

L(PPR)03 Open Spaces Society

Senedd Cymru | Welsh Parliament

Bil Deddfwriaeth (Gweithdrefn, Cyhoeddi a Diddymiadau) (Cymru) | Legislation (Procedure, Publication and Repeals) (Wales) Bill

Ymateb gan: Open Spaces Society | Evidence from: Open Spaces Society

Legislation (Procedure, Publication and Repeals) (Wales) Bill

Response from Open Spaces Society, November 2024¹



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1 Introduction

1.1 The Open Spaces Society (OSS) was founded in 1865 and is Britain's oldest national conservation body. It campaigns to protect common land, village greens, open spaces and public paths, and people's rights to enjoy them.

1.2 We respond only on those matters which are within the competence of the OSS having regard to its objects.

1.3 We refer below to the Legislation (Procedure, Publication and Repeals) (Wales) Bill as the Legislation *etc.* Bill.

1.4 This is an amended response, by arrangement with the clerk to the Legislation, Justice and Constitution Committee, following the announcement referred to at paragraph 2.10 below.

2 Omission of repeal of Countryside and Rights of Way Act 2000, sections 53–56

2.1 In its response to the October 2022 consultation on the Statute Law (Repeals) (Wales) Bill, the OSS: 'warmly welcome[d] the Welsh government's proposal to repeal the application to Wales of sections 53–56 of the Countryside and Rights of Way Act 2000.'² This was achieved through paragraph 50 of Part 13 of the Schedule to that Bill.

2.2 Paragraph 50 has been omitted from the Legislation *etc.* Bill. The explanatory memorandum states that the unexpected commencement of these provisions in relation to England 'affected the continuing inclusion of those sections in the Bill. This is because the criteria for inclusion of repeals (that they are no longer of practical utility or benefit) could no longer be demonstrated.'³

2.3 The OSS strongly deprecates the omission, and finds the omission both inexplicable and alarming.

¹ Revised 6 January 2025 by arrangement.

² The OSS's response was dated 3 January 2023.

³ Explanatory Memorandum to Legislation (Procedure, Publication and Repeals) (Wales) Bill on introduction, paras.60–61.



2.4 It is inexplicable because other provisions nevertheless included in the Legislation *etc.* Bill are not necessarily spent in relation to their application to England. For example, Part 6 of the Bill, 'Offence of Removal of Soil without Consent', repeals enforcement provisions which, while perhaps rendered less relevant by enhanced planning enforcement powers, are hardly redundant in relation to England nor Wales.

2.5 In any case, the 2022 consultation, in relation to paragraph 50, was not in any way predicated on the position of the UK Government in relation to England. Indeed, paragraph 7 of the consultation merely refers to the selection of proposed repeals which, *inter alia*, 'are unlikely to be commenced [*i.e.* in Wales], having remained un-commenced for a period of time over which the original context has changed'. That description explains the inclusion of paragraph 50. Nothing in the consultation indicated that proposed repeals were dependent on the UK Government being of similar disposition.

2.6 It is alarming because the memorandum to the Bill states that, at the time of the original consultation, 'The Welsh Government had the same policy' as the UK Government in relation to England — that is, in favour of repeal.⁴ The memo further states that the change in policy in relation to England is, 'not affecting the Welsh Government's position that those sections will not be commenced in relation to Wales'. But the omission of paragraph 50 is suggestive that the Welsh Government now is contemplating a similar policy reversal to the UK Government, and wishes to leave its options open.

2.7 We have received assurances from the Welsh Government that there has been no *volte face*, and that the Welsh Government intends to proceed with repeal, but presumably using another legislative vehicle as yet unspecified.

2.8 As we have explained above, the Welsh Government's purported explanation for the omission of paragraph 50 is unconvincing and unsatisfactory. In the OSS's view, the repeal provisions should be restored to the Bill.

2.9 We only add that, in the OSS's response to the consultation, we made several drafting suggestions, including extension of the repeal to omit [paragraph 4](#) of Schedule 5 to the 2000 Act.

2.10 **Addendum:** After the close of the Legislation, Justice and Constitution Committee's consultation on the Legislation *etc.* Bill, Defra announced on 26 December its intention to reverse the decision of the previous UK Government to implement the provisions in the 2000 Act in England, and to repeal those provisions 'when parliamentary time allows'.

2.11 In the society's view, Defra's announcement removes any possible objection to that paragraph being put back in the Legislation (Procedure *etc.*) Bill, and therefore we wish and expect it to be restored to Schedule 1 (the repeals schedule).

⁴ *Ibid*, para.60.

3 Commons Act 1876, section 28

3.1 Our response to the 2022 consultation proposed the repeal of section 28 of the Commons Act 1876, in relation to Wales, which requires triennial to quinquennial reports from the managers of allotted recreation grounds, and is redundant (no such reports having been sought or received in living memory).

3.2 We note that the memorandum does not refer to the proposal.⁵ While the proposal is hardly pressing or important, it would fulfil the remit of the original Bill to remove ‘unnecessary provisions from the statute book [which] can help to “declutter” it [and] helps to bring clarity about what law is relevant to Wales.’⁶

3.3 Moreover, as the original consultation expressly asked whether ‘there are any other provisions we should consider including in this or a future Bill’, and the OSS’s proposal was the only one put forward,⁷ it seems unreasonable that the proposal has been ignored. If the intention was to include it in a subsequent repeals Bill, the Welsh Government could have said so.

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Open Spaces Society

4 December 2024/updated 6 January 2025

⁵ It is included in the Consultation Summary Report on the 2022 consultation, at para.57.

⁶ Consultation Document on Statute Law (Repeals) (Wales) Bill, at para.2.

⁷ Consultation Summary Report on the 2022 consultation, at para.57.

