

**SUPPLEMENTARY LEGISLATIVE CONSENT MEMORANDUM
(MEMORANDUM NO 3)**

EMPLOYMENT RIGHTS BILL

1. This legislative consent memorandum (LCM) is laid under Standing Order (“SO”) 29.2. SO29 prescribes that a legislative consent memorandum must be laid, and a legislative consent motion may be tabled, before Senedd Cymru if a UK Parliamentary Bill makes provision in relation to Wales which has regard to devolved matters.
2. The Employment Rights Bill (“the Bill”) was introduced in the UK Parliament, the House of Commons, on 10 October 2024. I laid an LCM on 5 December and a supplementary LCM following UK Government amendments on 19 December 2024.

Amendments

3. The UK Government tabled more than 280 amendments on 5 March 2025 for consideration at Commons Report Stage, which took place on 11 March and 12 March.
4. The majority of the amendments make provision which do not have regard to devolved matters. However, UK Government amendments NC37, Gov 98-150, Gov 153-161, Gov 227, Gov 229-235, Gov 151, Gov 152 and Gov 250 have regard to devolved matters, as detailed at paragraph 19 below.
5. The Bill, as introduced, can be found at: <https://publications.parliament.uk/pa/bills/cbill/59-01/0011/240011.pdf> The Bill, as amended following Report Stage and as introduced to the House of Lords, can be found at: <https://bills.parliament.uk/publications/59737/documents/6209>

Policy Objectives

6. The UK Government’s policy objectives are set out in a [published overview of the Bill](#). In summary, these are to:
 - Address one-sided flexibility, ensuring that jobs provide a baseline of security for workers.
 - Support family-friendly rights by improving flexibility and security.
 - Prioritise fairness, equality and well-being of workers.
 - Ensure workers get fair pay for a fair day’s work.

- Modernise trade union legislation, giving trade unions greater freedom to organise, represent and negotiate on behalf of their members.
- Improve enforcement of employment rights.

Summary of the Bill

7. The Bill is sponsored by the Department for Business and Trade and is intended to deliver on many of the reforms set out in the UK Government's 'Plan to Make Work Pay'.
8. The key provisions of the Bill cover updating and enhancing existing employment rights and making provision for new rights; making provision for negotiating bodies in particular sectors; and reforming certain aspects of trade union and industrial relations legislation. It further creates new mechanisms for the enforcement of employment law.
9. The Bill makes provision in the following key areas:
 - Part 1 deals with employment rights, including reforming employment rights in relation to guaranteed hours, flexible working, statutory sick pay, tips and gratuities, entitlements to leave, protection from harassment, and dismissal.
 - Part 2 deals with other matters relating to employment, including the procedure for handling redundancies, public sector outsourcing, and the duties of employers relating to equality.
 - Part 3 deals with pay and conditions in particular sectors, including pay and conditions of school support staff in England and the establishment of social care negotiating bodies for England, Wales and Scotland.
 - Part 4 deals with trade unions and industrial action, including a right to a statement of trade union rights, a right of trade unions to access workplaces, amendments to procedures relating to trade union recognition, trade union finances, and facilities provided to trade union representatives and members, blacklists, industrial action, and ballots, the provision of information to employers, picketing and protection for taking industrial action, the repeal of provision about strikes and minimum service levels, and the functions of the Certification officer (who is appointed by the Secretary of State under the Trade Union and Labour Relations (Consolidation) Act 1992).
 - Part 5 deals with the enforcement of labour market legislation, conferring on the Secretary of State the function of enforcing labour market legislation, with enforcement officers appointed for this purpose.

- Part 6 makes general provision in relation to the power to make consequential amendments, power to make transitional or saving provision, regulations, financial provision, extent, commencement, and short title.
10. The Welsh Government supports the Bill and the broader 'Plan to Make Work Pay'. Prior to the Bill's introduction and subsequently, constructive and regular engagement between the Welsh Government and the UK Government at Ministerial and official levels has taken place.
 11. The Bill has the potential to impact on workers in devolved public services. However, the Bill primarily makes provision regarding reserved matters. The main focus of the Bill is on employment rights and industrial relations. This falls within the reserved matter of Employment and Industrial Relations. In addition, many clauses apply only in relation to England.
 12. As detailed below, certain provisions of the Bill make provision in relation to Wales with regard to devolved matters. As such, the Senedd's consent is required in connection with those provisions.

Update on position since the publication of the second LCM

13. Further to meetings with the Parliamentary Under-Secretary of State for Employment Rights, Competition and Markets, Justin Madders MP, and the Minister of State for Care, Stephen Kinnock MP, the UK Government has tabled amendments to the Employment Rights Bill enabling the creation of a Social Care Negotiation Body for Wales.
14. The purpose a Social Care Negotiation Body for Wales would be to develop and agree Fair Pay Agreements in social care which would shape the terms and conditions of workers in the social care sector.
15. In contrast to the proposed Adult Social Care Negotiation Body for England, a Social Care Negotiation Body for Wales would be able to deal with the remuneration, terms and conditions and any other specified matter relating to the employment of adult and children's social care workers. This difference in approach takes account of the fact that, unlike in England, adult and child social care are organisationally integrated in Wales.

Provisions tabled by the UK Government to the Bill for consideration at Commons Report Stage for which consent is required

16. I consider the Senedd's consent is required in relation to the clauses identified below because they have regard to devolved matters.
 - **NC37** (power to establish a social care negotiating body)

This new clause would enable the Welsh Ministers and the Scottish Ministers, with the agreement of the Secretary of State, to establish a Social Care Negotiating Body for Wales and for Scotland respectively. As a result, Chapter 2 of Part 3 is amended to enable regulation-making powers conferred on the Secretary of State by Chapter 2 also to be exercisable by the Welsh Ministers and the Scottish Ministers. These powers may not be exercised without the Secretary of State's agreement.

- **Gov 98-150 and Gov 153-161** (changes to existing social care negotiating body provisions)

These amendments primarily make changes to adapt the existing clauses governing an Adult Social Care Negotiating Body for England so that they operate effectively in relation to social care negotiating bodies for England, Wales and Scotland. These amendments also make minor drafting changes. **Gov 108** ensures that the matters within each negotiating body's remit must relate to social care workers employed in, or in connection with, the provision of social care in England, Wales or Scotland as applicable. The effect of **Gov 110** is that a negotiating body established for Wales or Scotland may consider matters relating to people working in adult or children's social care.

- **Gov 227 and Gov 229-235** (procedure for regulations and extent)

These amendments are either consequential on NC37 or minor drafting changes.

- **Gov 151, Gov 152 and Gov 250** (enforcement).

Gov 151 relates to the power to make regulations requiring that employers keep records relevant to the work of the social care negotiating bodies.

Gov 152 removes clause 42 (which is no longer required due to the new provision inserted by Gov 250).

The effect of Gov 250 is that the Secretary of State's enforcement powers under Part 5 of the Bill will be exercisable in relation to the entitlements of social care workers to be paid in accordance with agreements of a negotiating body or regulations made by the appropriate authority (i.e. the Welsh Ministers or the Scottish Ministers).

UK Government view on the need for consent

17. The UK Government agrees on the need for legislative consent on the amendments relating to a Social Care Negotiating Body for Wales. The Parliamentary Under-Secretary of State for Employment Rights, Competition and Markets, Justin Madders MP, wrote to me on 28 February to request a legislative consent memorandum be laid.

Reasons for making these provisions for Wales in the Employment Rights Bill

18. The Welsh Government supports the Employment Rights Bill. The provisions related to a Social Care Negotiating Body in Wales will enable us to use the framework provided by the Employment Rights Bill in a manner that aligns with our social care policy agenda, commissioning model and funding arrangements. We recognise the potential for Fair Pay Agreements to complement measures we have already implemented in Wales, such as delivering the Real Living Wage in social care and working in social partnership with employers and trade unions to embed fair work practices.

Financial implications

19. There are no immediate financial implications. The Welsh Government will consider the financial implications of establishing a Social Care Negotiating Body for Wales before seeking to use powers conferred on Welsh Ministers to establish such a body.

Conclusion

20. I am of the view that the requirement to obtain Secretary of State consent to the exercise of the Welsh Minister's regulation making function in clause NC37 is unnecessary and have informed UK Government of that position. Nonetheless, recognising the significant challenges the social care sector is facing in terms of fair pay, which in turn affects the delivery of critical services to our most vulnerable people, aligning enforcement powers and enabling a coordinated approach to the development of social care negotiating bodies and Fair Pay Agreements in this sector is critical. In recognition of these factors, as well as to enable these provisions to be implemented as swiftly as possible, it is, in my view, appropriate to deal with these provisions in this UK Bill. The Bill is consistent with the Welsh Government's focus on fair work. Therefore, I recommend that the Senedd supports the proposals and gives its consent.

Jack Sargeant MS
Minister for Culture, Skills and Social Partnership
1 April 2025