation will bring together provisions relating to planning from numerous Acts, including the Town and Country Planning Act 1990; the Planning and Compensation Act 1991; the Local Government (Wales) Act 1972; the Environment Act 1995; the Planning and Compulsory Purchase Act 2004; the Planning Act 2008; the Planning (Wales) Act 2015; the Public Health Act 1936; as well as relevant provisions from secondary legislation, where appropriate.

Simplifying and consolidating planning law through this Bill will create a more efficient and effective planning system designed for the specific needs of Wales. This will be done by creating a planning framework which enables all stakeholders operating, using or engaging in the system to clearly access and understand the law directly affecting them. Importantly, it will facilitate use (by public bodies and the private sector) of the variety of powers and tools available to them through land use planning legislation to drive forward a values-based economic recovery from the pandemic.

16. The original programme identified that we would also develop a consolidation Bill to repeal or disapply legislative provisions from across the statute book that are obsolete, spent, or are no longer of practical utility or benefit in relation to Wales. This Bill remains a commitment for this programme but will no longer be brought forward as a consolidation Bill - instead it will be introduced as a 'law reform' Bill (this is a technical change relating to the requirements of the Senedd's Standing Orders, rather than a change of the commitment to bring forward legislation).

17. Sometimes such Bills are known as 'statute law repeal' Bills and have typically been a periodic feature in UK Parliament legislation; it is anticipated a Bill such as this will feature in most programmes to improve the accessibility of Welsh law. This Bill will help to modernise and simplify the law. Removing unnecessary provisions helps to "declutter" the statute book, and amending these provisions so that they no longer apply in relation to Wales helps to bring clarity about which parts of the Statute apply (and do not apply) to Wales.

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18. The government will review the existing legislation in a number of areas with a view to identifying further consolidation projects to be developed in future.

Potential areas for consolidation under consideration include:

- a. Allotments
- b. Building Regulations
- c. Hazardous substances planning
- d. Housing
- e. Public health.

19. This consideration will be informed by those areas of law that have been most affected by the United Kingdom's withdrawal from the European Union, with a view to identifying subjects in which the need to reconcile domestic law and retained EU law is most acute.

20. There will also be 2 projects to supplement the Historic Environment (Wales) Act 2023 and the Bill to consolidate planning law:

- a. a package of subordinate legislation required to implement the Historic Environment (Wales) Act 2023.

Although the Historic Environment (Wales) Act 2023 has become law, it will not be commenced until later in 2024, after the secondary legislation required to support it has been brought into force. A substantial amount of well-established secondary legislation was incorporated into the Act, but much remains to be restated in several sets of regulations covering a range of procedural and other matters affecting scheduled monuments and listed buildings.

- b. a phased project of consolidating key town and country planning subordinate legislation.

Some of this legislation needs to be consolidated due to its age (so the

language and format needs to be modernised), but also because of the number of amendments made to them over the years which impacts on their accessibility. A fuller analysis will be undertaken once drafting of the consolidation Bill has concluded, but current priorities include:

- i. The Town and Country Planning (Use Classes) Order 1987
- ii. The Town and Country Planning General Regulations 1992
- iii. The Town and Country Planning (Control of Advertisements) Regulations 1992
- iv. The Town and Country Planning (General Permitted Development) Order 1995
- v. The Town and Country Planning (Trees) Regulations 1999, and
- vi. The Town and Country Planning (Development Management Procedure)(Wales) Order 2012.

21. Additionally, during the remainder of this Senedd term work we will also seek to identify other opportunities to consolidate and update subordinate legislation. For example, preparing the 'Representation of the People Order' bilingually ahead of the general election to the Senedd in 2026.

22. The existing National Assembly for Wales (Representation of the People) Order 2007, an English-only text instrument, sets out the manner in which the election and election campaign is conducted and includes provision for legal challenge. It has been amended a number of times and there is no updated version freely available to the public. This legislation will be consolidated and remade bilingually in advance of the Senedd election.

Codification

23. When we have categorised Welsh law through the classification process, and made progress in consolidating some areas of law, it is important to preserve the order that will have been achieved. To do this we intend to codify

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the law. The Legislation (Wales) Act 2019 explains that ‘codifying Welsh law’ includes:

- a. adopting a structure for Welsh law that improves its accessibility
- b. organising and publishing consolidated Welsh law according to that structure.

24. In practice, codification means publishing the law on particular subjects together in one place and taking steps to preserve the structure of legislation on a particular subject once it has been brought to order. So where we have one Act on a particular subject, either because it has been consolidated or there has been wholesale reform of the law in the area, we should continue to have one Act. When a proposal is made to change the law in relation to the subject that change should be made by amending that Act, not making a new one that sits alongside it, unless there is a very good reason not to.

25. The consolidation of historic environment law has resulted in the Historic Environment (Wales) Act 2023 forming part of a code of law on the historic environment in Wales. This code will also include the subordinate legislation made under the 2023 Act (see paragraph 20.a).

26. Additionally, during this Senedd term we intend to create a code of law relating to planning in Wales through the consolidation of planning law. Although the final content of that code is yet to be determined, a declaration of this status is intended to help persons interested in the law on this topic to find and classify it more easily. This code of planning law will also contain subordinate legislation.

Communication and clarification

27. The projects set out above involve remaking the law, but modern communication techniques coupled with the expectations of users of legislation, mean that the law itself is routinely supplemented by additional information

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which helps to clarify the impact and meaning of the law.

28. During this Senedd term we will seek to improve free-to-access publication of the law and information about the law. We will:

- a. Work with the team behind the legislation.gov.uk to ensure that bilingual Acts and Statutory Instruments are available in an up-to-date form in both languages.

Now that the functionality of the legislation.gov.uk site has been upgraded so that texts of legislation can be updated in both Welsh and English, we will continue to work with the legislation.gov.uk team to ensure that both language texts of Welsh law on the site include any amendments made to the legislation after it has originally been made.

- b. Significantly expand and improve the content of the Cyfraith Cymru/Law Wales website to achieve a 'one stop shop' for accessing and understanding Welsh law.

As part of this work we will also explore the lessons gained from legislating during the coronavirus pandemic to improve the way the law is explained, for example by working alongside communications experts to produce focussed guidance and ensuring it is updated as legislation changes; by ensuring updated versions of key legislation (including explanatory notes) are published bilingually on-line; by publishing "question and answer" documents, some aimed at specific stakeholder groups, thereby ensuring that simple, consistent and legally accurate messages are conveyed.

- c. Explore ways to move from a model of promulgating legislation based on 20th century printed versions to a modern, digital-based system. This will include considering technological solutions for viewing and interpreting bilingual legislation and moving away from the dual column printed format of Statutory Instruments. We are keen to emphasise the point that in Wales,

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- legislation is made bilingually and both language texts are of equal standing.
- d. Seek to strengthen the arrangements adopted by the Welsh Government to publish (electronically) subordinate legislation made by or on behalf of the Welsh Ministers, other than by Statutory Instrument. This could include new arrangements for cataloguing, listing and retaining this legislation to ensure it remains available so users may know the law that was in force at a particular point in time.
 - e. Develop the government's approach to preparing bilingual legislation, using linguistic technology to its full potential as we seek to improve efficiency, continue to ensure accuracy and use natural syntax and 'plain language'. We will continue to:
 - i. accelerate the publication of additional standardised Welsh language legislative terminology on TermCymru
 - ii. identify how the government's new translation memory and machine translation system can enable us to work more efficiently, highlight improvements that can be made to the original text, and facilitate improved consultation on technical terms
 - iii. review internal guidance on style to identify opportunities to make the text clearer and more natural in both languages
 - iv. agree processes for legislative translators and legislative counsel to collaborate to improve the original drafting as well as ensure that the translation is correct, and
 - v. hone editorial skills by sharing expertise between legislative translators and legislative counsel.
 - f. Continue to explore the potential for using machine learning and artificial intelligence to make Welsh law more accessible.

29. The government has previously prepared guidance on developing primary legislation. Although it is internal guidance for the Welsh Government Civil Service, it has been published to aid understanding of the law-making process and the development and drafting of legislation. During this Senedd term the government intends to review and update, as necessary:

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- a. The Legislation Handbook on Senedd Bills and the Legislation Handbook on Subordinate Legislation
- b. Common Legislative Solutions (guidance that helps public officials understand commonly recurring issues and learn from what has been done in the past to resolve them)
- c. Writing Laws for Wales (the legislative drafting guidance of the Office of the Legislative Counsel).

We will also prepare and publish additional guidance on the processes and procedures involved in preparing consolidation Bills.

Other projects

Working with the Law Commission

30. We will continue to work with the Law Commission of England and Wales to identify one or more projects relating to Welsh law for inclusion in its future programmes of work.

31. The Welsh Ministers intend to refer a project to the Law Commission to support the simplification and modernisation of agricultural law in Wales.

Form and structure of Welsh legislation

32. We intend to consult on some potential changes to the form and structure of Welsh legislation, with a view to any final changes being agreed with the Llywydd (where these changes affect the form of Senedd Bills), the King's Printer of Acts of Parliament, The Stationery Office, The National Archives (where the changes would affect the printing and publication of Welsh legislation), and others as relevant.

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33. It is anticipated that the consultation will cover:

- a. whether both a 'long and 'short' title to a Bill/Act of the Senedd is required
- b. overview provisions in Bills/Acts of the Senedd
- c. simplifying or omitting the words of enactment in Acts of the Senedd
- d. the use and descriptions of dates in Acts of the Senedd (for example, in relation to the date of Royal Assent)
- e. adopting navigation aids within Acts of the Senedd, and possibly also Welsh Statutory Instruments, such as adding headers in the document to indicate the relevant Part or Schedule
- f. the typeface used in both Acts of the Senedd and Welsh Statutory Instruments
- g. adopting solutions that support improving both digital and print accessibility.

Reporting on the programme

34. Under the Legislation (Wales) Act 2019, the Counsel General is required to report annually to the Senedd on the progress of the programme. The first 2 annual reports have been published and the next report is due in the autumn of 2024.

Completed projects

35. The following projects from the original programme have been completed:

- a. Draft a consolidation Bill to bring the law on the Historic Environment into a single statute.

This commitment has been delivered by the passing of the Historic Environment (Wales) Act 2023 on 28 March 2023, with the Act receiving Royal Assent on 14 June 2023.

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- b. The Historic Environment (Wales) Act 2023 forming a code of Welsh law.

This commitment has been delivered (see section 1(1) of the 2023 Act). Further legislative instruments will be included in the code in due course – see above for commitments regarding subordinate legislation.

- c. Remake and update the rules for the conduct of local government elections in Wales.

This commitment has been delivered by making the Local Elections (Principal Areas) (Wales) Rules 2021, the Local Elections (Communities) Rules 2021 and the Local Elections (Miscellaneous and Consequential Amendments) (Wales) Regulations 2022. The Rules, and subsequent regulations, were used for the conduct of local elections in Wales in May 2022.

- d. Explore the potential for using machine learning and artificial intelligence to make Welsh law more accessible.

A time limited project was conducted in 2021-2022 to explore to what extent artificial intelligence is being used to prepare legislation, both within the Welsh Government and further afield. The project concluded that in its current state, artificial intelligence was not sufficiently developed to be used in this way. However, as developments in this field are gathering pace, we are committed to doing further work focussing on aspects of the learning gained through this early research, if and when further resource becomes available.

- e. Developing the government's approach to preparing bilingual legislation. Certain aspects of this work have already been completed, as follows:
 - i. a project to compare the legislative terms in the Translation Service's online terminology database, TermCymru, with the Drafting Glossary, to ensure complete consistency between both term bases

- ii. workshops conducted by the Translation Service focussing on cooperation between translators and lawyers and how the translation process can help to improve the bilingual text
- iii. continuation of the terminology standardisation processes linked to Bill projects
- iv. procuring new translation memory and terminology management software, with the system becoming fully operational in September 2023
- v. a full review of the legislative reference materials available on BydTermCymru
- vi. the establishment of a dedicated sub-lot for legislation as part of a new translation Framework Agreement for the Welsh Government
- vii. publication of the Welsh Linguistic Infrastructure Policy in June 2023
- viii. the establishment of a new unit within the Welsh Government to be responsible for the linguistic infrastructure of the Welsh language
- ix. the development of a new domain-specific machine translation tool for justice and the law by Canolfan Bedwyr at Bangor University, funded by the Welsh Government.

We remain fully committed to our efforts to facilitate the use of the Welsh language within legislation and the law and will continue to report on this work in further annual reports.

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