

The Welsh Government's Legislative Consent Memorandum on the Cyber Security and Resilience (Network and Information Systems) Bill

October 2026



1. Background

The UK Government's Cyber Security and Resilience (Network and Information Systems) Bill

1. The Cyber Security and Resilience (Network and Information Systems) Bill (the Bill) was originally introduced into the House of Commons on 12 November 2025, and had its first reading the same day.¹ The Bill did not complete its journey through the UK Parliament before the end of the 2024-26 parliamentary session. It was subject to a carry-over motion on 6 January 2026, and the Bill was reintroduced for Session 2026-27 on 14 May 2026, following the King's speech.

2. It is sponsored by the Department for Business, Innovation, Science and Trade.

3. The long title of the Bill states that it is "A Bill to make provision, including provision amending the Network and Information Systems Regulations 2018, about the security and resilience of network and information systems used or relied on in connection with the carrying on of essential activities."

4. At the time of writing, the Bill had completed Committee stage in the House of Lords, and Report stage was scheduled for 26 October.

The legislative consent process

5. Standing Orders 29.1 and 29.2 provide that the Welsh Government should lay a legislative consent memorandum when a UK Bill makes provision in relation to Wales that has regard to devolved matters (relevant provision). The memorandum should normally be laid no later than 2 weeks after:

- a Bill that makes relevant provision is introduced into the UK Parliament; or
- any amendment(s) is/are agreed that make relevant provision that goes beyond the limits of any consent previously given by the Senedd; or

¹ **Cyber Security and Resilience (Network and Information Systems) Bill**, as re-introduced

- any amendment(s) is/are tabled by a Minister of the Crown (or with the Minister of the Crown's support) that would make relevant provision that goes beyond the limits of any consent previously given by the Senedd.²

Legislative consent activity during the Sixth Senedd

6. During the Sixth Senedd, the then Welsh Government laid a Legislative Consent Memorandum³ (the original Memorandum) on the Bill as introduced on 25 November 2025. The Business Committee referred the original Memorandum to the Climate Change, Environment, and Infrastructure Committee and Legislation, Justice and Constitution Committee, with a reporting deadline of 13 February 2026⁴.

7. The Sixth Senedd's Legislation, Justice and Constitution Committee laid its report on the original Memorandum on 12 February 2026.⁵ The Welsh Government responded to that report on 20 March 2026.⁶

8. A legislative consent motion was not tabled prior to the dissolution of the Senedd on 8 April 2026 and so no vote took place in the Sixth Senedd.

9. As noted above, the Bill was subject to a carry-over motion to the next session of the UK Parliament.

2. The Welsh Government's Legislative Consent Memorandum

10. On 9 June 2026, Adam Price MS, the Cabinet Minister for Enterprise, Connectivity and Energy (the Cabinet Minister), laid before the Senedd a

² Welsh Parliament, **Standing Orders**, April 2026

³ Welsh Government, **Legislative Consent Memorandum on the Cyber Security and Resilience (Network and Information Systems) Bill** (as originally introduced)

⁴ Business Committee, **Timetable for consideration: Legislative Consent Memorandum on the Cyber Security and Resilience (Network and Information Systems) Bill**, December 2025

⁵ Legislation, Justice and Constitution Committee, **Report on the Welsh Government's Legislative Consent Memorandum on the Cyber Security and Resilience (Network and Information Systems) Bill**, February 2026

⁶ Welsh Government, **Response to the Legislation, Justice and Constitution Committee report**, March 2026

Legislative Consent Memorandum (the Memorandum) in respect of the Bill (as reintroduced on 14 May 2026).⁷

11. On 16 June 2026, the Business Committee agreed that the Legislation Committee (the Committee) and the Economy, Energy and Connectivity Committee should report to the Senedd by 9 October 2026.⁸

Provision for which the Senedd's consent is sought

12. In paragraphs 14 to 122 of the Memorandum, the Cabinet Minister sets out that the Senedd's consent should be sought for the following clauses of the Bill:

The Network and Information Systems 2018 (the NIS Regulations): clauses 12, 15, and 17 to 22 (which introduces Schedule 1)

Security and resilience of systems – functions of the Secretary of State: clause 25, clauses 27 to 36, and clauses 38 to 41

Directions for national security purposes: clauses 45 to 52, and clause 56

13. The Cabinet Minister addresses the UK Government's views on the need for consent (at the time of the Bill's introduction) in paragraphs 123 of the Memorandum, as follows:

- The UK Government consider that consent is required for clauses 12, 17, 19, 20, 22, 29, 31 to 33, 45, 48 to 51.
- The Welsh Government agree with this assessment but consider that consent is also required for clauses 15, 18, 21, 25, 27, 28, 30, 34 to 36, 38 to 41, 46, 47, 52 and 56.

The Welsh Government's engagement with the UK Government

14. At paragraph 6 of the Memorandum, the Cabinet Minister states:

⁷ Welsh Government, [Legislative Consent Memorandum on the Cyber Security and Resilience \(Network and Information Systems\) Bill](#), 9 June 2026

⁸ Business Committee, [Timetable for consideration: Legislative Consent Memorandum on the Cyber Security and Resilience \(Network and Information Systems\) Bill](#), 16 June 2026

"The UK Government announced this new Bill in the King's Speech on 17 July 2024. At the time, the Bill was titled the 'Cyber Security and Resilience Bill'. UK Government officials have been in regular contact with Welsh Government officials since that announcement."

Delegated powers in the Bill

15. The Bill does not confer regulation-making powers on the Welsh Ministers. However, the Bill does contain a number of provisions which confer regulation-making powers on the Secretary of State, some of which are delegated through clauses which are relevant for the purpose of the legislative consent process.

Provision(s)	Power	Scrutiny procedure
Clause 29	Power that will enable the Secretary of State to make regulations for certain specified purposes relating to network and information systems; this may include regulations which confer functions on regulators.	Draft affirmative procedure in the UK Parliament in cases where clause 42(5) of the Bill applies; otherwise made negative procedure.
Clause 30	Provision which expands on the extent of an existing power delegated to the Secretary of State to make regulations for the purpose of protecting network and information systems, so long as regulations made under clause 29(1) of the Bill can impose requirements on regulated persons.	Draft affirmative procedure in the UK Parliament in cases where clause 42(5) of the Bill applies; otherwise made negative procedure.
Clause 31	Provision which allows regulations made under clause 29 to authorise regulators to take certain steps in relation to	Draft affirmative procedure in the UK Parliament in cases where clause 42(5) of the Bill applies; otherwise made negative procedure.

	enforcement, sanctions and appeals. The regulations may impose additional functions on regulators.	
Clause 32	Provision about what can be included in regulations about financial penalties made under clause 29(1). This may include provision about how regulatory authorities must deal with sums received by way of a penalty, and recover unpaid penalties. Clause 32(5) enables the Secretary of State to amend an amount specified in subsection (3)(a)(i) or (b) by regulations for the purpose of reflecting inflation. This is a Henry VIII power.⁹ as it enables the amounts on the face of the Bill to be varied.	Draft affirmative procedure in the UK Parliament in cases where clause 42(5) of the Bill applies; otherwise made negative procedure.
Clause 33	Provision allowing regulations made under clause 29 to confer additional functions on regulators relating to information sharing and guidance.	Draft affirmative procedure in the UK Parliament in cases where clause 42(5) of the Bill applies; otherwise made negative procedure.

⁹ A Henry VIII power allows a Minister, in this case the Secretary of State, to use secondary legislation to amend, modify or repeal provisions of primary legislation. This shifts power from the legislature to the executive, bypassing the normal scrutiny process for proposed changes to primary legislation.⁹

Clause 34	Provision allowing regulations made under clause 29 to make provision in respect of fees. This could be exercised to place functions on regulators in relation to fees.	Draft affirmative procedure in the UK Parliament as clause 42(5) of the Bill applies.
Clause 35	Provision adding supplementary detail on what regulations made under clause 29(1) may do, including the conferral of functions involving the exercise of a discretion; to provide for the delegation of functions by a regulatory authority; and to require a person to have regard to guidance or to a code of practice.	Draft affirmative procedure in the UK Parliament in cases where clause 42(5) of the Bill applies; otherwise made negative procedure.
Clause 37(7)	Provision allowing the Secretary of State to amend the Bill to change the procedure for issuing a code of practice. This is a broad Henry VIII power that would enable changes to be made to the requirements for consultation and for Parliamentary scrutiny. The Welsh Government's legislative consent memorandum has not requested consent for clause 37, however, the power in clause 37(7) enables clause 36 (which does require consent) to be amended.	The draft affirmative procedure in the UK Parliament (applies by virtue of clauses 41(4)(a) and 42(5)(b)).

Clause 41	Provision enabling the Secretary of State to make consequential amendments via regulations that may be used to amend or repeal provision made by primary legislation, including an Act or Measure of the Senedd. This is a Henry VIII power.	Draft affirmative procedure in the UK Parliament if the regulations amend primary legislation (in accordance with clause 42(5) of the Bill); made negative otherwise.
Clause 49	Subsection (5) includes a power for the Secretary of State to make regulations to define what is meant by an “undertaking” and determine how an undertaking’s turnover is to be determined, for the purposes of determining an appropriate penalty for non-compliance with a direction given under clause 43. Subsection (7) includes a power for the Secretary of State to make regulations to amend the maximum penalty amounts for non-compliance with a direction for the purpose of reflecting inflation.	Made negative procedure in the UK Parliament.

16. The House of Lords’ Delegated Powers and Regulatory Reform (DPRR) Committee reported on the Bill on 21 July 2026.¹⁰ In its report, the DPRR Committee comments on the powers in clauses 37(7) and 40(5) of the Bill.

17. On the Henry VIII power in clause 37(7), the DPRR Committee said it is “unacceptable and should be removed from the Bill or amended so that it cannot be used to reduce, below the levels provided for in the Bill, the

¹⁰ House of Lords Delegated Powers and Regulatory Reform Committee, **7th Report of Session 2026-27**

requirements for consultation on, and for Parliamentary scrutiny of, codes of practice issued under clause 36 for regulated persons.”¹¹ It also considers that the Henry VIII power in clause 40(5) is unacceptable and “should be removed from the Bill or amended so that it cannot be used to reduce, below the level provided for in the Bill, the requirement under clause 40 to report on network and information systems legislation.”¹²

The Welsh Government's engagement with the UK Government

18. In the Memorandum, the Cabinet Minister states that UK Government officials have been in regular contact with Welsh Government officials since the announcement of the Bill in the King's Speech on 17 July 2024.¹³

The Welsh Government's position as set out in the Memorandum

19. The Cabinet Minister uses the Memorandum to set out reasons for making these provisions for Wales in the Bill; he states:

“Welsh Government supports extending regulators’ powers over critical suppliers, addressing a gap in the current NIS Regulations. Following the 2022 Advanced ransomware attack on Welsh patient data, Welsh Government’s ‘Once for Wales’ and ‘defend as one’ approach recognises suppliers as a major risk. New guidance via secondary legislation will enable a risk-based, cross-border response.

Similarly, and in relation to the drinking water sector, the Welsh Government supports the Bill’s objective of strengthening cyber defences.

The Independent Water Commission’s final report highlighted gaps in the industry’s security arrangements and referred to an increasing number of cyber incidents. A cross-border approach is considered an effective means of safeguarding infrastructure and

¹¹ Delegated Powers and Regulatory Reform Committee, **7th Report of Session 2026-27**, paragraph 18

¹² Delegated Powers and Regulatory Reform Committee, **7th Report of Session 2026-27**, paragraph 27

¹³ **Memorandum**, paragraph 7

maintaining cyber resilience across the drinking water sector. The provision made in the Bill relates to the reserved matters of telecommunications and wireless telegraphy (Schedule 7A, C 9; para 83) and national security (B 3 para 32).

However, an LCM is nonetheless required as a number of provisions in the Bill confer, remove or modify functions of the Welsh Ministers and/or Devolved Welsh Authorities (DWAs) or otherwise have regard to devolved matters as detailed above.”¹⁴

20. The Cabinet Minister provides no conclusion in the Memorandum as to the Welsh Government's position on consent:

“I will continue to monitor and provide updates on this Bill's passage through Parliament. I will bring forward a recommendation to the Senedd on whether to give consent to the Bill once Welsh Government has analysed the wider impact of the UK legislative programme for Wales.”¹⁵

3. Committee consideration

21. We considered the Memorandum at our meeting on 6 July 2026.¹⁶ The Committee wrote to the Cabinet Minister on 13 July seeking clarity on certain matters raised in the Memorandum.¹⁷ The Cabinet Minister responded on 1 September.¹⁸

22. On 14 July 2026, the Welsh Government released a Written Statement entitled 'Principles on UK Legislation in Devolved Areas'.¹⁹ This statement, and the associated principles themselves (the Welsh Government's Principles), are directly relevant to our consideration of the Memorandum.

¹⁴ **Memorandum**, paragraphs 125 to 128

¹⁵ **Memorandum**, paragraph 131

¹⁶ **Legislation Committee**, 6 July 2026

¹⁷ **Letter to the Cabinet Minister for Enterprise, Connectivity and Energy**, 13 July 2026

¹⁸ **Letter from the Cabinet Minister for Enterprise, Connectivity and Energy**, 1 September 2026

¹⁹ Welsh Government, '**Written Statement: Welsh Government Principles on UK Legislation in Devolved Areas**', 14 July 2026

23. We agreed our report at our meeting on 28 September 2026.²⁰

Legislative consent

24. On the Bill's introduction into the House of Commons, there were differences of opinion between the Welsh and UK governments as regards which provisions in the Bill require the Senedd's consent. This difference amounted to a disagreement over 18 clauses in the Bill. By the time the Bill was introduced into the House of Lords, the UK Government had revised its position²¹, with the effect that the difference in opinion is now focused on seven clauses (clauses 15, 18, 25, 30, 38 to 41, and 52).

25. In his letter to us, dated 1 September 2026, the Cabinet Minister notes:

*"The LCM laid on 9 June 2026 cited a DSIT devolution analysis identifying 14 clauses in the Bill, as introduced into the House of Commons on 14 May 2026, as requiring consent. However, upon moving to the House of Lords on 17 June, the revised Explanatory Notes to the Bill identified further provisions requiring legislative consent. Whilst this revised position was not discussed with Welsh Government, these provisions are included in the Memorandum laid on 9 June as our analysis identified them as requiring legislative consent."*²²

The legislative consent process

26. The Memorandum was laid on 9 June 2026, a little over three weeks after the re-introduction of the Bill to the UK Parliament. Of the 15 memoranda laid to date by the Welsh Government, none were laid within the two-week deadline set out in Standing Orders.

27. During general scrutiny on 21 September 2026, the Cabinet Minister for Government Effectiveness and the Constitution highlighted challenges that the Welsh Government can face in relation to the legislative consent process:

²⁰ **Legislation Committee, Record of Proceedings, 28 September 2026**

²¹ **Cyber Security and Resilience (Network and Information Systems) Bill, Explanatory Notes** (HL Bill 32).

²² **Letter from the Cabinet Minister for Enterprise, Connectivity and Energy**, 1 September 2026

*"One other point I'd make is that there are certain things that are within our gift. The choice of the UK Government about when to produce legislation and how effectively they've co-operated with us in terms of their timetables is another matter, which I have little ability to influence wholly at the moment. Again, I have raised some of these issues with Hamish Falconer, my opposite number in the Cabinet Office in the UK Government, and there is at least an acknowledgement of the issues and a stated desire to work together. So, I hope that'll be reflected in practice too."*²³

28. In a response to our question about the volume of forthcoming legislative consent memoranda, the Cabinet Minister for Government Effectiveness and the Constitution stressed that the timing of the King's Speech (on 13 May 2026) was "particularly difficult, given the establishment of the Senedd and the new Government." However, he went on to state that he is "hoping to make better progress in meeting the fortnight deadline in the future."²⁴

29. In the Memorandum, the Cabinet Minister does not provide a recommendation as to whether the Senedd should consent to the relevant provisions in the Bill. Instead, he states that he will bring forward a recommendation once the Welsh Government has analysed the wider impact of the UK legislative programme for Wales.²⁵

30. As we have previously highlighted²⁶, we are unclear why the wider impact of the UK legislative programme would influence a recommendation from a Welsh Minister on an individual Bill. We therefore wrote to the First Minister seeking clarity on this important issue. The Counsel General responded on behalf of the First Minister, and told us:

"The Welsh Government recognises the importance of providing the Senedd with clear recommendations on legislative consent memoranda at the earliest opportunity to support effective scrutiny. (...)"

²³ Legislation Committee, Record of Proceedings, 21 September 2026, paragraph 35

²⁴ Legislation Committee, Record of Proceedings, 21 September 2026, paragraph 137

²⁵ Memorandum, paragraph 131

²⁶ Legislation Committee, Report on the Welsh Government's Legislative Consent Memorandum on the Steel Industry (Nationalisation) Bill, July 2026

The approach taken at the start of this Senedd term reflected the particular circumstances of the King's Speech announcing a new UK Government legislative programme coinciding with the formation of the new Welsh Government.

Legislative consent memoranda were laid as soon as possible. Whilst there were delays in a number of areas, including as a result of late engagement by the UK Government, we were keen to ensure that Committee consideration of legislative consent memoranda was not unduly delayed by the formation of an overarching Welsh Government position on UK legislation. Recommendations were not included in the LCMs whilst the Welsh Government was developing and agreeing its Principles on UK Legislation in Devolved Areas. This was intended to ensure a coherent, cross-programme approach to legislative consent decisions, with recommendations on individual Bills being informed by a consistent framework rather than in isolation.

*You will be aware that on 14 July we published our **Principles on UK Legislation in Devolved Areas**.²⁷*

31. In his letter to us, dated 1 September 2026, the Cabinet Minister states:

"I am supportive of the Bill and its objectives, given that it aligns with our strategic aims in relation to cyber resilience and helping to tackle the increasing cyber security threat to essential public services. Considering this, I will formally update the Senedd regarding the legislative consent position shortly."²⁸

32. On the morning of 28 September, we received a letter from the Cabinet Minister in which he stated that, as a result of engagement with the UK Government, he is recommending the Senedd gives consent to the relevant provisions in the Bill.²⁹

²⁷ **Letter from the Counsel General**, 28 August 2026

²⁸ **Letter from the Cabinet Minister for Enterprise, Connectivity and Energy**, 1 September 2026

²⁹ **Letter from the Cabinet Minister for Enterprise, Connectivity and Energy**, 28 September 2026

4. Our view

Legislative consent

33. 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.

Conclusion 1. We agree with the Welsh Government's assessment, as set out in the Memorandum, of the provisions within the Bill which require consent of the Senedd in accordance with Standing Order 29.

34. While we agree with the Welsh Government's assessment (as per conclusion 1), we wish to highlight clause 37 of the Bill. Clause 37(7) enables the Secretary of State by regulations to change the procedure for issuing or reissuing a code of practice under clause 36. This includes the ability to amend clause 36 of the Bill, in relation to consultation. The Welsh Government's assessment is that Senedd consent is required for clause 36. We also highlight that clause 38(4) imposes a duty on regulators to take account of any code of practice (which modifies the way in which they may exercise their functions).

35. It is unclear if the Welsh Government has considered whether the Senedd's consent should also be sought for clause 37(7) of the Bill, given that changes to the relevant consultation requirement could affect any code issued by the Secretary of State under clause 36. This would, in turn, impact upon regulators in terms of what they are required to take account of.

Recommendation 1. The Cabinet Minister should confirm why, in the Welsh Government's view, the Senedd's consent should not be sought for clause 37 of the Bill.

The legislative consent process

A recommendation on consent

36. We note the Cabinet Minister is now recommending that the Senedd gives its consent to the relevant provisions in the Bill. Confirmation from the Cabinet

Minister about his views on consent is welcome. However, the explanation we received simply mentions “ongoing engagement with UK Government”, rather than providing us with full details of the intergovernmental discussions.

Recommendation 2. The Cabinet Minister should write to all Senedd Members at the earliest opportunity, and sufficiently in advance of the Senedd’s debate on the legislative consent motion, to set out the full details of why he is now recommending that the Senedd should grant its consent to the relevant provisions in the Bill.

Adherence to the two-week deadline for laying legislative consent memoranda

37. We note that the Memorandum was laid a little over three weeks after the re-introduction of the Bill to the UK Parliament.

38. We draw to the Senedd’s attention the fact that, of the 15 memoranda laid to date by the Welsh Government, none were laid within the two-week deadline set out in Standing Orders.

39. We have written to the First Minister to urge the Welsh Government to better observe the Standing Order requirement for legislative consent memoranda to be laid normally no later than two weeks after the introduction of a relevant Bill to the UK Parliament, amongst other matters.³⁰

40. This Bill - as with a number of others triggering the legislative consent process during the first few months of the Seventh Senedd - was introduced very soon after the Welsh Government was formed. We note the reflections of the Cabinet Minister for Government Effectiveness and the Constitution about the challenges of the timing of the King’s Speech, and acknowledge that this may have had implications for the ability of the Welsh Government to adhere to the two-week deadline set out in Standing Orders for laying a legislative consent memorandum. In principle, we consider that analysing the relevant provisions of a Bill and coming to a view on consent so soon after the establishment of a new government is a reasonable example of where the two-week deadline may be difficult to meet.

³⁰ **Letter to the First Minister of Wales**, 3 July 2026

41. However, we do not feel that these extenuating circumstances apply in relation to this Memorandum for the following reasons:

- Officials working under the previous Welsh Government had already carried out a legal analysis of the provisions in the 2025 version of the Bill which was then re-introduced in May of this year.
- As set out in paragraph 20 above, the Memorandum does not set out a recommendation from the Cabinet Minister about whether the Senedd should grant its consent to the Bill.

42. On balance, therefore, it is not clear to us why the Welsh Government was unable to meet the two-week deadline set out in Standing Order 29 in relation to this Memorandum.

Conclusion 2. We see no reason why the Memorandum could not have been laid within two weeks of the introduction of the Bill, as set out in Standing Order 29.

Recommendation 3. The Cabinet Minister should clarify why he was unable to lay the Memorandum within the two-week deadline as set out in Standing Order 29.2.

Recommendation 4. The Welsh Government should make every effort to observe the two-week deadline for the laying of legislative consent memoranda, as set out in Standing Order 29.2.

43. We note that, at the time of writing, the Bill is yet to complete Report stage in the House of Lords.

44. We further note that the Welsh Government has not, to date, requested any amendments to the Bill, and that the Cabinet Minister will continue to monitor the Bill's progress and assess any further UK Government amendments made to the Bill.³¹

³¹ **Letter from the Cabinet Minister for Enterprise, Connectivity and Energy**, 1 September 2026

Delegated powers

45. We note that the Bill confers a number of delegated powers on the Secretary of State to act in devolved areas.

46. We further highlight that, by virtue of clause 41, the Secretary of State could use regulations to amend a Senedd Act or Measure.

47. We note above that, on 14 July, the Welsh Government published its Principles on UK Legislation in Devolved Areas. The fourth principle states that delegated powers in UK legislation, including Henry VIII powers, should be conferred on the Welsh Ministers alone. The principle further states that any departure from this position needs to be “justified by exceptional circumstances on a case-by-case basis”.

48. We are unclear what the Welsh Government considers to be the “exceptional circumstances” as regards the extensive powers in the Bill delegated to the Secretary of State which may be used in devolved areas.

49. We draw the Senedd’s attention to the Cabinet Minister’s view that the Bill seeks to give the Secretary of State “broad delegated Henry VIII powers to make regulations to make further provision in relation to specified network and information systems and to persons with functions under the regulations”³².

50. We also draw to the Senedd’s attention the concern of the House of Lords’ DRRR Committee that the Henry VIII powers in clauses 37(7) and 40(5) are “unacceptable”.

Recommendation 5. The Cabinet Minister should explain, for each delegated power in the Bill that may be used in a devolved area, what are the exceptional circumstances that justify the breaching of the Welsh Government’s Principles on UK Legislation.

Recommendation 6.: The Cabinet Minister is invited to comment on the concerns of the House of Lords’ Delegated Powers and Regulatory Reform Committee regarding the Henry VIII powers in clauses 37(7) and

³² **Memorandum**, paragraph 6

40(5), and confirm whether he has raised similar concerns with the UK Government.

51. We ask that the Cabinet Minister responds in writing to the recommendations and conclusions we make in this report.