



Llywodraeth Cymru
Welsh Government

Explanatory Memorandum

Planning (Wales) Act 2026 and Planning (Consequential Provisions) (Wales) Act 2026

April 2026



“And by the common counsel and agreement ... they examined the old laws, and some of them they allowed to continue, others they amended, others they wholly deleted, and others they laid down anew.”

Book of Iorwerth 1240

Explanatory Memorandum to the Planning (Wales) Act 2026 and the Planning (Consequential Provisions) (Wales) Act 2026

Note: this version of the Explanatory Memorandum has been prepared to assist readers in understanding the background to the Planning (Wales) Act 2026 and the Planning (Consequential Provisions) (Wales) Act 2026. Earlier versions were prepared to meet the requirements of the Senedd’s Standing Orders when the Bills (that became the respective 2026 Acts) were before the Senedd. Those earlier documents are available on the Senedd’s website at: [Planning \(Wales\) Bill](#) and [Planning \(Consequential Provisions\) \(Wales\) Bill](#).

This Explanatory Memorandum has been prepared by the Office of the Legislative Counsel and the Planning Directorate of the Welsh Government.

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- Annex A Correspondence from the Law Commission (16 May 2024)
- Annex B Supplementary correspondence from the Law Commission (23 July 2025)

Part 1 – Background to the Acts

Description

1. The purpose of the Planning (Wales) Act 2026 ('the Planning Act') is to consolidate legislation relating to planning in Wales.
2. Consolidation involves bringing together all or most of the (generally primary) legislation on a specific subject so that it can be easily found, and by modernising the form and drafting of the law to make it easier to understand and apply. Consolidation will often bring together several existing Acts on a subject, updating and harmonising the provisions, to eventually create a new, single, Act.
3. The purpose of the Planning (Consequential Provisions) (Wales) Act 2026 ('the Consequential Provisions Act') is to amend and repeal enactments, and make transitional and savings provisions, in connection with the Planning Act.
4. Such consequential and transitional provisions are frequently dealt with in one or more Schedules to an Act. However, given the provisions either have a limited lifespan in practice or will be of very limited interest to most readers of planning law, placing them in a separate Act leaves the substantive provisions (and those that are used most frequently) in the Planning Act free of lengthy Schedules of consequential and transitional provisions.
5. This Explanatory Memorandum provides information on both Acts.

The planning system in Wales

6. The planning system manages the development and use of land in the public interest, prioritising long term collective benefit, contributing to improving the economic, social, environmental and cultural well-being of Wales. It must reconcile the needs of development and conservation, secure social and economic benefits, ensure the sustainable management of natural resources and protect, promote, conserve and enhance the built and historic environment.
7. The planning system is underpinned by a legislative framework that has its origins in the Town and Country Planning Act 1944 which was then extensively amended by the Town and Country Planning Act 1947 ('the 1947 Act'). The 1947 Act:

- entrusted local planning authorities with the preparation of development plans for their areas,
 - introduced a requirement that any form of development covered by the 1947 Act required planning permission,
 - introduced enforcement procedures to control breaches of planning control, and
 - allowed local authorities to acquire land compulsorily for planning purposes.
8. The 1947 Act also provided for the control of the display of advertisements, the making of tree preservation orders, and the listing and preservation of buildings of special architectural or historic interest.
 9. The primary legislation still reflects the main principles of the planning system as set out in the 1947 Act. Until the new Planning Act comes into force, it is contained in the Town and Country Planning Act 1990 ('the 1990 Act'), as amended by the Planning and Compensation Act 1991, the Planning and Compulsory Purchase Act 2004, the Planning Act 2008 and the Planning (Wales) Act 2015 ('the 2015 Act').
 10. Alongside these Acts, there is a comprehensive series of subordinate legislation, and policy and guidance documents including Planning Policy Wales, Technical Advice Notes, Circulars and Clarification Letters¹.
 11. The system requires the preparation of development plans. Development plans are prepared at national, regional and local scales, with the three tiers together in combination comprising 'the development plan'. The content and policies of all three tiers of the development plan are strongly influenced by *Planning Policy Wales*², the comprehensive land use planning policy document for Wales. It contains policy statements on all main land uses and is therefore the foundation of all national, regional and local planning policies.
 12. The implementation of the development plan and national policies is undertaken through the consideration of planning applications within the development management system. It is based on a positive and proactive approach to shaping, considering, determining and delivering development proposals. The system is operated by the planning authority, working collaboratively with those proposing developments and other stakeholders, in the spirit of partnership and inclusiveness.

¹ [Building and planning | Topic | GOV.WALES](#)

² [Planning Policy Wales | GOV.WALES](#)

13. The planning system plays a fundamental role in people's lives. It is essential to shaping and delivering sustainable development and supporting the well-being of people across Wales. Creating places that maximise social, economic, environmental and cultural benefits and embed resilience through decision making. An effective and efficient planning system is therefore vital for Wales, with the simplification and consolidation of the law a pre-requisite to achieving this.

Reasons for consolidating the law

14. Concerns have been raised for many years about the complexity of the law in the United Kingdom and the disorganised state of our vast and sprawling statute book. This is a problem caused, not only by the sheer volume of primary, secondary and quasi-legislation, but also because that legislation is amended, re-amended and re-made in inconsistent ways over time. This practice creates layers of legislation that may be related or interconnected in a number of different ways, making the legislative landscape difficult for users to navigate. In addition, it is now common for the law to be different in Wales, England, Scotland, and Northern Ireland. Planning legislation is no exception.
15. Efforts to deal with these complexities in the context of planning have been made before and the history of how planning law has evolved is summarised by the Law Commission for England and Wales ('the Law Commission') in paragraphs 1.12 to 1.19 of their consultation paper *Planning Law in Wales* published in November 2017³.
16. The previous consolidation of planning law resulted in the 1990 Act, which was then amended by numerous piecemeal changes making the legislative framework voluminous and fragmented. The increasing divergence between the law in Wales and England has made it difficult to identify the planning law of Wales and has resulted in the law becoming inaccessible and overly complex for both operators and users of the planning system. This situation was exacerbated by multiple pieces of amending planning reform legislation introduced by the UK Government, limited aspects of which apply to Wales.
17. The complexity of the planning statute book led to the Welsh Government requesting the Law Commission to undertake a detailed review of planning law in Wales. Their report, *Planning Law in Wales – Final Report*⁴ and the consultation informing the report

³ Law Commission (2017) *Planning Law in Wales* Consultation Paper [Planning law in Wales – Law Commission](#)

⁴ Law Commission (2018) *Planning Law in Wales* (LC 383): Available at: [Planning Law in Wales - Final Report](#)

identified that planning is an area of law that urgently needs attention. By clearly highlighting the resulting issues and difficulties for operators and users of the planning system, the Commission identified the existing legislation should be simplified and consolidated.

18. It is important that all stakeholders operating, using or engaging in the system can clearly access and understand the law directly affecting them. Difficulties or errors in the operation and interpretation of the legislation leading to the potential of legal challenge can result in delays to the delivery of sustainable development and the achievement of sustainable places for our communities. The increasing need for legal advice in order to operate, use or engage in the planning system and the resultant associated high transaction costs are also of concern. How effectively the planning system functions or communities engage with the system should not depend on whether legal advice can be obtained or afforded.
19. Accessible law is essential to the achievement of an efficient, effective and simple planning system that reflects the specific needs of Wales. Simplifying and modernising planning legislation into a consolidated and bilingual Act will produce real practical benefits to all stakeholders in the planning system (from those who operate and use it to those who wish to access the law to engage in the system), that in turn will continue to contribute to the well-being of Wales and its people. Importantly, as planning law becomes more accessible and clearer, it will enhance public participation and confidence in the system.
20. This is reinforced by the support from a variety of different sectors and interest groups to the proposals included in the two consultation exercises⁵ the Law Commission undertook to inform its report. The Law Commission's report set out the recommended scope of the consolidation project and gave 192 detailed recommendations to simplify and consolidate planning law. The recommendations generally fall under three categories:
 - the majority comprise minor technical reforms with little or no changes in policy to aid consolidation,
 - some policy reforms that fall outside the scope of consolidation, and
 - suggested improvements to subordinate legislation and guidance.

⁵ Details are available at [Planning law in Wales – Law Commission](#)

The Welsh Government's final response to the recommendations was issued in November 2020⁶.

General approach

21. The Planning Act brings together legislation from a number of Acts, mainly:

- the 1990 Act,
- the Planning and Compensation Act 1991,
- the Environment Act 1995,
- the Planning and Compulsory Purchase Act 2004,
- the Planning Act 2008, and
- the 2015 Act.

A summary of the structure of the Planning Act and its contents is set out at the beginning of the Explanatory Notes to the Act (available at [Planning \(Wales\) Act 2026](#)).

22. The complexity of the legislative framework for the planning system and how this has evolved over time has resulted in Acts that are not as clear and accessible as they could be. The Planning Act was an opportunity to address these complexities by bringing related material together, modernising language, removing inconsistencies and omitting provisions that are redundant. For example, the Planning Act has simplified the provisions dealing with minerals development by bringing together legislation from across three Acts and not restating sections of the legislation that are out of date and are no longer in use.

23. In consolidating the legislation every effort was made to express legal concepts in language that is comprehensible and accessible, and that reflects current practice – both drafting and operational. This sometimes proved to be a challenging task and has seen the replacement of some time-honoured terms. For example, the terms 'material consideration' has been replaced with the term 'relevant consideration'. This is considered a more commonly understood term and has the same legal effect as "material consideration". The terms 'local planning authority', 'minerals planning authority' and 'hazardous substances authority' have been replaced with 'planning authority'. The use of 'planning authority' simplifies and modernises the legislation and reflects the unitary system of local government. Such changes were considered by the Law Commission in its report⁷.

⁶ Available at: [Detailed response to the Law Commission report on planning law in Wales | GOV.WALES](#)

⁷ Law Commission (2018) *Planning Law in Wales*, recommendations 5-2 and 5-13.

24. The consolidation process has included removing or omitting provisions from the existing legislation where they are obsolete, spent or no longer of practical utility or benefit. More detail on these changes are set out in the Drafters' Notes that accompany the Planning Act (available at [Planning \(Wales\) Act 2026](#)).
25. Most of the Acts being consolidated predate the devolution settlement for Wales. This means some of the rules, requirements and definitions in use are not relevant to law applying to Wales only. For example, the 1990 Act provides for mayoral and neighbourhood development orders⁸ and permission in principle⁹ that are England only provisions.
26. Additionally, some of the bodies referred to in the legislation do not reflect the institutional and constitutional arrangements applicable in Wales. The Planning Act restates the provisions only applicable to Wales, and updates the terminology and references, making it significantly easier for users of the legislation to understand the law as it applies to them. Amongst other matters, the Consequential Provisions Act ensures that the law applicable to England operates correctly in light of the Planning Act.
27. Attention is also drawn to the Legislation (Procedure, Publication and Repeals) (Wales) Act 2025 that repealed certain redundant planning provisions to avoid adding to the length and complexity of the Planning Act and the Consequential Provisions Act. Further information on those repeals is set out in the Explanatory Notes to that Act¹⁰.
28. Also of concern has been the fact that most of the primary legislation has been set out in Acts of the UK Parliament. As such it has been enacted in English only. Overall, there has been very little bilingual primary legislation relating to planning in Wales, the only exception being the 2015 Act and that means the law for Wales has not been as accessible as it should be. This has also been an obstacle to those seeking to use the Welsh language as a language of the law.
29. In addition to bringing together relevant provisions from the numerous Acts, the Planning Act incorporates some provisions of subordinate legislation made under the Acts being consolidated, and some case law and practice that is important in understanding the operation of those Acts. The Drafters' Notes available on [legislation.gov.uk](#) explain where material of this type has been included.

⁸ Town and Country Planning Act 1990, sections 61DA to 61Q.

⁹ Town and Country Planning Act 1990, section 58A.

¹⁰ See under "More Resources" at: [Legislation \(Procedure, Publication and Repeals\) \(Wales\) Act 2025](#)

30. The Government's final response to the Law Commission's report noted that further consideration was needed to be given to several of the recommendations as part of the process of preparing the future consolidation of planning law. That work has now been undertaken and the Tables of Origins and Destinations for both Acts (available on legislation.gov.uk) summarise where the relevant recommendations of the Commission have been given effect in the Planning Act and Consequential Provisions Act. The Drafters' Notes to both Acts also provide further information where necessary.
31. Additionally, the Law Commission made further recommendations to the Welsh Ministers about specific matters that it considered would be appropriate for inclusion in this consolidation. These are set out in Annex A to this Memorandum (and note also Annex B).
32. The fact that a change was recommended in the Law Commission's report did not necessarily mean that reliance was placed on paragraph (v) of Standing Order 26C.2¹¹ (this allows a consolidation Bill to make changes in the law which the Law Commission recommends "are appropriate for inclusion within a consolidation Bill"). A recommendation under paragraph (v) was sought only where the Welsh Government considered it likely that a change in either of the Bills that became the Planning Acts could not be made under any other paragraph of Standing Order 26C.2 without such a recommendation. The Drafters' Notes identify the changes within the Acts that rely on a recommendation under paragraph (v).

Accessibility and codification of Welsh law

33. This consolidation is the second in a series of planned projects to consolidate the law applicable in Wales (the first being the Historic Environment (Wales) Act 2023). These projects are central to the task of making Welsh law more accessible, and they form part of the Government's *Future of Welsh Law* programme¹², as set out in the Explanatory Memorandum¹³ to the Legislation (Wales) Bill considered by the Senedd in 2019:

¹¹ [Guidance to support the operation of Standing Order 26C on Consolidation Bills: Issued by the Llywydd under Standing Order 26C.3 following consultation with the Business Committee \(senedd.wales\)](#)

¹² [The future of Welsh law: revised accessibility programme 2021 to 2026 | GOV.WALES](#)

¹³ See Table 3 (page 45) of Explanatory Memorandum to the Legislation (Wales) Bill (as revised after Stage 2) available at: [pri-ld11927-em-r-e.pdf](#) (senedd.wales).

Ensuring the long-term accessibility of Welsh law gives rise to significant benefits for the public and private sectors in Wales and for private citizens by progressively removing the barriers to efficient and effective use of the law. It will promote greater confidence in the law for business, Government and citizens, leading to more confident and efficient decision-making across all parts of civic society and the private sector.

34. These wider benefits are expected to materialise in relation to the consolidation of planning legislation.
35. The Planning Act, together with subordinate legislation made under it, will form part of a Code of Welsh law on planning. The significance of this status is twofold. The first is that the Welsh Government intends to publish all enactments that form part of the Code together. The second is that the Government also envisages, subject of course to the Senedd's agreement, a change to the Senedd's Standing Orders to seek to ensure that future changes to the law that forms part of a Code are made by amending or replacing the enactments rather than making different, "stand-alone", provisions that would again lead to a complex proliferation of laws.
36. The Consequential Provisions Act is not part of the Code of Welsh law on planning. As noted above at paragraph 4 the provisions in that Act either have a limited lifespan in practice or will be of very limited interest to most readers of planning law. The Government and the Senedd did not consider that the Consequential Provisions Act needed the potential protection of the Standing Orders to avoid future fragmentation of planning law.

Consolidation of legislation passed by the Senedd or made by the Welsh Ministers

37. During the Senedd's consideration of what was then the Historic Environment (Wales) Bill, the Legislation, Justice and Constitution Committee recommended¹⁴ that where a consolidation Bill incorporated provisions from a Measure or Senedd Act, and those provisions had been changed in the consolidation, each specific occurrence should be highlighted and explained. The Government did not fully agree with this, on the basis that such legislation has the same status as other legislation being consolidated. However, the Government did agree¹⁵ that when provisions of a Measure or Senedd Act

¹⁴ See page 64 and Recommendation 4 of Legislation, Justice and Constitution Committee (December 2022) [Report on the Historic Environment \(Wales\) Bill](#)

¹⁵ See [letter from the \(then\) Counsel General](#) to the Chair of the Legislation, Justice and Constitution Committee of 18 January 2023.

are being incorporated, this would be highlighted in the Explanatory Memorandum to a consolidation Bill.

38. In the case of the Planning Act, the enactments that have been consolidated consist almost entirely of Acts of the UK Parliament, but the consolidation incorporates amendments that have been made to those Acts by various Senedd Acts. In particular by the 2015 Act, the Local Government and Election (Wales) Act 2021, the Historic Environment (Wales) Act 2023 and the Infrastructure (Wales) Act 2024. It also restates a small number of free-standing provisions that were enacted in the 2015 Act.
39. As set out in the Tables of Origins to the Planning Act (available on the legislation.gov.uk website), in a small number of cases the restatement of a provision of primary legislation in the Act incorporates elements of subordinate legislation made by the Welsh Ministers in order to produce a more satisfactory consolidation of the provisions in question.
40. The Consequential Provisions Act makes amendments (including repeals) to certain Measures and Senedd Acts. These amendments are set out separately in Schedule 3 to that Act. The main Senedd Acts that are affected are the 2015 Act, the Historic Environment (Wales) Act 2023 and the Infrastructure Act 2024. The amendments consist of:
 - a. consequential amendments to ensure that other Senedd Acts interact correctly with the Planning Act (e.g. where those other Acts currently refer to definitions given in the legislation that is being consolidated);
 - b. repeals of provisions that have made amendments to Acts of the UK Parliament that are no longer needed because their effect is reflected in the consolidation¹⁶; and
 - c. amendments to make corrections to the Historic Environment (Wales) Act 2023 or ensure that it is consistent with the Planning Act, all of which are explained in the Drafters' Notes for the Consequential Provisions Act.

¹⁶ For example, paragraphs 8 and 20(3) and (4) of Schedule 1 to the Legislation (Procedure, Publication and Repeals) (Wales) Act 2025 amend provisions that the Consequential Provisions Act is repealing. As such, they are no longer required and are repealed by that Act.

Matters not included in the Planning Act

41. General planning law relates to many (if not all) areas of activity, but that does not mean that legislation governing those areas should come within the scope of the consolidation of planning law. In preparing the consolidation, the general focus has been on the current existing planning law where the planning regimes established by that legislation is confined to development on land. So, for example, legislation about activities in the sea, such as the Marine and Coastal Access Act 2009 is not included in this consolidation. Consideration was also given to the views of the Law Commission in their report *Planning Law in Wales*.

General matters

42. When developing its proposals, the Law Commission initially took a very broad view as to the matters that could be considered “planning law”. This included the law relating to the historic environment. Whilst there is a close relationship between the law relating to planning and to the historic environment, the Senedd has already agreed that there should be a separate Code of historic environment law in Wales when it passed the Historic Environment (Wales) Bill in 2023. This consolidation preserves that position.
43. Further, the Government agreed with the Law Commission that the law relating to the countryside, rights of way, the environment and wildlife should not be included within a planning Code for Wales. As such these matters have not been included in the Planning Act.

Felling licences

44. The consultation paper issued by the Law Commission in developing its proposals for *Planning Law in Wales* initially considered whether provisions of the Forestry Act 1967 relating to felling licences should be codified. The Planning Act makes provision regarding tree preservation orders (TPOs) in part because these are part of the existing planning legislation but also because the powers are given to planning authorities and there is a duty on those authorities to consider using them when granting planning permission. TPOs are about preserving certain trees with amenity value. In contrast, felling licences are granted by Natural Resources Wales (NRW) and are needed for felling all trees above a certain size outside private gardens. Such licences form part of a range of forestry powers of NRW whose purposes include forest management and maintaining supplies of timber, in addition to nature conservation and amenity. As such the Government agreed with the position ultimately taken by the Law Commission that it would not be helpful or improve the accessibility of Welsh law to move part of the

forestry legislation administered by NRW into the planning legislation that is administered by planning authorities for different purposes.

Hedgerow removal

45. The Country Land and Business Association responded to the Law Commission's consultation and suggested that if regulation of works to trees were included in a future consolidation of planning law, then consideration should be given to including the relevant law regulating hedgerow removal. The Hedgerow Regulations 1997, made under section 97 of the Environment Act 1995, confer functions on planning authorities. However, as the Law Commission noted¹⁷ the relevant primary legislation is very limited in extent and the Regulations are almost untouched since they were first made. The Government notes there is a connection between the law regulating hedgerow removal and planning law, due to the role of planning authorities, but like the Law Commission we believe it should not be included in a code of planning law for Wales. Instead, given the closer alignment of this subject with agriculture, countryside management, the environment and the historic environment, it would be more appropriate to consider this legislation as part of any future review or consolidation of countryside legislation.

Hazardous substances

46. The regulatory regime relating to keeping hazardous substances on land was consolidated separately in the Planning (Hazardous Substances) Act 1990. In response to the Law Commission's consultation paper, the Health and Safety Executive commented that hazardous substance consent being outside the scope of the code would not present any problems for them. The Law Commission also noted that the 1990 Act dealing with this matter "*seems to be operating broadly satisfactorily; and there seems to be no particular need to change it at present.*" The consolidation does not include this topic, but it remains an option to create a further Act within the Planning Code at a future point, dealing with the special controls of hazardous substances.

Compulsory purchase

47. Compulsory purchase is the acquisition of land, usually by a public authority to use in the public interest, without the consent of the owner, subject to a right of compensation for dispossessed owners and occupiers. As such the general law of compulsory purchase is clearly linked to planning law, by virtue of its subject-matter. But it remains a substantial topic in its own right. The Law Commission considered that the project to consolidate planning law should not extend to the general law of compulsory purchase and compensation. However, in addition to that general law,

¹⁷ Paragraph 3.60, [Planning Law in Wales Consultation Paper](#), November 2017.

there are a number of statutes that contain provisions enabling the acquisition of land, either using compulsory powers or by agreement, for specific purposes related to the subject matter of the Act in question. This is the case in relation to the 1990 Act. Parts 9 and 11 of the 1990 Act also contain a small number of provisions about the development and use of certain types of land where there has been a compulsory acquisition under other legislation. The Planning Act consolidates those provisions, but not the general law relating to compulsory purchase.

Infrastructure

48. Development consent is the permission granted by the UK Government for major infrastructure projects over a certain threshold in both England and Wales, known as Nationally Significant Infrastructure Projects (NSIPs). This is dealt with under the Planning Act 2008 ('the 2008 Act'). Development consent in relation to certain categories of NSIPs is the subject of a reservation under Schedule 7A to the Government of Wales Act 2006.
49. The Infrastructure (Wales) Act 2024 ('the 2024 Act') establishes a single infrastructure consenting process for certain types and thresholds of devolved major infrastructure projects on land and in the territorial sea, known as "significant infrastructure projects" (SIPs).
50. The 2008 Act and 2024 Act are both large Acts that establish separate consenting regimes. Infrastructure and development consents are not planning permission, and they override the need for any other consent or planning permission from local planning authorities. They are therefore outside of the planning permission process – in other words, the main purpose of planning legislation. Further they are not regimes confined to development on land, whereas the legislation that has been consolidated is.
51. The Planning Act does restate provisions of the 1990 Act relating to highways and statutory undertakers, because they deal with the implication of the development or acquisition of land pursuant to other provisions of the 1990 Act. A number of other Acts also make provisions about authorising the construction and operation of infrastructure in other fields (for example transport and energy). To the extent that those matters are within the legislative competence of the Senedd, the Government does not consider those to be part of general planning law but instead part of the subject matter of the respective Acts.

Environmental assessments

52. Part 6 of the Levelling-up and Regeneration Act 2023 ('the 2023 Act') replaces existing EU-derived powers to make regulations about "environmental impact assessments" and "strategic environmental assessments" with powers to make regulations about "environmental outcomes reports". Those regulations will apply to making plans and giving consents under the Planning Act but will also apply in various other contexts such as transport and agriculture. Because they are general provisions that will apply to a wide range of consents and plans, not just ones under the Planning Act, they were not included in the consolidation.
53. There are also provisions in the 2023 Act relevant to planning and that apply in relation to Wales. Chapter 1 of Part 3 of that Act is concerned with the obtaining, processing and publishing of "planning data" and gives powers to the Welsh Ministers and "relevant planning authorities". However, they are only relevant to Wales so far as they relate to functions under Part 6 of the 2023 Act about environmental outcomes reports and as such were also not included.

Building standards and safety

54. The Planning Act states that it forms part of a code of law relating to planning. It had been anticipated that this code would also include the law relating to buildings and land, and that it would ultimately include legislation relating to the design and construction of buildings, currently found primarily in the Building Act 1984. That legislation is not considered to form part of planning law.
55. The Senedd passed the Building Safety (Wales) Bill in March 2026, which makes provision about the safety of certain residential buildings in connection with their occupation. As part of its further consideration of the content of a code of law relating to housing, the Government will consider whether that Bill would more appropriately form part of the same code as the legislation relating to planning or the code relating to housing.

Legislative competence

56. The Senedd has the legislative competence to make the provisions in the two Acts pursuant to Part 4 of the Government of Wales Act 2006 as amended by the Wales Act 2017.

Part 2 – Additional expenditure

57. The provisions of both the Planning Act and the Consequential Provisions Act do not give rise to additional significant expenditure payable out of the Welsh Consolidated Fund.
58. There are no provisions in either Act that charge expenditure on the Welsh Consolidated Fund.
59. There are some small transitional costs associated with implementing the Planning Act. These costs have been estimated for the 18-month implementation period over 2026 to 2027, using the best available information and it is not anticipated that there will be any additional ongoing costs beyond this period.
60. In this assessment all costs have been rounded to the nearest £100.

Analysis of additional expenditure

61. Both Acts consolidate the existing legislation relating to planning in Wales, and in line with the requirements of the Senedd's Standing Order 26C.2 do not bring about policy reform of any significance. In consequence there will be no additional significant costs associated with its operation to the Welsh Government or others.
62. The costs associated with implementing the consolidated legislation are anticipated to be staff and transitional costs for Welsh Government, planning authorities and some private industries. These will primarily arise from time associated with producing guidance, updating websites, attending webinars and meetings.

Identified areas of additional expenditure

Welsh Government (including Planning Environment Decisions Wales)

63. The implementation of the Planning Act contains areas of work required to ensure the law, and therefore the planning system, can continue to operate effectively on the day the Act is commenced. The majority of this is to be undertaken by the Welsh Government and includes the preparation of subordinate legislation that is required to bring the new legislation fully into effect. This includes new regulations on trees and regulations making consequential amendments to existing subordinate legislation. Some may require consultation.

64. Given the volume of planning related subordinate legislation and guidance and having regard to the need to manage resources within the Planning Directorate, it is not possible to update and consolidate all the subordinate legislation at once whilst also ensuring the Acts are commenced in a timely manner. The remaining suite of subordinate legislation will continue to be consolidated and updated after the commencement of the Planning Act, as set out in the Counsel General's annual report on progress against "The future of Welsh Law: A programme for 2021 to 2026"¹⁸. This will be undertaken in a phased approach to coincide with any major policy reforms to individual instruments and will also be guided by those pieces of legislation most commonly used by practitioners. This work does not form part of this analysis of additional expenditure as it will form part of normal government business.
65. Other important areas of work that forms part of the implementation phase include:
- creating new guidance to support all stakeholders in understanding the Act and how it affects them,
 - running familiarisation webinars, and
 - cancelling a Technical Advice Note on Simplified Planning Zones and a demolition direction.
66. The associated opportunity costs for this work are anticipated to be £57,400 which reflects around 38 weeks of work for a number of officials at various grades¹⁹.
67. Websites will also need to be updated including the Welsh Government's own website in particular the pages on building and planning and Planning Environment Decisions Wales (PEDW) own webpages. This work will include updating the published planning application forms, and various policy and guidance documents. The costs to update the Government website and guidance is anticipated to take around 13 weeks by a number of officials at different grades. This would be an opportunity cost of around £16,700.
68. The above are one-off costs that are mainly opportunity costs including staff time, design, translation and engagement with relevant stakeholders where necessary. The total cost for Welsh Government, including PEDW, is anticipated to be approximately £74,100 over the implementation period. This cost reflects around 51 weeks of work for a number of officials at various grades²⁰.

¹⁸ [The future of Welsh law: annual report 2023 to 2024](#)

¹⁹ This includes officials at grades ranging between Executive Officer and Grade 7.

²⁰ This includes officials at grades ranging between Executive Officer and Grade 7.

Planning authorities

69. It is anticipated that the main costs for the 25 planning authorities in Wales will be updating downloadable application forms, templates and their websites to ensure references to the new legislation and terminology is correct. It is recognised that there is limited reference to legislation on planning authority websites and therefore it is anticipated that this will take around 4 days for a planning officer at a total cost of approximately £25,000 (£1,000 per planning authority).
70. Following recent changes to the Planning Application Wales service there will be a need for planning authorities to update their systems for processing planning applications and templates. It is anticipated that this will take around 4 days for a systems officer to complete the changes at a total cost of approximately £17,800 (£700 per planning authority, figures do not add up due to rounding.)
71. An opportunity to attend a webinar about the legislation will also be offered to all planning authorities. It is anticipated that this will be around 3 hours for a planning officer at a total cost of approximately £2,500 (£100 per planning authority).
72. The above are one-off costs that are opportunity costs including staff time. The total cost for planning authorities, is anticipated to be approximately £45,300 (£1,800 per planning authority).

Private industry and legal advice organisations

Planning consultants

73. It is unlikely that direct costs will be incurred by planning consultants as a result of the Acts. However, they will need to familiarise themselves with them to correctly inform their work for their clients. This is difficult to quantify due to exact numbers of consultancies working in Wales being unknown, the variety in the size and scale of the companies and of their systems and approaches as well as commercial confidentiality. It is anticipated that consultancies will look to attend webinars (which are likely to result in similar costs to those identified for planning authorities above) and update internal processes. They will also be able to draw upon the guidance to be published by the Welsh Government, as noted above. These are opportunity costs that will ultimately benefit the businesses in their commercial activities.

Private law firms

74. As with planning consultants, it is unlikely that direct costs will be incurred for private law firms. However, there will be an opportunity cost, as they will need to familiarise themselves with both Acts in order to correctly inform their work for their clients. This is anticipated to be undertaken as part of existing internal briefing and updates and take a junior officer around 3 hours to prepare the briefing with support from the guidance to be published by the Welsh Government, as noted above. This would result in a one-off cost of approximately £57,600 for the sector²¹, but will be an opportunity cost that will be of benefit for their commercial activities.

IT service providers

75. The assessment of the impact of the Planning Act on IT service providers who provide online planning services, in particular online application portals, was based on the work undertaken for the Historic Environment (Wales) Act 2023 ('the 2023 Act'). Due to commercial confidentiality, an exact figure cannot be provided. However, an estimation, which was arrived at in discussion with an IT service provider delivering the online planning application services for Wales, has been used on the basis that the work resulting from the Planning Act would be around 3 times the amount of work that was undertaken for the 2023 Act. This would therefore cost around £70,200 to updating that service.
76. By updating their forms and guidance, they will be able to provide commercial activities that are in demand therefore updating systems to reflect the latest legislation will be of benefit to them and is a commercial decision to do so. This benefit is therefore considered to outweigh these costs.
77. The total cost for private sector as a whole is therefore anticipated to be approximately £127,800.

Third sector

78. Third sector bodies such as Planning Aid Wales currently disseminate information on the operation of the existing legislation, so they will need to update this to reflect the changes. As noted above, the Welsh Government will be providing guidance on the changes which will support such bodies, and we therefore estimate that the burden of updating individual websites will be minimal.

²¹ This is based on approximately 556 property / housing law firms in Wales. Source – Law Society.

Affordability assessment

79. This assessment of affordability has looked at the impact on the public sectors. This analysis of additional expenditure has identified a number of opportunity costs. This includes:

- Welsh Government – time spent by existing members of staff on activities related to the implementation of the Planning Act, and
- planning authority and advice organisations costs are focused on administrative updates to websites and documents and familiarisation of the new code of law.

Since these opportunity costs do not represent an additional financial outlay to the organisations concerned, it is considered they do not impact on affordability.

Summary

80. The transitional costs identified above come to approximately £74,100 for Welsh Government, £45,300 for planning authorities, and £127,800 for private industries totalling around £247,200 which will be spread across the implementation period (2026-2027). The identified costs for Welsh Government are one-off and opportunity costs of staff time and do not represent an additional financial outlay. The other identified costs are one-off costs that reflect normal business for those organisations or updates to commercial systems. The Planning Act is not expected to give rise to any additional costs beyond the implementation period.

Part 3 – Impact assessments

Integrated impact assessment

81. The consolidation of planning law is one of the projects in the Government's programme to improve the accessibility of Welsh law, established under Part 1 of the Legislation (Wales) Act 2019 ('the 2019 Act'). Both the programme and the 2019 Act recognise that the nature of consolidation Bills is to modernise the form and drafting of the law to make it easier to understand and apply; unlike Bills that seek to reform the law, consolidation Bills do not contain policy changes.
82. The 2019 Act, the programme to improve the accessibility of Welsh law and the Historic Environment (Wales) Act 2023 were all subject to an integrated impact assessment.
83. In light of learning from conducting these impact assessments, and recognising that the assessment of the 2019 Act addressed the overarching impacts of consolidation Bills, consideration was given to whether an integrated impact assessment of the consolidation of planning law would be desirable. Given the duplication of work and the fact that no new policy is being delivered through the consolidation it was decided that an integrated impact assessment would not be undertaken.
84. It is intended that the same approach will be taken for the future consolidation of planning related subordinate legislation that will now be undertaken; however, if the subordinate legislation supporting the commencement of the Planning Act in particular contains new policy or proposals then an integrated impact assessment of those elements will be undertaken.

Justice impact assessment

85. The potential impacts on the justice system of the Acts were assessed and it was considered that there is no or negligible impact on the justice system. This is due to the existing provisions relating to the planning system being restated with minimal changes to their effect and no new offences being created. Where small changes have been made, such as the removal of the option of imprisonment for some offences and changes to achieve consistency of approach across the Planning Act or to align with current practice, it was considered they result in no or negligible impact on the system. Due to the nature of the Consequential Provisions Act, it was considered that there would be no or negligible impact on the justice system. The Ministry of Justice agreed with the assessment that there is a nil/minimal impact to the justice system of these Acts.

86. The consolidation does mean that on the rare occasions those in the justice system may need to engage with the legislation, they will need to look at different legislation, meaning they will need to familiarise themselves with it. Once this has been done the effect will be positive because (from a Welsh perspective) there is a single, modern, bilingual Act applicable in Wales; and because (from an English perspective) the law applicable in England will be less complex as provisions within the existing legislation that apply to Wales only are removed.

Annex A



Lord Justice Fraser
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Cadeirydd, Comisiwn y Gyfraith Cymru & Lloegr
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Note: the numbers 1-15 shown in red have been added by the Welsh Government. They are used in the Drafters' Notes for the Planning (Wales) Bill to refer to the recommendations in this letter.

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16 May 2024

Dear First Minister,

I write, following discussions with your officials, to set out the Law Commission's recommendations as to whether certain changes to the law would be appropriate for inclusion in the proposed consolidation of planning legislation for Wales.

I am pleased to be able to confirm, on behalf of the Commission, that the following 15 matters are, in our view, appropriate for inclusion in a consolidation Bill, under Standing Order 26C.2(v).

1 Call-in of planning applications by Welsh Ministers (duty to notify applicant)

This proposes to amend the procedure, currently in section 74 of the Town and Country Planning Act 1990 ("the TCPA"), applicable where the Welsh Ministers call-in an application for their decision, so as to require them, rather than the planning authority, to notify an applicant for planning permission when this occurs.. This would be a minor improvement to procedure to ensure that it works better in practice. It was not dealt with in our report on *Planning Law in Wales* ("the PLW report")¹ and was therefore not the subject of consultation. However, it raises no point of principle. Further, whilst the decision as to whether a matter is controversial is for the Senedd, not for the Commission, it seems to us unlikely that this would be controversial. It would accordingly be an appropriate change to make in a consolidation Bill under Standing Order 26C.2(v).

¹ *Planning Law in Wales: Final Report* Law Com No 383.

2 Appeals and inquiries (power to appoint assessors)

This proposes to extend to inspectors the power (currently available only to the Welsh Ministers, under paragraph 6 of Schedule 6 to the TCPA) to appoint assessors at hearings and inquiries and in relation to matters dealt with by written representations. This would be a minor improvement to procedure to ensure that it works better in practice. It was the subject of recommendation 11-3 of the PLW report after public consultation. It raises no point of principle and seems unlikely to us to be controversial. It would accordingly be an appropriate change to make in a Consolidation Bill under Standing Order 26C.2(v).

3 Purchase notices (power to serve a notice on joint planning board)

This proposes to amend the provisions as to purchase notices in section 137 of the TCPA, so as to enable a notice to be served on a joint planning board where it is the planning authority. This appears to have been no more than an oversight. It was not dealt with in the PLW Report and was therefore not the subject of consultation. However, it raises no point of principle and seems unlikely to us to be controversial. It would accordingly be an appropriate change to make in a consolidation Bill under Standing Order 26C.2(v).

4 Enforcement warning notices (effect on subsequent enforcement action)

This proposes to adjust the provisions as to enforcement warning notices in sections 173ZA of the TCPA, to avoid the possibility of authorities using them to postpone the time in which to take enforcement action. This would be beneficial and would remove an anomaly. It was the subject of recommendation 12-4 of the PLW Report after public consultation. The proposal raises no point of principle and seems unlikely to us to be controversial. It would accordingly be an appropriate change to make in a consolidation Bill under Standing Order 26C.2(v).

5 Enforcement: assurances as to non-liability to prosecution

This proposes to remove a procedural anomaly by amending section 172A of the TCPA to enable an authority to issue to subsequent owners an assurance as to liability to prosecution for non-compliance with an enforcement notice. It was the subject of recommendation 12-22 of the PLW Report after public consultation. The proposal raises no point of principle and seems unlikely to us to be controversial. It would accordingly be an appropriate change to make in a consolidation Bill under Standing Order 26C.2(v).

6 Compensation payable for withdrawal of stop notice (duty to pay)

This proposes to impose on the Welsh Ministers, rather than (as at present) the planning authority, the duty to pay compensation under section 186 of the TCPA were they to have issued both an enforcement notice and a stop notice, and then withdraw the stop notice. It was the subject of recommendation 12-20 of the PLW Report after public consultation. This would align the statutory provisions with non-statutory practice. The proposal raises no point of principle and seems unlikely to us to be controversial. It would accordingly be an appropriate change to make in a consolidation Bill under Standing Order 26C.2(v).

7 Offences of supplying false information (penalty on conviction)

This proposes that the maximum penalty on conviction for an offence of supplying false or misleading information in relation to planning matters under sections 194 and section 330 of the TCPA – which is currently an unlimited fine or imprisonment for up to two years – should be changed to simply an unlimited fine. It was the subject of Recommendation 12-24 of the PLW Report after public consultation. The proposal raises no point of principle and seems unlikely to us to be controversial. It would accordingly be an appropriate change to make in a consolidation Bill under Standing Order 26C.2(v).

8 Offence of supplying false information to obtain a certificate of lawfulness (application to appeals)

This proposes to apply to appeals under section 195 of the TCPA the offence of supplying false or misleading information. That offence was the subject of Recommendation 12-24 of the PLW Report, but not in the context of appeals. It was therefore not the subject of consultation specifically. However, the proposed change would rectify what appears to have been an inadvertent omission and would only extend criminal liability in very limited circumstances. It raises no point of principle and seems unlikely to us to be controversial. It would accordingly be an appropriate change to make in a consolidation Bill under Standing Order 26C.2(v).

9 Tree replacement notices (power to waive or relax)

This proposes the introduction of an explicit power to waive or relax a tree replacement notice issued under section 213 of the TCPA. This would bring such notices into line with enforcement notices, in relation to which there is a similar power under section 173A. This was the subject of Recommendation 15-12 of the PLW Report after public consultation. The proposal raises no point of principle and seems unlikely to us to be controversial. It would accordingly be an appropriate change to make in a consolidation Bill under Standing Order 26C.2(v).

10 Maintenance of land notice (time limit for service)

This proposes to amend the procedure for issuing and serving a maintenance of land notice, currently under section 215 of the TCPA, so as to require a copy of the notice to be served on those affected within 28 days of the notice being issued. The need for this arises out of the proposal in Recommendation 13-2 of the PLW Report that notices should be issued rather than served, but this specific point was not dealt with, and was therefore not the subject of consultation specifically. However, it would be a minor improvement to procedure to ensure that it works better in practice; it raises no point of principle and seems unlikely to us to be controversial. It would accordingly be an appropriate change to make in a consolidation Bill under Standing Order 26C.2(v).

11 Tree replacement notices (procedure and time limit for service)

This proposes to amend the procedure for issuing and serving a tree replacement notice, currently under section 213 of the TCPA, so as to require a notice to be issued, and a copy to be served on those affected within 28 days. The proposal that such a notice should be issued rather than served is in line with Recommendation 13-2 of the PLW Report, which made the same proposal in relation to maintenance of land notices. The need for service to be within 28 days of the notice being issued arises out of that recommendation. These points were not dealt with in the PLW Report and were thus not the subject of consultation specifically; but they were analogous to the point that was dealt with there. This proposal would result in a minor improvement to procedure to ensure that it works better in practice; it raises no point of principle and seems unlikely to us to be controversial. It would accordingly be an appropriate change to make in a consolidation Bill under Standing Order 26C.2(v).

12 Maintenance of land notices and tree replacement notices (giving notice of rights of appeal)

This proposes to introduce a power for regulations as to maintenance of land and tree replacement notices to require that notices should be accompanied by a statement as to the recipient's right to appeal against them. In relation to land notices, this was the subject of Recommendation 17-3 of the PLW Report after public consultation. The identical issue in relation to tree replacement notices was not dealt with in the PLW Report, and therefore this was not consulted upon. The force of our recommendation applies to tree replacement notices, and this proposal raises no point of principle and seems unlikely to us to be controversial. It would accordingly be an appropriate change to make in a consolidation Bill under Standing Order 26C.2(v).

13 Maintenance of land notice (variation of terms of notice on an appeal)

This proposes to amend section 217 of the TCPA so as to allow the Welsh Ministers or inspectors to vary a notice at any point in the proceedings, provided that the variation does not cause any injustice. This was not dealt with in the PLW Report. Because it had been the subject of this earlier consultation, this proposal was the subject of a short consultation with key stakeholders as part of the exercise of our considering the consolidation issue. That having yielded no objection, our view is that the proposal raises no point of principle and seems unlikely to us to be controversial. It would accordingly be an appropriate change to make in a consolidation Bill under Standing Order 26C.2(v).

14 Revocation of suspension order in relation to minerals sites (notifying those affected)

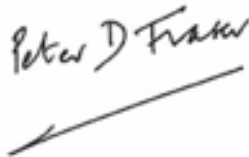
This proposes to amend Schedule 9 to the TCPA so as to require the planning authority to notify those affected where it decides to revoke a suspension order relating to a minerals site. This was not dealt with in the PLW Report. However, despite not having been the subject of consultation, the proposal raises no point of principle and seems unlikely to us to be controversial. It would accordingly be an appropriate change to make in a consolidation Bill under Standing Order 26C.2(v).

15 General power to contribute towards expenditure (provisions to which it is applicable)

This proposes to amend section 306 of the TCPA so as to widen the power of a local authority or a statutory undertaker to contribute towards the expenses of a planning authority in carrying out any of its functions under the TCPA, rather than only those functions listed in section 306(2). Given that this refers only to a power to make contributions, rather than a duty to do so, the proposal is a limited one. However, because it was not dealt with in the PLW Report, and was therefore not the subject of prior consultation, this proposal too was the subject of further consultation with key stakeholders. That having yielded no objection, our view is that the proposal raises no point of principle and seems unlikely to us to be controversial. It would accordingly be an appropriate change to make in a consolidation Bill under Standing Order 26C.2(v).

I would like to take this opportunity, at an early stage in my tenure as Chair of the Commission, to echo the congratulations of my predecessor to the Welsh Government on its continuing efforts to making the law of Wales accessible, in line with the recommendations of our earlier report on *The Form and Accessibility of the Law Applicable in Wales*. I am pleased that this major Bill is a significant milestone on that path.

Yours sincerely,

A handwritten signature in black ink that reads "Peter D Fraser". Below the signature is a long, thin horizontal line that tapers at both ends, serving as a decorative underline.

Lord Justice Fraser

Chair, Law Commission

Annex B



Law Commission
Reforming the law
Comisiwn y Gyfraith
Diwygiol gyfraith

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23 Gorffennaf 2025/23 July 2025

Dear First Minister

Planning (Wales) Bill

Thank you for your letter dated 16 July 2025 following up on our letter of 16 May 2024.

After consulting with Commissioners, I can confirm that it was not the Commission's intention, when it advised and recommended that Matter 2 (appeals and inquiries – powers to appoint assessors) and Matter 21 (Revocation of suspension order in relation to minerals sites – notifying those affected) were suitable for inclusion in a consolidation bill, to limit the ambit of the matters proposed in the original request dated 27 October 2023.

I can therefore confirm that our recommendation in relation to Matter 2 extends to the ability of Welsh Ministers to appoint assessors directly to deal with cases arising on the basis of written applications relating to optional direct applications made to Ministers under sections 62M and 62O of the Town and Country Planning Act 1990 as well as appeals under schedule 6 of that Act.

In relation to Matter 21, our recommendation was intended to relate to the entire proposal, extending to where planning authorities revoke suspension orders under paragraphs 6 and 10 of Schedule 9 and, by virtue of paragraph 11(7) of Schedule 9, where the Welsh Ministers revoke orders under paragraph 6.

We are therefore happy to clarify that both these matters are suitable for the procedure.

I can also confirm, in relation to two further matters, 1 and 22, that our recommendations were intended to reflect your request of 7 October 2023.

In relation to Matter 1 (call-in of applications: Welsh Ministers to notify applicants), our recommendation was intended to also extend to include call-ins relating to the determination of the conditions of a dormant planning permission for mining operations and the conditions of an active minerals permission.

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And in relation to Matter 22 (general power to contribute towards expenditure), our recommendation was intended to extend to the exercise of any function conferred by or under the Bill, whether those functions are currently exercised under the TCPA 1990, or the Planning Act 2008, or under any other Act being replaced by the Bill.

We note that the request for clarification was sent just a few working days before your internal deadline. We are highly unlikely to be able to respond this side of the summer recess if any further similar issues are raised at this stage.

I trust that this letter suffices in your interpretation of our letter of May 2024.

Yours sincerely,

A handwritten signature in black ink that reads "Peter Fraser". The signature is written in a cursive style and is underlined with a single horizontal line.

Sir Peter Fraser

Chair, Law Commission