

The UK Government's Great Repeal Bill White Paper: An initial response by Cytûn's Policy Officer

The White Paper was published on 30 March 2017, and is available here:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/604516/Great_Repeal_Bill_White_Paper_accessible.pdf

The following notes relate to issues previously identified by Cytûn's [Wales and Europe Working Party](#) in its published responses to consultations.

1. Devolved competence – It seems that the Repeal Bill will include provisions to incorporate EU laws in devolved areas into Welsh law (para 2.5) and (paras 1.15, 3.6, 4.6) allowing Welsh Ministers to make secondary legislation 'correcting' EU law to make it work in the Welsh legal framework. These clauses of the Repeal Bill, and any others referring specifically to Welsh competences, will require a Legislative Consent Motion in the Assembly. (The same will apply for Scotland and Northern Ireland – both of which may create their own difficulties). It is noticeable that the current proposal is that these things be achieved by Westminster legislation with devolved consent rather than by Welsh legislation. See my article in the [February 2017 Cytûn Policy Bulletin](#) (pp 4-5) explaining why this seems to be the settlement for Wales at present.
2. UK legal framework – Chapter 4 begins to set out the idea that "the UK single market" will need to be regulated after Brexit in the same way as the EU single market is at present. This is then used to suggest that the framework regulations currently made by the EU will in future be made through UK legislation (para 4.4), with implementation within that framework being devolved. It adds that initially the UK framework will be very similar to the EU framework, with discussion on changes following Brexit. This is contrary to the idea put forward in the Welsh Government White Paper [Securing Wales' Future](#) (pp 27-28) that the frameworks be agreed between all the UK governments. The UK Government's proposal would require primary UK legislation with Welsh Assembly consent in those policy areas that the Wales Act 2017 does not reserve to Westminster. The White Paper adds (para 4.5) "This will be an opportunity to determine the level best placed to take decisions on these issues, ensuring power sits closer to the people of the UK than ever before. It is the expectation of the Government that the outcome of this process will be a significant increase in the decision making power of each devolved administration." I would expect some kickback from the devolved administrations on both the principle of this, and on the suggestion that detailed conversations between the UK and devolved governments will begin only AFTER Brexit.
3. Rights of EU citizens – para 1.22 states "we will introduce an immigration bill so nothing will change for any EU citizen, whether already resident in the UK or moving from the EU, without Parliament's approval." This is still not a guarantee of continued status for these citizens, but it does remove the fear of a loss of rights by executive action alone, which is a step forward. Press reports that EU citizens who arrive here after triggering Article 50 would not have the same rights as those

already here have not been realised – indeed, the White Paper is repeatedly clear that all rights and obligations of individuals and institutions under EU treaties and laws apply up to the moment of departure from the EU, and any changes will only begin to be worked out after departure.

4. Equalities and human rights – The White Paper specifically says that the Equality Act 2010 – based on EU law – will remain in force (para 2.17 Example 1) and that the UK “has no plans to withdraw” from the European Convention on Human Rights – despite press reports to the contrary a few weeks ago. These are both in line with what we and individual churches have asked for. However, the UK Government does not intend to incorporate the EU Charter of Fundamental Rights into UK law, arguing that all the rights in it are either contained in other legislation or treaties which will be preserved in UK law, or are irrelevant because they relate to specific EU institutions (paras 2.23-2.25). Human rights experts will certainly have something to say about this approach in the coming days, and I anticipate this being one of the most controversial proposals.
5. Environmental law – We have publicly expressed concern at comments made to a Westminster Committee by Andrea Leadsome (Secretary of State for the Environment) that only two-thirds of EU environmental legislation would be incorporated into UK law. The White Paper, however (para 2.17 Example 2) explicitly states “The Great Repeal Bill will ensure that the whole body of existing EU environmental law continues to have effect in UK law.” This is very welcome news – although it fails to take account of the fact that the environment is not generally a reserved matter, and legislative competence for the environment in Wales sits with the Assembly.
6. The only reference to agriculture is in para 4.2 in the context of UK “frameworks” for devolved administration – see point 2 above. This may well signify that agriculture is not at the forefront of the UK Government’s thinking at the moment, which would be a matter of concern for churches in Wales.
7. Chapter 5 relates to Jersey, Guernsey, the Isle of Man and Gibraltar. Spare a thought for the people and governments of these jurisdictions, as no detail whatsoever is supplied as to how they will fare after Brexit.

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