

Cytûn – Eglwysi ynghyd yng Nghymru

Papur briffio byr am ddeddfwriaeth Brexit a datganoli yng Nghymru

Ar 17 Hydref 2019, fe gyhoeddwyd [Cytundeb Ymadael diwygiedig](#) i'r Deyrnas Unedig ymadael â'r Undeb Ewropeaidd, ynghyd â datganiad gwleidyddol am fwriadau negodi perthynas y DU a'r UE i'r dyfodol, a threfniadau ar gyfer derbyn cydsyniad y Cynulliad yng Ngogledd Iwerddon ar gyfer trefniadau arbennig ar gyfer y dalaith honno. Ar 19 Hydref, penderfynodd Tŷ'r Cyffredin ohirio cymeradwyo'r Cytundeb hyd nes y byddai [Deddf yr Undeb Ewropeaidd \(Cytundeb Ymadael\)](#) wedi ei chymeradwyo. Cyflwynwyd y Bil hwnnw i'r Tŷ ar 21 Hydref, gyda'r drafodaeth i gychwyn ar 22 Hydref gyda'r gobaith i'w chwblhau ar 24 Hydref, pan fydd yn mynd i Dŷ'r Arglwyddi. Mae'r Bil yn cynnwys pwerau i Lywodraeth Cymru weithredu'r Cytundeb Ymadael mewn meysydd datganoledig. Gellir darllen esboniad llawnach o'r broses ddeddfu [fan hyn](#).

Mae'r Cytundeb newydd hwn yn debyg (ond heb fod yn union debyg) i'r Cytundeb blaenorol na lwyddodd San Steffan i'w dderbyn pan oedd Theresa May yn Brif Weinidog. Un gwahaniaeth yw trin yr Iwerddon gyfan (y Gogledd a'r Weriniaeth) fel parth rheoleiddiol ar gyfer bwyd, diod, anifeiliaid a nwyddau, ac i greu ffin tollau gweinyddol rhwng yr ynys a gweddill y Deyrnas Unedig. Fe fydd gan hyn oblygiadau ymarferol sylweddol i borthladdoedd Caergybi, Doc Penfro, Abergwaun ac Abertawe o ran llongau sy'n teithio rhyngddynt â'r Iwerddon. Mae'r porthladdoedd hyn wedi eu datganoli i Lywodraeth Cymru, ac fe ddywedodd Prif Weinidog Cymru, Mark Drakeford ar [Sunday Politics Wales](#) ar 20 Hydref, fod y Llywodraeth yn gweithio ar hyn, ond bod hynny'n anodd gan fod hwn yn newid polisi sydyn gan Lywodraeth y DU.

Gydag addoedi Senedd San Steffan ar 8 Hydref, fe gollwyd nifer o ddeddfau angenrheidiol ar gyfer sicrhau trefniadau cyfreithiol llawn i'r Deyrnas Unedig ar ôl ymadael â'r Undeb Ewropeaidd. Ymhlith y rhain oedd y Bil Amaeth a'r Bil Pysgodfeydd, a oedd yn cynnwys rhoi pwerau angenrheidiol i Weinidogion Cymru i weinyddu yn y meysydd hyn hyd nes y gall Cynulliad Cenedlaethol Cymru gytuno deddfau Cymreig. Os cadarnheir y Cytundeb Ymadael maes o law gan San Steffan, fe fydd yna Gyfnod Gweithredu (neu Gyfnod Trosiannol) tan Ragfyr 2020 a fyddai'n rhoi cyfle i basio'r ddeddfwriaeth hon, er y byddai'r amser yn dynn iawn ar gyfer craffu effeithiol ar ddeddfwriaeth fanwl a chymhleth. Mae'n bosibl y gellid ymestyn y Cyfnod hwn tan Ragfyr 2021 neu Ragfyr 2022 trwy gytundeb o'r ddeutu rhwng y DU a'r UE.

Pe byddai'r DU yn ymadael â'r Undeb Ewropeaidd yn ddi-gytundeb cyn Rhagfyr 2020, nid yw'n eglur sut y byddai Llywodraeth Cymru yn gweithredu heb y pwerau angenrheidiol yn y meysydd hyn. Mae yna berygl sylweddol y byddai raid i Lywodraeth Cymru a/neu Lywodraeth y DU weithredu ar frys trwy is-ddeddfwriaeth dan [Ddeddf yr Undeb Ewropeaidd \(Ymadael\) 2018](#). Prin yw'r cyfle i'r seneddau graffu ar is-ddeddfwriaeth frys, ac nid oes posibl ei gwella yn seneddol. Os gwneir is-ddeddfwriaeth o ran materion datganoledig yn San Steffan, yna ni bydd cyfle gan y Cynulliad graffu arni o gwbl.

Collwyd hefyd y Bil Masnach, a oedd ar ei gyfnod trafod olaf yn San Steffan, a oedd yn rhoi pwerau craffu i San Steffan ac yn gwarantu ymgynghori â Llywodraeth Cymru, am faterion – gan gynnwys materion datganoledig – allai gael eu heffeithio gan gytundebau masnach yr Undeb Ewropeaidd fyddai'n cael eu cymhwyso hefyd i'r Deyrnas Unedig ar ôl ymadael. Deëllir nad yw'n fwriad ail-gyflwyno'r Bil hwn ac y bydd y cytundebau hyn yn cael eu cadarnhau bellach trwy bwerau Llywodraeth y DU dan y Rhagorffraint Frenhinol. Prin yw gallu San Steffan, ac nid oes unrhyw allu gan y Cynulliad, i graffu ar y defnydd o'r pwerau hyn. Fe ymddengys hefyd y gall fod yna fwriad i negodi a chadarnhau cytundebau masnach cwbl newydd, a fyddai bron yn sicr yn effeithio ar faterion datganoledig, gan ddefnyddio pwerau rhagorffreiniol.

Ar y llaw arall, yn y sesiwn newydd o Senedd San Steffan a gychwynwyd ar Hydref 14, fe gyflwynwyd am y tro cyntaf [Bil yr Amgylchedd](#). Mae hwn hefyd yn cynnwys trefniadau newydd ar reolaeth amgylcheddol yn y DU, gan gynnwys yng Nghymru. Mae'r Bil yn gymhleth, gyda chlytwaith o gymalau sy'n ymwneud â materion datganoledig a rhai nad ydynt. Bydd angen i'r Cynulliad gydsynio â'r Bil hwn, ond yn San Steffan y bydd y prif drafod. Disgwylir i Lywodraeth Cymru gyflwyno deddfwriaeth benodol Gymreig maes o law.

Os gelwir Etholiad Cyffredinol ar gyfer San Steffan cyn i Fil yr Amgylchedd, neu ddeddfwriaeth arall parthed Brexit, gael ei gytuno, yna fe fydd y biliau hynny yn cael eu colli, a bydd angen ail-gychwyn y drafodaeth drachefn yn y Senedd newydd.

Cytûn – Churches together in Wales

Short briefing paper on Brexit legislation and devolution in Wales

On 17 October 2019, a [revised Withdrawal Agreement](#) was published, to allow the UK to leave the EU, together with a political declaration regarding negotiating intentions for the future UK-EU relationship, and arrangements for obtaining the consent of the Northern Ireland Assembly for special arrangements for that province. On 19 October, the House of Commons resolved to postpone ratification of the Agreement until the [European Union \(Withdrawal Agreement\) Bill](#) is passed. This Bill was laid before the House on 21 October, with debate to begin on 22 October with the intention that it conclude by 24 Oct, when it moves to the House of Lords. The Bill includes powers for Welsh Government to implement the Withdrawal Agreement in devolved policy areas. An explanation of the legislative process can be read [here](#).

This new Agreement is similar (although by no means identical) to the previous Agreement which failed to receive Parliamentary approval when Theresa May was Prime Minister. One difference is treating Ireland as a whole (the North and the Republic) as a single regulatory zone for food, drink, animals and goods, and creating an administrative customs border between the island and the remainder of the UK. This will have significant practical implications for the ports of Holyhead, Pembroke Dock, Fishguard and Swansea with regard to sailings between them and Ireland. The ports are devolved to the Welsh Government, and the First Minister of Wales, Mark Drakeford, said on [Sunday Politics Wales](#) on 20 October that the Government is working on this, but that this is difficult due to the UK Government's sudden policy change in this matter.

When the Westminster Parliament was prorogued on 8 October, a number of laws essential for securing full legal arrangements for the UK following exit from the EU. Amongst these was the Agriculture Bill and the Fisheries Bill, which included powers needed by Welsh Ministers to administer these areas until the National Assembly for Wales can pass Welsh legislation. If the Withdrawal Agreement is in due course ratified at Westminster, there will be an Implementation (or Transition) Period until December 2020 which would give the opportunity to pass this legislation, although scrutiny time would be constricted for such complex and important legislation. It would be possible, by mutual agreement between the UK and the EU, to extend this Period until December 2021 or December 2022.

Should the UK leave the EU without agreement before December 2020, it is not clear how the Welsh Government could proceed without the necessary powers in these areas. There is a significant risk that the Welsh Government and/or the UK Government might have to operate swiftly using secondary legislation under the [European Union \(Withdrawal\) Act 2018](#). Accelerated secondary legislation receives little parliamentary scrutiny, and parliamentary amendment is impossible. If secondary legislation regarding devolved matters is made in Westminster, the Assembly will have no opportunity at all to scrutinise it.

Also lost at prorogation was the Trade Bill, which was at its final stage in Westminster. It would have given Westminster scrutiny powers and guaranteed consultation with Welsh Government regarding matters – some devolved – which might be affected by EU trade agreements which will be 'rolled over' to relate also to the United Kingdom following exit. It is understood that it is not intended to reintroduce this Bill and that these agreements will instead be ratified by the UK Government using the Royal Prerogative. Westminster's ability to scrutinise use of these powers is very limited, and the Assembly has no such ability. It appears also that there may be an intention to negotiate and ratify wholly new trade agreements, which would almost certainly affect devolved matters, using prerogative powers.

On the other hand, the new session of the Westminster Parliament which began on October 14, an [Environment Bill](#) has been introduced for the first time. This includes new arrangements for environmental regulation in the UK, including Wales. The Bill is complex, interweaving clauses relating to devolved matters with those that do not. The Assembly will need to consent to this Bill, but the principal debates will be held in Westminster. It is expected that Welsh Government will introduce specific Welsh legislation in due course.

Should a Westminster General Election be called prior to the Environment Bill, or other Brexit related legislation, being agreed, then these bills will be lost, and will need to begin again in the new Parliament.