

The Welsh Government's Legislative Consent Memorandum on the Sustainable Aviation Fuel Bill

July 2025



1. Background

1. The Sustainable Aviation Fuel Bill¹ (the Bill) was introduced into the House of Commons on 14 May 2025. It is sponsored by the Department for Transport.

2. The Explanatory Notes to the Bill as introduced state:

"The Sustainable Aviation Fuel Bill introduces legislative measures to implement a revenue certainty mechanism to support sustainable aviation fuel (SAF) production in the UK.

*The Bill will enable the Secretary of State to designate a counterparty that is wholly owned by government and direct them to enter into private law contracts with SAF producers, guaranteeing a price for the sale of eligible SAF over a period."*²

3. The long title to the Bill states that it is a Bill to make provision about sustainable aviation fuel.

4. At the time this report was agreed, Committee stage in the House of Commons was due to begin on 15 July 2025 and the Public Bill Committee was expected to complete its work by 22 July 2025.

The Welsh Government's Legislative Consent Memorandum

5. Standing Orders 29.1 and 29.2 provide that a legislative consent memorandum is required when a relevant Bill before the UK Parliament makes provision in relation to Wales that has regard to devolved matters.

6. On 9 June 2025, Rebecca Evans MS, the Cabinet Secretary for Economy, Energy and Planning (the Cabinet Secretary), laid before the Senedd a Legislative Consent Memorandum in respect of the Bill (the Memorandum).³

7. The Business Committee agreed that the Legislation, Justice and Constitution Committee and the Climate Change, Environment and

¹ The Sustainable Aviation Fuel Bill, as introduced (Bill 240)

² Explanatory Notes to the Bill, as introduced, paragraphs 1 and 2

³ Welsh Government, Legislative Consent Memorandum on the Sustainable Aviation Fuel Bill, 9 June 2025

Infrastructure Committee should report on the Memorandum by 26 September 2025.⁴

Provisions for which the Senedd's consent is required

8. The Welsh Government's assessment is that consent is required for:

- clause 1 - Direction to offer revenue certainty contract;
- clause 2 - Notice of directions and revocation;
- clause 3 - Registration and publication of contracts;
- clause 4 - Designation of counterparty;
- clause 5 - Transfer schemes;
- clause 6 - Levy on suppliers;
- clause 7 - Collateral for levy;
- clause 8 - Administration etc of levy and disputes;
- clause 9 - Calculation or determination of matters under levy regulations;
- clause 10 - Payment of surpluses to levy payers;
- clause 11 - Financial penalties (including the Schedule, which makes further provision for financial penalties);
- clause 12 - Power to direct designated counterparty;
- clause 13 - Information and advice;
- clause 14 - Financial assistance for designated counterparty;
- clause 15 - Regulations.⁵

9. The Welsh Government considers that clauses 1 to 5 and 10 to 15 relate to environmental protection and economic development and that they therefore have regard to devolved matters. The Welsh Government also considers that

⁴ Business Committee, Timetable for consideration: Legislative Consent Memorandum on the Sustainable Aviation Fuel Bill, June 2025

⁵ Memorandum, paragraphs 9 to 24

clauses 6 to 9 relate to the implementation of the provisions in the clauses listed above and, therefore, clauses 6 to 9 also have regard to devolved matters and meet the test in Standing Order 29.⁶

10. With regards to the UK Government's views on the need for consent, the Cabinet Secretary states in the Memorandum:

"The UK Government agree that an LCM is required for clauses 1, 2, 3, 4, 5, 12, 13, 14, and 15, as well as some aspects of clauses 10 and 11.

*However, the UK Government does not think an LCM is needed for clauses 6, 7, 8 and 9, and some aspects of clauses 10 and 11. Nonetheless, for the reasons set out in paragraphs 15-20, I believe the stronger argument is that they do meet the SO29 test and so I am laying an LCM in respect of those provisions."*⁷

11. The Explanatory Notes to the Bill indicate that the UK Government considers that clauses 16 to 19 also require the Senedd's consent.⁸ These clauses make the following provision:

- clause 16 - Interpretation;
- clause 17 - Extent;
- clause 18 - Commencement;
- clause 19 - Short title.

Delegated powers

12. The Bill creates and delegates the following regulation-making powers to the Secretary of State:

- clause 3 - the Secretary of State can by regulations require the designated counterparty to:
 - (i) maintain a register of information in relation to revenue certainty contracts, and

⁶ Memorandum, paragraphs 9 to 24

⁷ Memorandum, paragraphs 25 and 26

⁸ Explanatory Notes to the Bill, Annex A - Territorial extent and application in the United Kingdom

- (ii) publish revenue certainty contracts or details about them;
- clause 6 - the Secretary of State can by regulations require suppliers of SAF to pay a levy to the designated counterparty to enable the counterparty to meet:
 - (i) the cost of payments under the revenue certainty contracts, and
 - (ii) other costs incurred under this Act;
- clause 10 - the Secretary of State can by regulations:
 - (i) require the designated counterparty, in the event it has a surplus, to make payments to the persons who have paid the levy, and
 - (ii) require the person who receives such payment to ensure its customers receive such benefits from the payment as may be specified in or determined in accordance with the regulations.

13. The Bill does not delegate any regulation-making powers to the Welsh Ministers.

The Welsh Government's position

14. At paragraph 7 of the Memorandum the Cabinet Secretary states that Welsh Government officials have been engaged with the Department for Transport since December 2024 to discuss the contents and timing for the introduction of the Bill, and that the Welsh Government received a final copy of the Bill on 8 May, one week before its formal introduction into the House of Commons.

15. At paragraph 8 of the Memorandum the Cabinet Secretary notes that the UK Government conducted a public consultation on a sustainable aviation fuels revenue certainty mechanism in April/June 2024⁹, and confirms that the Welsh Government did not provide a formal response to the consultation.

16. In the Memorandum the Cabinet Secretary goes on to state:

“Aviation policy is a reserved matter for the UK Government (UKG). The nature of air travel in the UK means that many travellers from Wales use, or have the option to use, airports in

⁹ UK Government consultation, Sustainable aviation fuels revenue certainty mechanism: revenue certainty options

England, which has implications for the potential effectiveness of Welsh policies. (...)

We are considering how Wales can best support the development and adoption of more sustainable aviation technologies. (...)

... we are supportive of the Bill, as it sees SAF as an intermediate carbon reduction solution, as the industry looks to the development of new zero-emission aircraft, such as hydrogen-fuelled and electric powered aircraft.”¹⁰

17. The Cabinet Secretary concludes that, in her view:

“... it is appropriate to deal with these provisions in this UK Bill as the Welsh Government is committed to working with other governments in the UK to deliver coordinated policy action that will deliver our respective emissions reduction targets. Decarbonising aviation is one of our biggest global challenges and this requires a UK-wide approach through a UK Bill.”¹¹

18. The Cabinet Secretary therefore recommends that the Senedd gives its consent to the provisions listed in the Memorandum.¹²

2. Committee consideration

19. We considered the Memorandum at our meeting on 7 July 2025¹³, and we considered and agreed our report at our meeting on 14 July 2025.¹⁴

Our view

Legislative consent

20. We note the Welsh Government's assessment of the provisions within the Bill that require the consent of the Senedd, as set out in the Memorandum.

21. We also note the position of the UK Government as regards consent.

¹⁰ Memorandum, paragraphs 29, 31 and 34

¹¹ Memorandum, paragraph 36

¹² Memorandum, paragraph 37

¹³ ~~Legislation, Justice and Constitution Committee~~, 7 July 2025

¹⁴ ~~Legislation, Justice and Constitution Committee~~, 14 July 2025

Conclusion 1. We agree with the Welsh Government's assessment, as set out in the Memorandum, of the provisions of the Bill that require the consent of the Senedd in accordance with Standing Order 29; this is subject to our views set out in conclusion 2.

22. While we agree with the Welsh Government that the Senedd's consent should be sought for clauses 6 to 9 of the Bill, we believe the Welsh Government's reasoning for seeking consent for these clauses – namely that they relate to or give effect to the other clauses listed in the Memorandum which have regard to devolved matters – is reasoning that can equally apply to clauses 16 to 19 of the Bill. We are unclear what judgement has been made by the Welsh Government that would result in the Cabinet Secretary considering clauses 16 to 19 in some way to be independent and so not have regard to devolved matters.

Conclusion 2. It is our view that clauses 1 to 19 and Schedule 1 have regard to devolved matters and therefore meet the test in Standing Order 29. As such, we consider that the Senedd's consent should be sought for the entire Bill.

Intergovernmental working

23. We note that, in the Memorandum, the Cabinet Secretary states that the Welsh Government has been engaged with the Department for Transport since December 2024 to discuss the contents and timing for the introduction of the Bill, resulting in the Welsh Government receiving a final copy of the Bill one week before its formal introduction into the House of Commons.

24. We also note that working with other governments in the UK to deliver coordinated policy action that will deliver respective emissions reduction targets is cited as one of reasons for including provision within the UK Government's Bill being taken through the UK Parliament, alongside the reserved nature of aviation policy and the need for decarbonisation through a UK approach.

Delegated powers

25. We note that the Bill does not delegate any regulation-making powers to the Welsh Ministers.

26. We further note that delegated powers are being given to the Secretary of State to act in areas which have regard to devolved matters.