



Llywodraeth Cymru  
Welsh Government

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## **WRITTEN STATEMENT BY THE WELSH GOVERNMENT**

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**TITLE** EUROPEAN UNION (WITHDRAWAL) BILL  
**DATE** 13<sup>th</sup> July 2017  
**BY** Carwyn Jones AM, First Minister of Wales

The UK Government has today published the EU (Withdrawal) Bill.

The position of the Welsh Government has been clear since the day of the EU referendum result - the UK is leaving the EU and we will work with the UK Government to deliver a sensible Brexit, which protects jobs and our economy. We would therefore be prepared to support a Bill which provides clarity and certainty for businesses and our communities, and which respects the devolution settlement.

This Bill does not meet these tests. Indeed, it also fails to meet the Prime Minister's own stated aim to work together constructively, to get Brexit right. Regrettably, our attempts to work with the UK Government on these matters have been ignored.

While this Bill might seem an obscure legal and technical exercise, in reality the final Act of Parliament which the Bill leads to will be of critical importance in shaping the way the United Kingdom works – or perhaps does not work - after we leave the EU.

The Bill is a complex legal text, and the UK Government's consultation with the Devolved Administrations on developing these crucial legislative proposals has been inadequate and wholly at odds with the rhetoric heard from the Prime Minister and other members of the UK Government this week about their commitment to listening to, and achieving consensus with, others about the challenges posed by EU withdrawal. Our officials have had less than two weeks' notice of the proposals and, in practice, we have been given no real opportunity to suggest significant changes which would make the Bill more acceptable.

This is despite the fact that we have consistently worked hard to engage with the UK Government, both bilaterally and through the Joint Ministerial Committee and we have proactively put forward positive policy proposals about how to deliver a Brexit which both respects the result of the referendum and safeguards the economic wellbeing of Wales, and indeed the whole UK.

Throughout discussions about the potential for a 'Great Repeal Bill', we have been very clear that we understand, and support, the idea of a Bill to provide clarity and certainty for citizens and businesses as Brexit takes effect. We accept too that there will be a need to

make some amendments so existing law is workable in the new context of the UK being outside the EU. We are willing to play our part in that.

Our *Brexit and Devolution* paper presents a clear and workable approach which both respects devolution and answers the question of how to ensure a level playing field across the UK in respect of policies where to date, EU regulatory frameworks have provided this. Despite pressing, we have yet to receive any real response from the UK Government to these proposals.

It is therefore a source of huge regret that the UK Government has failed to listen and seems determined to provoke a constitutional conflict which we do not need.

From the perspective of the Welsh Government, the publication of the Bill represents a moment of significant challenge to the devolution settlement. Indeed, in our view, it represents the most significant attack on devolution since the creation of the National Assembly in 1999.

Despite the very clear and repeated warnings that any attempt by Westminster and Whitehall to take the powers currently vested in the EU to themselves would be wholly unacceptable, this is precisely what Clause 11 of the EU (Withdrawal) Bill seeks to do.

This part of the Bill would amend the devolution legislation to put in place – with no limitations or qualifications - new constraints on the Assembly's ability to legislate effectively on matters where we currently operate within legislative frameworks developed by the EU, even after we leave the EU. Existing EU law would be frozen, and only the UK Parliament would, it appears, be allowed to unfreeze it.

In practice, this would provide a window for the UK Government to seek Parliamentary approval to impose new UK-wide frameworks for such policies. It is an attempt to take back control over devolved policies such as the environment, agriculture and fisheries not just from Brussels, but from Cardiff, Edinburgh and Belfast.

We have been given signals that the UK Government wishes to negotiate with ourselves and the other Devolved Administrations to see if we can achieve the same results by discussion and agreement rather than by unilateral legislation. However, there is nothing in the text of the Bill or the supporting documentation that reflects this.

The Bill also proposes that the so-called Henry VIII powers to be vested in Welsh Ministers should – unlike those to be exercised by UK Ministers – be limited and constrained in extremely unhelpful ways.

The power to amend directly-applicable EU law – regulations and the like, which account for most of the EU legislative framework for agriculture, for example – would be retained solely by the UK Government.

And, since UK Ministers would retain their own powers – in parallel to those of Welsh Ministers – to amend any legislation within devolved competence, it even appears UK Ministers will be able to amend legislation within the competence of the National Assembly without being answerable to the Assembly to explain what they are doing and why.

If the Bill is not amended, there is no prospect that the Welsh Government will recommend that the National Assembly should give legislative consent to it. We will also continue to investigate ways in which we can use our existing legislative powers to help defend our devolution settlement.

In doing so, we will work closely with the other devolved administrations; indeed, the Scottish First Minister and I have issued a joint statement today, in which we both make clear that we cannot support the Bill in its current form.

This is not about trying to prevent, undermine or complicate Brexit – it is about resisting an attempt to re-centralise power back to Westminster and Whitehall, to turn the clock back to a time before devolution when the Government in London could foist inappropriate policies on Wales and Scotland without the consent of Welsh or Scottish voters. The Tory Government has no mandate for this, least of all from voters in Wales.

Given the importance of this issue I intend to bring this to the Assembly at the earliest opportunity.

<https://publications.parliament.uk/pa/bills/cbill/2017-2019/0005/18005.pdf>