

## **SUPPLEMENTARY LEGISLATIVE CONSENT MEMORANDUM (MEMORANDUM NO 2)**

### **CHILDREN'S WELLBEING AND SCHOOLS 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 Children's Wellbeing and Schools Bill ("the Bill") was introduced in the UK Parliament, the House of Commons, on 17 December 2024. I laid an LCM under SO 29.2 on 24 March 2025 in relation to amendments tabled in the House of Commons on 11 March.
3. The UK Government tabled an amendment on 13 May ahead of Committee Stage starting in the House of Lords on 20th May. This amendment makes provision which has regard to devolved matters as detailed in paragraphs 10-24 below.
4. The Bill as amended at Lords Committee Stage can be found at [Children's Wellbeing and Schools Bill](#).

### **Policy Objectives**

5. The UK Government's stated policy objectives are:

To remove barriers to opportunity in schools and improve the education system to make it more consistent and safer for every child. It also seeks to strengthen social care regulation to improve quality of care to ensure it meets children's needs, keeping children rooted in their families and local communities where possible. In relation to child employment, the Bill seeks to give employers and children more flexibility and ensure children have more opportunities to take up suitable employment, whilst retaining existing safeguards which ensure employment doesn't adversely affect children's health, development and education.

### **Summary of the Bill**

6. The Bill is sponsored by the Department for Education.
7. The Bill makes provision to:
  - mandate local authorities to offer 'Family Group Decision Making'; (clause 1 as introduced)
  - ensure child protection and safeguarding by strengthening the role of education in safeguarding, improving information sharing across multi-

- agency services, and enabling a single unique identifier ('consistent identifier') to support children and families (Clauses 2-4 as introduced)
- support children in care, leaving care or in kinship care and carers requiring local authorities to publish a kinship local offer, extend the virtual school head role to children in kinship care as well as those with a social worker, strengthen support for eligible care leavers through 'Staying Close'; and requiring local authorities to publish information to ensure care leavers have a planned and supportive transition to adulthood. (clauses 5-8 as introduced)
  - legislate for accommodation of looked after children introducing regional co-operation arrangements to harness local authority buying power, and providing a statutory framework to authorise a deprivation of liberty for children who need it to keep them safe, in accommodation other than a Secure Children's Home, designed with the primary purpose of care and treatment (Clauses 9-10 as introduced)
  - empower the regulator, Ofsted, to tackle breaches of the Care Standards Act 2000, including against unregistered children's homes; limit the use of agency social workers;
  - establish a 'Financial Oversight Regime' to increase financial and corporate transparency of difficult-to-replace care providers and their corporate owners, as well as a 'Provider Oversight Regime'; (Clause 13 as introduced)
  - enable the Secretary of State for Education to implement a cap on the profits of non-local authority providers of children's social care in future, and to impose monetary penalties and the procedure for imposing such penalties (Clauses 14-17 as introduced)
  - regulate for the use of agency workers for children's social work. (Clause 18 as introduced)
  - extend existing criminal offences against ill-treatment or wilful neglect so that it applies to children aged 16 and 17 in certain care and detention settings (Clause 19 as introduced)
  - legislate in relation to the employment of children, by introducing new arrangements on the employment of children in England, Wales and Scotland (Clause 20 as introduced)
  - legislate to ensure free breakfast clubs are available to all children; (Clause 21 as introduced)
  - legislate in relation to food and drink to be provided at Academies (Clause 22 as introduced)
  - limit the number of branded uniform items that schools can require (Clause 23)
  - introduce a local authority consent mechanism for withdrawal of certain children from school (Clause 24 as introduced)
  - introduce a duty on local authorities to have and maintain Children Not in School registers and provide support to home-educating parents and provide for guidance to support this. (Clause 25 and 28 as introduced)
  - improve the efficiency of the school attendance order process (Clause 26 as introduced)

- strengthen and improve legislation in respect of independent educational institution, including around School Teacher Pay and conditions (Clause 30-37 as introduced)
  - make technical changes related to when Ofsted needs to report on the quality of certain other inspectorates and to give Ofsted powers to share information with them. (Clause 38 as introduced)
  - strengthen the system for regulating the teaching profession (Clause 39 as introduced)
  - improve school teachers qualifications requiring Qualified Teacher Status (Clause 40 as introduced)
  - place duties on Academy schools in relation to the new National Curriculum; provision for improving behaviour; and Teacher pay and conditions (Clauses 41 to 46 as introduced)
  - Introduce new powers in relation to school places and admissions, (Clauses 47-50 as introduced)
  - makes provisions in respect of establishment of new schools (Clauses 51-55 as introduced)
8. Welsh Government officials have held regular meetings and engagement with UK Government officials. Discussions on the content of the Bill began in September 2024, and over the autumn these expanded to consider extending certain provisions to cover Wales. UK Government officials and Welsh Government officials have continued to be in regular contact since then to discuss provisions. I have also been in communication with the Secretary of State for Education in relation to the provisions.
9. The Bill interacts with:
- The Children and Young Persons Act 1933
  - The Education Act 1996
  - Children Act 1989
  - Children Act 2004
  - Care Standards Act 2000
  - Education and Skills Act 2008
  - The Education Act 2002
  - The Academies Act 2010
  - School Standards and Framework Act 1998
  - Data Protection Act 2008

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

10. Clause 26 Employment of children in England and Wales. Part II of the Children and Young Persons Act 1933 (“the 1933 Act”) sets out the existing legal framework for child employment in England and Wales. A “child”, for the purposes of the 1933 Act, means a person who is not over compulsory school age.

11. Section 18 of the 1933 Act sets out age limits and restrictions on the hours that children can work and the type of work they can undertake. Section 18(2) also includes a power for local authorities to make byelaws in respect of child employment; byelaws may cover matters such as: (a) requiring employers to secure child employment permits from the local authority before a child starts work; (b) prescribing the hours, times and type of work children may undertake; (c) authorising the employment of 13 year old children in “*light work*”.
12. model form of byelaws are available to local authorities in Wales which requires employers to obtain an employment permit from the local authority before employing a child.
13. It’s an offence under section 21 of the 1933 Act to employ a child in contravention to the provisions in Part II of the 1933 Act or as provided for in local authority byelaws.
14. Proposed amendments to section 18 of the 1933 Act on introduction of the Bill initially only applied to England. Amendments to clause 26 tabled by the UK Government on 17 May 2025 ahead of the Committee Stage starting in the House of Lords on 20th May, now extend amendments to section 18 of the 1933 Act to both England and Wales.
15. Clause 26 of the Bill substitutes section 18 of the 1933 Act with a new section 18 (Restrictions on employment of children) and section 18A (Regulations under section 18: further provision).
16. The amendments give the Welsh Ministers as the “*appropriate national authority*” for Wales a new regulation-making power to regulate child employment. This new regulation-making power for the Welsh Ministers replace the existing local authority power to make child employment byelaws. Regulations made under the amendment would be made under the negative procedure.
17. The Secretary of State is given the same regulation-making power for regulating child employment in England with English local authorities also no longer able to make child employment byelaws for their areas.
18. Under the amendments, children in Wales could only be employed under a child employment permit granted by a local authority on an application made in accordance with any regulations made by the Welsh Ministers.
19. Regulations under the proposed power in the Bill provide for Welsh Ministers to authorise the employment of 13 year old children in certain types of “light work”, make provision in relation to child employment permits (including the application process, what must be contained in a permit, revoking permits or setting conditions and rights of appeal against refusal of a permit), and record keeping.

20. Clause 26 also makes other amendments to enable children to work for more than 2 hours on a Sunday and before or after school (although the overall number of hours a child may work and the type of work they can do is unchanged).
21. Employment rights and duties are reserved under the Government of Wales Act 2006; however, safeguarding/welfare is devolved. Part II of the 1933 Act currently applies to England and Wales and sets out age limits and restrictions on the hours that children can work and the type of work which they can be employed to do. Section 18 of the 1933 Act also makes provision for local authorities to make byelaws in connection with child employment.
22. Executive functions under the Children and Young Persons Act 1933 are currently exercised by Welsh Ministers, initially having been transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 (Article 2 and Schedule 1 para 1). Therefore, Welsh Ministers approve child employment byelaws proposed by local authorities in Wales.
23. The ultimate policy intention is to amend the 1933 Act to replace the power for local authorities to make byelaws in relation to child employment with a power to make regulations in relation to child employment.
24. The proposed amendment extends this provision to Wales and provides for regulation-making powers to the appropriate national authority (the Secretary of State for England as already provided for in the Bill, and the Welsh Ministers in relation to Wales). The creation of a regulation-making power would also end the current anomaly where there is a power for ministers to make regulations in relation to child performance but no power for ministers to make regulations in relation to child employment. This means that working children and performing children will be regulated in similar ways going forwards as Ministers will be able to make regulations in relation to both child performance and child employment.

#### **UK Government view on the need for consent**

25. The Secretary of State for Education wrote to the Cabinet Secretary for Education on 13 May 2025 regarding amendments to Clause 26 (Employment of Children) of the Children's Wellbeing and Schools Bill ahead of Committee Stage in the House of Lords on 20 May. The Secretary of State notes that the government amendments contain provision within the legislative competence of the Senedd and that she considered a legislative consent motion is required despite the employment reservation in Schedule 7A of the Government of Wales Act 2006. However, DfE recognise that any matter relating to child employment also touches on child welfare, which is devolved.

26. Regulations under the proposed power in the Bill may authorise the employment of 13 year old children, make provision in relation to child employment permits (including the application process, what must be contained in a permit, revoking permits or setting conditions and rights of appeal), and record keeping. Whilst the main aim is to replace the LA byelaw making power with a regulation making power for the Welsh Ministers, other effects of the measure include the following:
- Prohibiting the employment of a child otherwise than in accordance with a permit.
  - Permitting a child to work until 8pm. This is rather than 7pm, but still in line with international obligations.
  - Removing the restriction on children only being allowed to work for two hours on a Sunday. The overall number of hours a child can work in a week will however remain unchanged.
  - Permitting a child to work for an hour before school. This is already allowed under most local authority byelaws.
27. The policy intention is to remove the Sunday employment restriction, treating a Sunday the same as a Saturday, where employers have lobbied, as well as children and young people themselves, with the main message being that this restriction is out of date. The proposal is to allow children to work until 8pm, to allow more flexibility for business, but keeping the overall limit set at 12 hours per week for those weeks children attend school. DfE have engaged extensively with employers and sector bodies as well as children and young people and they were supportive of these changes.
28. Employment rights and duties are reserved under the Government of Wales Act 2006; however, safeguarding/welfare is devolved. We have undertaken a competence analysis of these provisions and are of the view that the test in Standing Order 29 is met and that the Bill makes “relevant provision” in relation to Wales that has regard to devolved matters.

### **Reasons for making these provisions for Wales in the Children’s Wellbeing and Schools Bill**

29. Taking provision in this UK Bill enables delivery of a positive provision for Wales. Whilst provision could be brought forward in a Senedd Bill, doing so would impact upon delivery of other legislative priorities and could not be delivered within the same timescales as through the UK Bill. Being a part of this Bill ensures that the children of Wales are subject to the same protections as the children of England in relation to child employment.
30. It ensures there is parity in the law across England and Wales in this area. If these amendments aren’t stated to apply to Wales, Wales would still have the existing byelaw system whereas the Secretary of State in England would be able to exercise their regulation-making powers in this area. One advantage of introducing regulation-making powers is that there would be consistency in regulation and a standard approach to

requiring child employment permits across Wales (as opposed to possible variation in this respect which arises from continuing to allow local authorities to introduce and implement their local byelaws).

31. The amendments made enable children to work for more than two hours on a Sunday, to work for up to an hour before school and until 8pm as opposed to 7pm. Were this amendment to only cover England, it would disadvantage Welsh children and employers, particularly those straddling border areas, potentially limiting opportunities for Welsh children and employers.
32. The regulation-making powers include a power for the Secretary of State/Welsh Ministers in Wales to prohibit children from undertaking certain types of work. If Wales was not included in the amendments, this would mean that this power in Wales would remain in the hands of individual local authorities, which could result in considerable variation in provision.

### **Financial implications**

33. It is likely that there will be no financial implications for Wales, either for the Welsh Government or for Local Authorities other than in respect of administration costs. There may be implications for employers in having to apply for a permit before they employ a child which they may not currently be required to do if no byelaws providing for this presently apply in their area. Regulations may also include mechanisms for employers to appeal against a local authority refusal to grant them a permit.

### **Conclusion**

34. In my view it is appropriate to deal with these provisions in this UK Bill as these will enhance existing and proposed Welsh Government policy in relation to child employment and safeguarding. To the best of my knowledge we have never received any requests from local authorities to approve byelaws. From discussions with local authority safeguarding leads they have been supportive and in agreement with the proposed amendments to the legislation. The legislation appears to more or less replicate and normalise existing practice, in so much as anecdotally we believe there has already been considerable variance from current arrangement by employers from provisions which date back to before World War Two, and which are not commensurate with modern working practices. Therefore, I recommend that the Senedd supports the proposals and gives its consent.

**Lynne Neagle MS**  
**Cabinet Secretary for Education**  
**28 May 2025**