

The Welsh Government's Supplementary Legislative Consent Memoranda (Memorandum No. 2 and Memorandum No. 3) on the Sustainable Aviation Fuel Bill

January 2026



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 of the Bill states that it is a Bill to make provision about sustainable aviation fuel.

4. The Bill completed its passage through the House of Commons on 15 October 2025 and received its first reading in the House of Lords on 20 October 2025³. At the time this report was agreed, the Bill was at Report Stage.

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).⁴

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

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

³ ~~The Sustainable Aviation Fuel Bill~~, as brought from the Commons (HL 138)

⁴ Welsh Government, ~~Legislative Consent Memorandum on the Sustainable Aviation Fuel Bill~~, 9 June 2025

7. The Business Committee agreed that the Legislation, Justice and Constitution Committee and the Climate Change, Environment and Infrastructure Committee should report on the Memorandum by 26 September 2025.⁵

8. The Welsh Government's assessment is that consent is required for clauses 1 to 15 (as set out at paragraph 9 of the Memorandum). The Explanatory Notes to the Bill indicate that the UK Government considers that clauses 16 to 19 also require the Senedd's consent.⁶

9. With regard to the UK Government's views on the need for consent, the Cabinet Secretary stated in paragraphs 25 and 26 of 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

10. We reported on the Memorandum on 23 July 2025 (our first report).⁸

11. Our first report made two conclusions:

"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 (...)

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

⁵ Business Committee, Timetable for consideration: Legislative Consent Memorandum on the Sustainable Aviation Fuel Bill, June 2025

⁶ Explanatory Notes to the Bill, Annex A - Territorial extent and application in the United Kingdom

⁷ Welsh Government, Legislative Consent Memorandum on the Sustainable Aviation Fuel Bill, 9 June 2025, paragraphs 25 and 26

⁸ Legislation, Justice, and Constitution Committee, The Welsh Government's Legislative Consent Memorandum on the Sustainable Aviation Fuel Bill, July 2025

Standing Order 29. As such, we consider that the Senedd's consent should be sought for the entire Bill.”⁹

The Welsh Government's Supplementary Legislative Consent Memorandum (Memorandum No. 2)

12. The Welsh Government laid a Supplementary Legislative Consent Memorandum (Memorandum No. 2) on 4 November 2025, seeking consent for government amendments made at Commons Report Stage.¹⁰

13. The Business Committee again agreed that the Legislation, Justice and Constitution Committee and the Climate Change, Environment and Infrastructure Committee should report on Memorandum No. 2, with an initial deadline of 16 January 2026.¹¹

Provisions for which the Senedd's consent is required

14. Memorandum No. 2 seeks consent for amendments to the following clauses:

- Clause 1 – Direction to offer revenue certainty contract;
- Clause 6 – Levy on suppliers;
- Clause 8 – Administration of levy and disputes.¹²

15. Clause 1 has been amended to insert subsections (5) and (6). Subsection (5)(a) enables the Secretary of State to direct a “relevant company” to assist in the identification of Sustainable Aviation Fuel producers, in order that the Secretary of State can consider offering a revenue certainty contract. Subsection (5)(b) provides that the Secretary of State may make payments to the relevant company in respect of any assistance, whilst subsection (6) provides that the relevant company for this purpose is a company owned by a Minister of the Crown.

16. Clause 6 has been amended to provide that the levy proceeds will not be used to finance the cost of complying with a direction under new clause 1, subsection (5), summarised above.

⁹ Legislation, Justice, and Constitution Committee, The Welsh Government's Legislative Consent Memorandum on the Sustainable Aviation Fuel Bill, July 2025

¹⁰ Welsh Government, Supplementary Legislative Consent Memorandum (Memorandum No. 2) on the Sustainable Aviation Fuel Bill, 4 November 2025

¹¹ Business Committee, Timetable for consideration: Supplementary Legislative Consent Memorandum (Memorandum No. 2) on the Sustainable Aviation Fuel Bill, November 2025

¹² The Sustainable Aviation Fuel Bill, as brought from the Commons (HL Bill 138)

17. Clause 8 has been amended to set out further detail on the powers to request information. Clause 8(1)(b) provides that levy regulations may require the Secretary of State to collect information and provide it to a government-owned company for the purpose of assisting with the administration and enforcement of the levy. Clause 8(2) provides that the levy regulations may require a person to provide information either to that company or the Secretary of State, for that purpose.

18. The Welsh Government is not seeking consent for minor amendments to clauses 4, 15, 16 and to paragraph 6 of the Schedule to the Bill.

19. The UK Government's view is that the amendments tabled for consideration at Commons Report Stage are purely technical and do not require a supplementary legislative consent memorandum.¹³ The Welsh Government agrees with the UK Government's view but only in relation to the amendments to clauses 4, 15, 16 and to paragraph 6 of the Schedule to the Bill.¹⁴

The Welsh Government's position

20. At paragraph 7 of Memorandum No. 2, the Cabinet Secretary states that Welsh Government officials have been in "regular contact" with UK Government officials during development of the Bill and "engagement has continued at Ministerial and official levels where necessary".¹⁵

21. Memorandum No. 2 goes on to say:

"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 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. (...)

¹³ Welsh Government, Supplementary Legislative Consent Memorandum (Memorandum No. 2) on the Sustainable Aviation Fuel Bill, 4 November 2025, paragraph 22

¹⁴ Welsh Government, Supplementary Legislative Consent Memorandum (Memorandum No. 2) on the Sustainable Aviation Fuel Bill, 4 November 2025, paragraph 23

¹⁵ Welsh Government, Supplementary Legislative Consent Memorandum (Memorandum No. 2) on the Sustainable Aviation Fuel Bill, 4 November 2025, paragraph 7

... 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.”¹⁶

22. 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.”¹⁷

23. The Cabinet Secretary recommends that the Senedd gives its consent to the amendments to the clauses referred to in Memorandum No. 2.¹⁸

The Welsh Government's Supplementary Legislative Consent Memorandum (Memorandum No. 3)

24. The Welsh Government subsequently laid a further Supplementary Legislative Consent Memorandum (Memorandum No. 3) on 7 January 2026, seeking consent for two government amendments tabled for consideration at Committee Stage in the House of Lords.¹⁹

25. The Business Committee referred Memorandum No. 3 to the Legislation, Justice and Constitution Committee and the Climate Change, Environment and Infrastructure Committee, with a revised reporting deadline of 20 January 2026 for Memorandum No. 2 and Memorandum No. 3.²⁰

¹⁶ Welsh Government, Supplementary Legislative Consent Memorandum (Memorandum No. 2) on the Sustainable Aviation Fuel Bill, 4 November 2025, paragraphs 26, 28 and 31

¹⁷ Welsh Government, Supplementary Legislative Consent Memorandum (Memorandum No. 2) on the Sustainable Aviation Fuel Bill, 4 November 2025, paragraph 33

¹⁸ Welsh Government, Supplementary Legislative Consent Memorandum (Memorandum No. 2) on the Sustainable Aviation Fuel Bill, 4 November 2025, paragraph 34

¹⁹ Welsh Government, Supplementary Legislative Consent Memorandum (Memorandum No. 3) on the Sustainable Aviation Fuel Bill, 7 January 2026

²⁰ Business Committee, Timetable: Supplementary Legislative Consent Memorandum (Memorandum No. 3) on the Sustainable Aviation Fuel Bill, January 2026

Provisions for which the Senedd's consent is required

- 26.** Memorandum No. 3 seeks consent for amendments to clause 10 and to a new clause to be inserted before clause 15.²¹
- 27.** Clause 6 makes provision under which suppliers of traditional aviation fuel may be required to pay a levy in order that those levy payments may be used to fund payments made to producers of sustainable aviation fuel who enter into revenue certainty contracts. The revenue certainty contracts will be operated by a government owned company termed as the “designated counterparty” in the Bill.
- 28.** Clause 10 enables the Secretary of State to make regulations requiring any surplus held by the designated counterparty that arises after revenue certainty contract payments have been made, to be paid back to those persons who have paid the levy.
- 29.** Clause 10 previously provided that, before making regulations under clause 10, the Secretary of State must consult the Welsh Ministers *if* the regulations contained provisions which would be within the legislative competence of the Senedd (if contained in an Act of the Senedd). That consultation requirement has been removed from clause 10, to be replaced by new clause 15 (in the Bill as amended in Committee).²²
- 30.** Clause 15 (in the Bill as amended in Committee) provides that, before making *any* regulations under clauses 1, 3, 10 or 11 of the Bill, the Secretary of State must consult the Welsh Ministers.
- 31.** Memorandum No. 3 states that the UK Government considers these amendments to be “minor” and do not require a further supplementary legislative consent memorandum.²³

The Welsh Government's position

- 32.** The Cabinet Secretary repeats the views previously expressed in the Memorandum and Memorandum No. 2 on the reasons for making these

²¹ Welsh Government, Supplementary Legislative Consent Memorandum (Memorandum No. 3) on the Sustainable Aviation Fuel Bill, 7 January 2026, paragraph 10

²² HL Bill 155 (as amended in Committee)

²³ Welsh Government, Supplementary Legislative Consent Memorandum (Memorandum No. 3) on the Sustainable Aviation Fuel Bill, 7 January 2026, paragraph 18

provisions for Wales in the Bill²⁴ and recommends that the Senedd supports the amendments and gives its consent.²⁵

2. Committee consideration

33. We considered the Memoranda at our meetings on 8 December 2025²⁶ and 19 January 2026, and we considered and agreed our report at our meeting on 19 January 2026.²⁷

Our view

34. We note the Welsh Government's assessment of the provisions within the Bill that require the consent of the Senedd, as set out in Memorandums No. 2 and No. 3.

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

Conclusion 1. We agree with the Welsh Government's assessment, as set out in Memorandums No. 2 and No. 3, of the provisions of the Bill that require the consent of the Senedd in accordance with Standing Order 29.

36. We note that the Bill does not delegate any regulation-making powers to the Welsh Ministers, and further note that delegated powers are being given to the Secretary of State.

37. The policy purpose of the Bill, as set out in paragraphs 3 and 4 of the Memorandum, is environmental protection and economic development and therefore the delegated powers vested in the Secretary of State, in so far as they are exercisable in relation to Wales have regard to devolved matters for the purposes of Standing Order 29.

38. The Bill, when viewed in its entirety, contains provisions that relate to devolved matters and to reserved matters. To the extent that provisions relate to reserved matters, were the Welsh Government minded to propose a similar Bill, it would likely be outside the Senedd's legislative competence in some areas.

²⁴ Welsh Government, Supplementary Legislative Consent Memorandum (Memorandum No. 3) on the Sustainable Aviation Fuel Bill, 7 January 2026, paragraphs 20 to 27

²⁵ Welsh Government, Supplementary Legislative Consent Memorandum (Memorandum No. 3) on the Sustainable Aviation Fuel Bill, 7 January 2026, paragraph 30

²⁶ ~~Legislation, Justice and Constitution Committee~~, 8 December 2025

²⁷ ~~Legislation, Justice and Constitution Committee~~, 19 January 2026

Consent being sought

39. In our first report, we concluded that consent should be required for clauses 16 to 19 of the Bill, a view shared by the UK Government, but not the Welsh Government.

Recommendation 1. The Cabinet Secretary should explain whether she agrees with conclusion 2 of our first report and if not, what the implications are for any decision on consent taken by the Senedd.