LEGISLATIVE CONSENT MEMORANDUM

SUSTAINABLE AVIATION FUEL BILL 2025

1. This legislative consent memorandum 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[1] if a UK Parliamentary Bill makes provision in relation to Wales that has regards to devolved matters.

2. **The Sustainable Aviation Fuel Bill** ("the Bill") was introduced in the House of Commons on 14 May 2025. The Bill can be found at: Sustainable Aviation Fuel Bill

Policy Objective(s)

3. The UK Government's stated policy objectives are; tackling aviation emissions through a variety of measures, although some technological solutions to reduce aviation emissions, such as zero emission flights, are at a relatively early stage of development. Sustainable Aviation Fuel (SAF) is therefore one of the most effective ways to reduce aviation emissions right now, as it is available today as a 'drop-in fuel' that does not require modifications to existing aircraft. The associated greenhouse gas emissions from SAF are on average 70% less than fossil jet fuel on a lifecycle basis. SAF is expected to play a critical role in decarbonising aviation up to and beyond 2050. The UK Government is clear that it wants to see the UK capture its share of the global SAF market by playing a leading role in development, production and use. For production facilities, making the leap from lab to commercial scale has proven difficult as smaller demonstration facilities are capital intensive and often unprofitable. Commercial plants can then typically cost £600 million to £2 billion to reach economies of scale and tend to run at a loss during their first years of deployment. First-of-a-kind plants often struggle to secure major investment from equity and debt providers due to several associated risks, including revenue certainty. The UK Government response to the publication of independent advice from Philip New 'Developing a UK Sustainable Aviation Fuel Industry' defined key barriers to investment that SAF producers have faced so far:

    - Technology risk. Advanced SAF technologies are at early technology readiness and require innovation and demonstration before they are ready for commercial deployment. Even then the risk remains that a plant will not operate as expected.

[1] Please note in accordance with Welsh Government policy we refer to the legislature in Wales as "Senedd Cymru" on first use and "the Senedd" thereafter unless the context stipulates otherwise.

- Feedstock risk. There is significant competition for resources that can be used as feedstocks for SAF production. There is a risk that, in the absence of long-term feedstock contracts, producers will not attract sufficient feedstock to maintain forecasted production levels and revenues.
- Construction risk. Building a SAF plant presents risks that cause delays or impact on the plant's performance specifications. These could occur from ground condition, interfaces between different parts, and underestimation of time and cost to build and commission.
- Revenue certainty risk. Due to uncertainty regarding the future cost of SAF and an undefined market price, there is a lack of confidence over the revenue that SAF production will attract.

4. A revenue certainty mechanism introduced in the Bill mitigates these risks to providers of finance by guaranteeing a price for a project's eligible SAF over a defined period; using private law contracts, administered by an operationally independent counterparty, to reduce the risk of policy and regulatory change; and increasing these projects' competitiveness for finance with other low carbon technologies. By reducing these risks, it can lower the cost of capital and increase the chances of first-of-a-kind commercial scale projects reaching successful final investment decisions.

Summary of the Bill

5. The Bill is sponsored by the Department for Transport.

6. The Bill makes provision for;

- the creation of revenue certainty contracts and mechanisms to support such contracts. This is intended to realise the economic benefits associated with the developing domestic sustainable aviation fuel industry, help secure the supply of such fuel and establish the UK as a global leader in the decarbonisation within the sector; and
- levies on certain suppliers of aviation fuel, to fund the obligations created under the revenue certainty contracts.

7. Welsh Government officials have been engaged with the Department for Transport since December 2024 to discuss the contents and timing for the introduction of the Bill into the House of Commons parliamentary session. We received a final copy of the Bill on 8th May.

8. The UK Government conducted a public consultation on Sustainable aviation fuels revenue certainty mechanism: revenue certainty options

between the 25 April 2024 to 20 June 2024[2]. The Welsh Government did not provide any formal response to the consultation.

Provisions in the Bill for which consent is required

9. In my view, an LCM is required in relation to clauses 1 to 15.

10. Clause 1 enables the Secretary of State to direct a company owned by a Minister of the Crown ("the counterparty") to offer to enter into a revenue certainty contract with a sustainable aviation fuel producer. In summary, this ensures the producer achieves a particular price for each unit of fuel supplied. As this clause seeks to encourage the growth of a stable sustainable aviation fuel industry within the UK, my view is that it concerns economic development and environmental protection. As those matters are devolved, we consider that the test in SO29 is met.

11. Clause 2 requires the Secretary of State to inform the producer affected by the direction issued under clause 1. It also enables such directions to be revoked. As this clause supports the implementation of directions issued under clause 1, my view is that it also concerns economic development and environmental protection and therefore meets the test in SO29.

12. Clause 3 enables the Secretary of State to make regulations about maintaining a register of information relating to the contracts and publishing the contracts or details of them. As this clause supports the implementation of directions issued under clause 1, my view is that it concerns economic development and environmental protection and therefore meets the test in SO29.

13. Clause 4 enables the Secretary of State to designate the company owned by a Minister of the Crown which will enter into the contracts with producers (so that it becomes the counterparty). As clause 1 cannot be utilised until the power in this clause has been exercised, my view is that this clause also relates to devolved matters.

14. Clause 5 enables the Secretary of State to make a scheme to transfer the counterparty's property, rights and liabilities to a new counterparty, if a company's designation as a counterparty is revoked. The scheme may include provision which is the same as or similar to the Transfer of Undertakings (Protection of Employment) Regulations 2006 (S.I. 2006/246). As this clause supports the implementation of directions issued under clause 1, my view is that it also concerns economic development and environmental protection, which are devolved matters.

15. Clause 6 enables the Secretary of State to make regulations requiring certain suppliers of aviation fuel to pay a levy so that the counterparty

[2] https://www.gov.uk/government/consultations/sustainable-aviation-fuels-revenue-certainty-mechanism-revenue-certainty-options

can fund costs incurred under the Sustainable Aviation Fuel Act. The levy will fund the revenue certainty mechanism and therefore, the clause must be considered in the context of implementing the directions issued under clause 1 (which seeks to encourage the growth of a stable sustainable aviation fuel industry within the UK). Given that relationship, I consider that the test in SO29 is met.

16. Clause 7 provides that the regulations made under clause 6 may require financial collateral to be provided in respect of liabilities to pay the levy. This clause supports the implementation of clause 6, and therefore also has regard to devolved matters.

17. Clause 8 provides that the regulations made under clause 6 may confer functions on the counterparty regarding the administration and enforcement of the regulations, and about the resolution of disputes (including via arbitration and appeals). This clause supports the implementation of clause 6, and therefore also has regard to devolved matters.

18. Clause 9 provides that the regulations made under clause 6 may make provision about how the levy is to be calculated or determined. This clause supports the implementation of clause 6, and therefore also has regard to devolved matters.

19. Clause 10 enables the Secretary of State to make regulations about the payment of surplus funds to those who have had to pay the levy and about requirements to ensure that benefits from such payments are passed on to customers. The clause imposes a consultation duty on the Secretary of State prior to making the regulations; this includes a duty to consult the Welsh Ministers if the regulations contain provision which would be within the legislative competence of the Senedd if contained in an Act of the Senedd. As this clause is connected to the effective management of the revenue certainty mechanism, which is intended to encourage the growth of a stable sustainable aviation fuel industry within the UK, my view is that it concerns devolved matters.

20. Clause 11 (and Schedule) enables the Secretary of State to impose a financial penalty on a person other than the counterparty, if the person has: breached a requirement imposed by levy regulations made under clause 6 (as long as, at the time of the breach, the regulations provided that such a penalty could be imposed), or breached a requirement in regulations made under clause 10(1)(b) relating to passing on benefits of repayment to customers. Regulations may be made under clause 11 in relation to the amount of the penalty and the Schedule sets out how the penalty will be issued and dealt with. As this clause is connected to the effective management of the revenue certainty mechanism, which is intended to encourage the growth of a stable sustainable aviation fuel industry within the UK, my view is that it concerns economic

development and environmental protection. As those matters are devolved, I consider that the test in SO29 is met.

21. Clause 12 enables the Secretary of State to direct the counterparty in relation to the functions conferred on it under, or by virtue of, the Sustainable Aviation Fuel Act. As this clause is connected to the effective management of the revenue certainty mechanism, my view is that it has regard to devolved matters.

22. Clause 13 requires the counterparty to comply with any requirements imposed by the Secretary of State to provide the Secretary of State with information or advice relating to the exercise of the counterparty's functions. As this clause is connected to the effective management of the revenue certainty mechanism, my view is that it also has regard to devolved matters.

23. Clause 14 enables the Secretary of State to provide financial assistance, in any form and subject to any conditions, to the counterparty. As this clause is connected to the effective management of the revenue certainty mechanism, my view is that it also has regard to devolved matters.

24. Clause 15 provides that powers under the Bill to make regulations include powers to make consequential and transitional provisions. It also sets out the procedures for the regulations. This clause supplements the regulation-making powers in the Bill, which fall within the legislative competence of the Senedd. Therefore, this clause is also considered to meet the test in SO29.

UK Government view on the need for consent

25. The UK Government agree that an LCM is required for clauses 1, 2, 3, 4, 5, 12, 13, 14, and 15, as well as some aspects of clauses 10 and 11.

26. However, the UK Government does not think an LCM is needed for clauses 6, 7, 8 and 9, and some aspects of clauses 10 and 11 Nonetheless, for the reasons set out in paragraphs 15-20, I believe the stronger argument is that they do meet the SO29 test and so I am laying an LCM in respect of those provisions.

Reasons for making these provisions for Wales in the Sustainable Aviation Fuel Bill

27. Decarbonising aviation is one of our biggest global challenges. Whilst aviation contributes only 2-3% of global greenhouse gas emissions today, it is forecasted to become one of the highest residual emitters in

2050 as other sectors with greater abatement potential reduce their emissions. Our ambition is to decarbonise every sector of our economy.

28. Wales' carbon budgets include all emissions from aviation in Wales, including both domestic and international flights. The Welsh Government has set out its ambitions on tackling climate change in Wales through Net Zero Wales and it is also committed to working with other governments in the UK to deliver coordinated policy action that will deliver our respective emissions reduction targets.

29. Aviation policy is a reserved matter for the UK Government (UKG). The nature of air travel in the UK means that many travellers from Wales use, or have the option to use, airports in England, which has implications for the potential effectiveness of Welsh policies.

30. It is widely recognised that the greatest challenge in terms of making civil aviation sustainable is not related to any specific technical solution, but making positive change happen at the required pace. The progress to net zero relies on all parts of the supply chain working towards a common goal, including aircraft manufacturers, airlines, airports and their service providers.

31. We are considering how Wales can best support the development and adoption of more sustainable aviation technologies.

32. With a long-established aerospace sector in Wales, its rich industrial history and highly skilled workforce, that is looking towards a more sustainable future, we are well placed to play a significant role in developing feedstocks of SAF from non-agricultural sources and we are already making positive progress in this regard.

33. Developments in Sustainable Aviation Fuel can be contentious. The world isn't producing enough to meet the current demand from the industry. There are numerous ways of producing it, including from specific crops and feed stocks, but vast areas of farmland would need to be turned over to meet global demand.

34. Nonetheless, we are supportive of the Bill, as it sees SAF as an intermediate carbon reduction solution, as the industry looks to the development of new zero-emission aircraft, such as hydrogen-fuelled and electric powered aircraft.

Financial implications

35. There are no financial implications in Wales.

Conclusion

36. In my view it is appropriate to deal with these provisions in this UK Bill as the Welsh Government is committed to working with other governments

in the UK to deliver coordinated policy action that will deliver our respective emissions reduction targets. Decarbonising aviation is one of our biggest global challenges and this requires a UK-wide approach through a UK Bill. The SAF revenue certainty mechanism introduced as part of the Bill is intended to be a time-limited measure to stimulate an early market for SAF. It will no longer be needed once investors have confidence in the market price and the first-of-a-kind technology has proved itself at commercial scale. We see SAF as an intermediate carbon reduction solution, as the industry looks to the development of new zero-emission aircraft, such as hydrogen-fuelled and electric powered aircraft.

37. Therefore, I recommend that the Senedd supports the proposals and gives its consent.

Rebecca Evans MS
Cabinet Secretary for Economy, Energy and Planning
9 June 2025

Welsh Parliament
Legislation, Justice and Constitution Committee

The Welsh Government's Legislative Consent Memorandum on the Sustainable Aviation Fuel Bill

July 2025

senedd.wales

1. Background

1. The Sustainable Aviation Fuel Bill[1] (the Bill) was introduced into the House of Commons on 14 May 2025. It is sponsored by the Department for Transport.

2. The Explanatory Notes to the Bill as introduced state:

> *"The Sustainable Aviation Fuel Bill introduces legislative measures to implement a revenue certainty mechanism to support sustainable aviation fuel (SAF) production in the UK.*
>
> *The Bill will enable the Secretary of State to designate a counterparty that is wholly owned by government and direct them to enter into private law contracts with SAF producers, guaranteeing a price for the sale of eligible SAF over a period."*[2]

3. The long title to the Bill states that it is a Bill to make provision about sustainable aviation fuel.

4. At the time this report was agreed, Committee stage in the House of Commons was due to begin on 15 July 2025 and the Public Bill Committee was expected to complete its work by 22 July 2025.

The Welsh Government's Legislative Consent Memorandum

5. Standing Orders 29.1 and 29.2 provide that a legislative consent memorandum is required when a relevant Bill before the UK Parliament makes provision in relation to Wales that has regard to devolved matters.

6. On 9 June 2025, Rebecca Evans MS, the Cabinet Secretary for Economy, Energy and Planning (the Cabinet Secretary), laid before the Senedd a Legislative Consent Memorandum in respect of the Bill (the Memorandum).[3]

7. The Business Committee agreed that the Legislation, Justice and Constitution Committee and the Climate Change, Environment and

[1] The Sustainable Aviation Fuel Bill, as introduced (Bill 240)
[2] Explanatory Notes to the Bill, as introduced, paragraphs 1 and 2
[3] Welsh Government, Legislative Consent Memorandum on the Sustainable Aviation Fuel Bill, 9 June 2025

Infrastructure Committee should report on the Memorandum by 26 September 2025.[4]

Provisions for which the Senedd's consent is required

8. The Welsh Government's assessment is that consent is required for:

- clause 1 - Direction to offer revenue certainty contract;
- clause 2 - Notice of directions and revocation;
- clause 3 - Registration and publication of contracts;
- clause 4 - Designation of counterparty;
- clause 5 - Transfer schemes;
- clause 6 - Levy on suppliers;
- clause 7 - Collateral for levy;
- clause 8 - Administration etc of levy and disputes;
- clause 9 - Calculation or determination of matters under levy regulations;
- clause 10 - Payment of surpluses to levy payers;
- clause 11 - Financial penalties (including the Schedule, which makes further provision for financial penalties);
- clause 12 - Power to direct designated counterparty;
- clause 13 - Information and advice;
- clause 14 - Financial assistance for designated counterparty;
- clause 15 - Regulations.[5]

9. The Welsh Government considers that clauses 1 to 5 and 10 to 15 relate to environmental protection and economic development and that they therefore have regard to devolved matters. The Welsh Government also considers that

[4] Business Committee, Timetable for consideration: Legislative Consent Memorandum on the Sustainable Aviation Fuel Bill, June 2025
[5] Memorandum, paragraphs 9 to 24

clauses 6 to 9 relate to the implementation of the provisions in the clauses listed above and, therefore, clauses 6 to 9 also have regard to devolved matters and meet the test in Standing Order 29.[6]

10. With regards to the UK Government's views on the need for consent, the Cabinet Secretary states in the Memorandum:

> *"The UK Government agree that an LCM is required for clauses 1, 2, 3, 4, 5, 12, 13, 14, and 15, as well as some aspects of clauses 10 and 11.*
>
> *However, the UK Government does not think an LCM is needed for clauses 6, 7, 8 and 9, and some aspects of clauses 10 and 11 Nonetheless, for the reasons set out in paragraphs 15-20, I believe the stronger argument is that they do meet the SO29 test and so I am laying an LCM in respect of those provisions."*[7]

11. The Explanatory Notes to the Bill indicate that the UK Government considers that clauses 16 to 19 also require the Senedd's consent.[8] These clauses make the following provision:

- clause 16 - Interpretation;
- clause 17 - Extent;
- clause 18 - Commencement;
- clause 19 - Short title.

Delegated powers

12. The Bill creates and delegates the following regulation-making powers to the Secretary of State:

- clause 3 - the Secretary of State can by regulations require the designated counterparty to:
  - (i) maintain a register of information in relation to revenue certainty contracts, and

[6] Memorandum, paragraphs 9 to 24
[7] Memorandum, paragraphs 25 and 26
[8] Explanatory Notes to the Bill, Annex A - Territorial extent and application in the United Kingdom

(ii) publish revenue certainty contracts or details about them;

- clause 6 - the Secretary of State can by regulations require suppliers of SAF to pay a levy to the designated counterparty to enable the counterparty to meet:

  (i) the cost of payments under the revenue certainty contracts, and

  (ii) other costs incurred under this Act;

- clause 10 - the Secretary of State can by regulations:

  (i) require the designated counterparty, in the event it has a surplus, to make payments to the persons who have paid the levy, and

  (ii) require the person who receives such payment to ensure its customers receive such benefits from the payment as may be specified in or determined in accordance with the regulations.

13. The Bill does not delegate any regulation-making powers to the Welsh Ministers.

The Welsh Government's position

14. At paragraph 7 of the Memorandum the Cabinet Secretary states that Welsh Government officials have been engaged with the Department for Transport since December 2024 to discuss the contents and timing for the introduction of the Bill, and that the Welsh Government received a final copy of the Bill on 8 May, one week before its formal introduction into the House of Commons.

15. At paragraph 8 of the Memorandum the Cabinet Secretary notes that the UK Government conducted a public consultation on a sustainable aviation fuels revenue certainty mechanism in April/June 2024[9], and confirms that the Welsh Government did not provide a formal response to the consultation.

16. In the Memorandum the Cabinet Secretary goes on to state:

> *"Aviation policy is a reserved matter for the UK Government (UKG). The nature of air travel in the UK means that many travellers from Wales use, or have the option to use, airports in*

[9] UK Government consultation, Sustainable aviation fuels revenue certainty mechanism: revenue certainty options

England, which has implications for the potential effectiveness of Welsh policies. (…)

We are considering how Wales can best support the development and adoption of more sustainable aviation technologies. (…)

… we are supportive of the Bill, as it sees SAF as an intermediate carbon reduction solution, as the industry looks to the development of new zero-emission aircraft, such as hydrogen-fuelled and electric powered aircraft."[10]

17. The Cabinet Secretary concludes that, in her view:

"… it is appropriate to deal with these provisions in this UK Bill as the Welsh Government is committed to working with other governments in the UK to deliver coordinated policy action that will deliver our respective emissions reduction targets. Decarbonising aviation is one of our biggest global challenges and this requires a UK-wide approach through a UK Bill."[11]

18. The Cabinet Secretary therefore recommends that the Senedd gives its consent to the provisions listed in the Memorandum.[12]

2. Committee consideration

19. We considered the Memorandum at our meeting on 7 July 2025[13], and we considered and agreed our report at our meeting on 14 July 2025.[14]

Our view

Legislative consent

20. We note the Welsh Government's assessment of the provisions within the Bill that require the consent of the Senedd, as set out in the Memorandum.

21. We also note the position of the UK Government as regards consent.

[10] Memorandum, paragraphs 29, 31 and 34
[11] Memorandum, paragraph 36
[12] Memorandum, paragraph 37
[13] Legislation, Justice and Constitution Committee, 7 July 2025
[14] Legislation, Justice and Constitution Committee, 14 July 2025

Conclusion 1. We agree with the Welsh Government's assessment, as set out in the Memorandum, of the provisions of the Bill that require the consent of the Senedd in accordance with Standing Order 29; this is subject to our views set out in conclusion 2.

22. While we agree with the Welsh Government that the Senedd's consent should be sought for clauses 6 to 9 of the Bill, we believe the Welsh Government's reasoning for seeking consent for these clauses – namely that they relate to or give effect to the other clauses listed in the Memorandum which have regard to devolved matters – is reasoning that can equally apply to clauses 16 to 19 of the Bill. We are unclear what judgement has been made by the Welsh Government that would result in the Cabinet Secretary considering clauses 16 to 19 in some way to be independent and so not have regard to devolved matters.

Conclusion 2. It is our view that clauses 1 to 19 and Schedule 1 have regard to devolved matters and therefore meet the test in Standing Order 29. As such, we consider that the Senedd's consent should be sought for the entire Bill.

Intergovernmental working

23. We note that, in the Memorandum, the Cabinet Secretary states that the Welsh Government has been engaged with the Department for Transport since December 2024 to discuss the contents and timing for the introduction of the Bill, resulting in the Welsh Government receiving a final copy of the Bill one week before its formal introduction into the House of Commons.

24. We also note that working with other governments in the UK to deliver coordinated policy action that will deliver respective emissions reduction targets is cited as one of reasons for including provision within the UK Government's Bill being taken through the UK Parliament, alongside the reserved nature of aviation policy and the need for decarbonisation through a UK approach.

Delegated powers

25. We note that the Bill does not delegate any regulation-making powers to the Welsh Ministers.

26. We further note that delegated powers are being given to the Secretary of State to act in areas which have regard to devolved matters.