



National Assembly for **Wales**
Cynulliad Cenedlaethol **Cymru**

Bills under consideration by Assembly Committees, June 2006

Abstract

This paper provides an overview of the content and progress, through Parliament and the Assembly, of bills being considered by Assembly Committees.

It details the powers conferred by each bill and the extent to which they deliver the Government's commitment in the White Paper – *Better Governance for Wales* – to provide the Assembly, with immediate effect, with wider and more permissive powers. A version of the paper goes to the Business Committee and to the Panel of Chairs each month.

June 2006

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Members' Research Service

June 2006

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Introduction

This paper provides an overview of the content and progress, through Parliament and the Assembly, of Bills being considered by Assembly Committees.

It details the powers conferred by each bill and the extent to which they deliver the Government's commitment in the White Paper – *Better Governance for Wales* – to provide the Assembly, with immediate effect, with 'wider and more permissive powers'. A version of the paper goes to the Business Committee and to the Panel of Chairs each month.

Key Points

The **Legislative and Regulatory Reform (LRR) Bill** has been the subject of much debate in Westminster and in the Assembly's Enterprise, Innovation and Networks Committee (EIN). Concern has been expressed in respect of the overlap between the LRR Bill and the Government of Wales Bill. The key issue would seem to be the role that the Assembly, rather than the Assembly Government (Welsh Ministers), will play in discussions with central government leading up to the making of orders under the LRR Bill.

- The Government of Wales Bill provides that when the separation of the Assembly executive and legislature takes place in 2007, the functions exercised by the Assembly will become functions of the Welsh Ministers unless different provision is made by Order in Council. Hence, it would be the Welsh Ministers, rather than the National Assembly as at present, who would have to give their consent to orders which affect their functions and who would have to be consulted on proposals relating to their functions.
- To ensure that such consultation were with the *National Assembly*, rather than with *Welsh Ministers*, an Order in Council under paragraph 29 of Schedule 11 of the Government of Wales Bill would be required (rather than amendment of the LRR Bill).
- The Assembly would then require procedures to monitor and consider proposed orders under the LRR Bill.
- Andrew Davies AM indicated to the EIN Committee that the Welsh Assembly Government was 'discussing with the Cabinet Office the tabling of amendments which would take into account changes subsequent to the Government of Wales Bill reaching the statute book.'

A detailed description of the key issues in respect of this Bill and on subsequent amendments is provided in the relevant section on the Bill below.



Clause 154 of the **Education and Inspections Bill** contains provision for framework powers. As reported last month, the Assembly has some existing powers in areas covered by the clause such as food and drink in schools, school transport the curriculum and entitlement.

- There are a number of examples in the Bill where provision in Wales post enactment will be the same as provision in England but where the framework power allows for such policies to be developed over time. One such example is in the clauses in Part 7 of the Bill relating to school discipline and behaviour and exclusion.
- The Assembly Government will consult interested parties on the detail of these matters specifying subordinate legislation powers for Wales in the same level of detail as is given in the Bill regarding England.

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June 2006

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Cymru Wales



Bills Remitted to Assembly Committees

<i>Bill</i>	<i>Parliamentary Stage</i>	<i>Assembly Stage</i>
<p>Animal Welfare Bill (G)</p> <p>The Bill will aim to bring together and modernise most legislation concerning the welfare of animals under the control of man. An Animal Welfare Bill formed part of the UK Government's legislative programme for 2004-05 but was not introduced, although a Draft Bill was subject to pre-legislative scrutiny</p>	<ul style="list-style-type: none"> • 13/10/05 Commons: First Reading • 10/01/06 Commons: 2nd Reading and Programme Motion • 17/01/06 Commons: Standing Committee A: 1st day • 19/01/06 Commons: Standing Committee A: 2nd day • 24/01/06 Commons: Standing Committee A: 3rd day • 26/01/06 Commons: Standing Committee A: 4th day • 14/03/06 Commons: report stage • 15/03/06 Lords: 1st Reading • 18/04/06 Lords: 2nd Reading • 23/05/06 Lords: Committee Stage • 14/06/06 Lords: Committee Stage 	<p>Remitted to the Assembly's Environment Planning and Countryside Committee on 21/06/05</p> <ul style="list-style-type: none"> • 02/02/05 Draft Bill scrutinised by EPC Committee • 19/01/06 Committee receive a Stance Paper from the Welsh Assembly Government in meeting • 27/01/06 Report Laid before the Assembly



Key Clauses and other information

In respect of powers that would be delegated by the Bill, the National Assembly for Wales is regarded as the 'appropriate national authority' in Wales, thus the Bill would make all the regulation and order making powers exercisable by the National Assembly for Wales. The regulation and order making powers are laid out in clauses 10 to 15 of the Bill.

Clause 10 would give powers to make regulations regarding the welfare of animals and includes provisions to make regulations concerning matters such as licensing activities involving animals, the identification of animals, breeding animals and establishing bodies to advise on welfare of animals. It also gives powers to create offences in relation to breaching regulations and to set fees and charges for carrying out activities that are regulated. Clause 10 is virtually a framework provision in the way it is drafted, in that it provides that: "the appropriate national authority may by regulations make such provision as the authority thinks fit for the purpose of promoting the welfare of animals for which a person is responsible". However, although it is widely drafted, clause 10 will not qualify as a "framework" provision for the purposes of the Better Governance for Wales White Paper as the Animal Welfare Bill makes identical provision in relation to England with the same wide power to make regulations being given to the Secretary of State.

In other words, although clause 10 is widely constructed, it does not go further in relation to Wales than it does in relation to England. The Minister for Environment, Planning and Countryside has indicated to the EPC Committee that, given the breadth of this power and input that individuals and organisations in Wales have had to its development, he does not consider framework powers to be required to cover the matters in the Bill.



Bill	Parliamentary Stage	Assembly Stage
<p>Charities Bill [HL] (G)</p> <p>Although this is a non-devolved matter, the voluntary sector is included in the portfolio of the Minister for Social Justice and Regeneration. The Bill includes provision for the National Assembly for Wales to give financial assistance to charitable, benevolent or philanthropic institutions. A Charities Bill was introduced in the last session of Parliament but ran out of time.</p>	<ul style="list-style-type: none"> • 18/05/05 Lords: 1st reading • 07/06/05 Lords: 2nd reading • 28/06/05 Lords: Committee Stage 1st day • 12/07/05 Lords: Committee Stage 2nd day • 12/10/05 Lords: Report Stage • 18/10/05 Lords: Report Stage • 08/11/05 Lords: 3rd reading • 09/11/05 Commons: 1st reading 	<p>Remitted to the Assembly's Social Justice and Regeneration Committee on 21/06/05</p> <ul style="list-style-type: none"> • 29/09/04 Draft Bill scrutinised by SJR Committee • 28/09/05 Bill Scrutinised by SJR Committee • 06/10/05 Report laid before the Assembly
<p><i>Key clauses and further information</i></p> <p>This Bill is an England and Wales Bill with only one clause (71) giving the Assembly powers to give financial assistance to charitable organisations.</p>		



<i>Bill</i>	<i>Parliamentary Stage</i>	<i>Assembly Stage</i>
<p>Childcare Bill (G)</p> <p>The Bill will place a new duty on local authorities to secure sufficient childcare and early childhood services (including information to parents)</p>	<ul style="list-style-type: none"> • 08/11/05 Commons: 1st Reading • 28/11/05 Commons: 2nd reading • 06/12/05 Commons: Standing Committee: 1st day • 08/12/05 Commons: Standing Committee: 2nd day • 13/12/05 Commons: Standing Committee: 3rd day • 15/12/05 Commons: Standing Committee: 4th day • 20/12/05 Commons: Standing Committee: 5th day • 09/03/06 Lords: 1st Reading • 21/03/06 Lords: 2nd Reading • 19/04/06 Lords: Committee Stage: 1st day • 26/04/06 Lords: Committee Stage: 2nd day • 04/05/06 Lords: Committee Stage: 3rd day • 12/06/06 Lords: Report Stage 	<p>Remitted to Assembly's Education and Lifelong Learning Committee on 21/06/05</p> <ul style="list-style-type: none"> • 08/02/06 Scrutinised by ELL Committee • 24/02/06 Report Laid before the Assembly



Key clauses and further information

The main provisions for Wales are contained in Part 2 of the Bill. These are:

- The Bill places a duty on local authorities to secure sufficient provision of childcare to enable parents to work;
- Local authorities may assist (including financially) those who are, or who wish to provide childcare, and may ensure that providers meet any conditions placed upon them by the local authority. Local authorities may charge for childcare;
- The Assembly may, by regulation, require a local authority to assess the sufficiency of childcare;
- Local authorities must establish and maintain service to provide parents with information, advice and assistance on childcare, facilities and services available to them as parents/prospective parents;
- Clause 22 (4) allows the Assembly to amend by order, certain sections concerning matters to which a local authority must/may have regard to in determining whether childcare is sufficient.

The Bill makes it a requirement for local authorities in England to assess childcare provision. For Wales, the Bill allows for the Assembly to make regulations to place this requirement on local authorities.

There are a number of duties in Part 1 of the Bill, which relates to England only, which are not repeated for Wales. These include:

- The duties of local authorities in relation to the well-being of young children;
- The integration of early childhood services;
- The duty for local authorities and partners to work together;
- The duty to secure prescribed early years provision free of charge;
- In relation to the powers of local authorities providing childcare, English authorities may not provide childcare for particular children unless they are satisfied that no other person is willing to do so;
- Duties to provide information, advice and training to childcare providers.



<i>Bill</i>	<i>Parliamentary Stage</i>	<i>Assembly Stage</i>
<p>Children and Adoption Bill [HL] (G)</p> <p>The Bill will give the courts more powers and provides a statutory framework for the suspension of inter-country adoptions. A Draft Child Contact and Inter-country Adoption Bill was published in the 2004-05 Parliamentary session.</p>	<ul style="list-style-type: none"> • 13/06/05 Lords: 1st reading • 29/06/05 Lords: Committee Stage 1st day • 11/10/05 Lords: Grand Committee 1st day • 12/10/05 Lords: Grand Committee 2nd day • 17/10/05 Lords: Grand Committee 3rd day • 08/11/05 Lords: Lords: Motion for approval • 14/11/05 Lords: Report Stage • 29/11/05 Lords: 3rd reading • 30/11/05 Commons: 1st reading • 02/03/06 Commons: 2nd reading • 14/03/06 Commons: Standing Committee B • 16/03/06 Commons: Standing Committee B • 21/03/06 Commons: Standing Committee B 	<p>Remitted to Assembly's Social Justice & Regeneration Committee and Health & Social Services Committee on 21/06/05</p> <ul style="list-style-type: none"> • 20/10/05 Bill considered by SJR Committee • 03/11/05 Bill considered by HSS Committee • 08/11/05 HSS Committee report laid before the Assembly • 14/11/05 SJR Committee report laid before the Assembly
<p><i>Key clauses and further information</i></p> <p>The Bill does not contain any Wales only clauses. An amendment passed at Grand Committee Stage in the Lords would allow the National Assembly for Wales to charge prospective adopters, a power originally only granted to the Secretary of State to exercise on behalf of both England and Wales.</p>		



<i>Bill</i>	<i>Parliamentary Stage</i>	<i>Assembly Stage</i>
<p>Commissioner for Older People (Wales) Bill [HL] (G)</p> <p>The Bill establishes an office of Commissioner for Older People in Wales that has powers and duties comparable to the Children's Commissioner in Wales. The role of the Commissioner is to safeguard and promote the interests of older people in Wales.</p> <p>An equivalent Draft Bill was published in the 2004-05 Parliamentary session.</p>	<ul style="list-style-type: none"> • 25/05/05 Lords: 1st reading • 14/06/05 Lords: 2nd reading • 18/10/05 Lords: Grand Committee 1st day • 26/10/05 Lords: Grand Committee 2nd day • 09/11/05 Lords: Report Stage • 15/02/06 Lords: 3rd reading • 16/02/06 Commons: 1st reading 	<p>Remitted to Assembly's Health & Social Services Committee on 21/06/05</p> <ul style="list-style-type: none"> • 25/05/05 Draft Bill Considered by HSS Committee • 11/06/05 Report on the Draft Bill laid before the Assembly • 24/05/06 Bill Considered by HSS Committee • HSS Committee to Report in due Course
<p><i>Key clauses and further information</i></p> <p>The Bill was published on 25 May 2005, before the White Paper <i>Better Governance for Wales</i>. The Bill is essentially enabling, and provides the Assembly with broad powers to make regulations on matters including the establishment of the Commissioner and the scope and nature of the powers exercised by the Commissioner.</p>		



<i>Bill</i>	<i>Parliamentary Stage</i>	<i>Assembly Stage</i>
<p>Commons Bill [HL] (G)</p> <p>The Bill will build on many of the proposals in the Common Land Policy Statement 2002, which was published jointly by the Department for Environment, Food and Rural Affairs (Defra) and the Assembly Government.</p>	<ul style="list-style-type: none"> • 27/06/05 Lords: 1st Reading • 20/07/05 Lords: 2nd Reading • 18/10/05 Lords: motion for approval • 25/10/05 Lords: Grand Committee: 1st day • 01/11/05 Lords: Grand Committee: 2nd day • 02/11/05 Lords: Grand Committee: 3rd day • 09/11/05 Lords: Grand Committee: 4th day • 14/11/05 Lords: Grand Committee: 5th day • 28/11/05 Lords: Report Stage 2nd day • 18/01/06 Lords: 3rd reading • 19/01/06 Commons: 1st reading • 18/04/06 Commons: 2nd reading • 25/04/06 Commons: Standing Committee D • 27/04/06 Commons: Standing Committee D 	<p>Remitted to Assembly's Environment, Planning & Countryside Committee on 21/06/05</p> <ul style="list-style-type: none"> • 22/09/05 Bill scrutinised by EPC Committee • 03/11/05 Bill scrutinised by EPC Committee; • 23/11/05 Bill scrutinised by EPC Committee • 16/02/06 Bill scrutinised by EPC Committee • 04/04/06 Report Laid Before the Assembly

Key clauses and further information

The Bill does not contain any 'Wales only' clauses; however, in respect of powers that would be delegated by the Bill, the National Assembly for Wales is regarded as the 'appropriate national authority' in Wales. Executive and secondary legislative functions delegated to the National Assembly for Wales would include: powers to make regulations under Parts 1 (registration) and 2 (management); powers to make orders under Parts 1, 2 and 3 (protection of common land); and, power to commence in Wales all provisions in the Bill except clauses 9 and 49. Clause 49 would also grant the National Assembly for Wales a Henry VIII power to amend pre-existing and/or concurrent primary legislation for specified purposes related to Part 1 of the Bill. In relation to the operation of Part 3 of the Bill in Wales, clause 42 would authorise the National Assembly to amend any relevant local Act.



<i>Bill</i>	<i>Parliamentary Stage</i>	<i>Assembly Stage</i>
<p>Education and Inspections Bill (G)</p> <p>Key measures will include: greater independence for school governing bodies; allowing primary schools to become foundation schools by a simple vote of their governing body; measures to encourage new providers into the state system; new powers and flexibilities for Ofsted and for local authorities in tackling school failure and underperformance; and clauses that repeat the last parliamentary session's fallen School Transport Bill.</p>	<ul style="list-style-type: none"> • 28/02/06 Commons: 1st reading • 15/03/06 Commons: 2nd reading • 28/03/06 Commons: Standing Committee E: 1st day • 30/03/06 Commons: Standing Committee E: 2nd day • 20/04/06 Commons: Standing Committee E: 3rd day • 25/04/06 Commons: Standing Committee E: 4th day • 27/04/06 Commons: Standing Committee E: 5th day • 02/05/06 Commons: Standing Committee E: 6th day • 09/05/06 Commons: Standing Committee E: 7th day • 10/05/06 Commons: Standing Committee E: 8th day • 11/05/06 Commons: Standing Committee E: 9th day • 23/05/06 Commons: Report Stage • 24/05/06 Commons: 3rd reading • 25/05/06 Lords: 1st reading • 21/06/06 Lords: 2nd reading 	<p>Remitted to Assembly Education and Lifelong Learning Committee on 21/06/05</p> <ul style="list-style-type: none"> • 29/03/06 Bill to be scrutinised by ELL Committee • ELLS Committee to Report in due course
<p><i>Key clauses and further information</i></p> <p>The Education and Inspections Bill, published on the 28 February 2006 takes forward some</p>		



of the changes in the UK Government White Paper *Higher Standards, Better Schools For All*, published in Autumn 2005. The Bill's territorial coverage includes England and Wales but most of the provisions apply only to England. For England, the main provisions relate to Trust schools, changes to local authorities' strategic role, fair access, powers to discipline pupils and inspectorate reform.

In considering which elements of the Bill should apply to Wales, the Minister for Education and Lifelong Learning said¹ that she has taken into account:
the need to only take powers which fit with policy for Wales, which the Assembly Government would wish to apply; and
the potential to seek framework powers in accordance with the approach set out in the Government of Wales White Paper '*Better Governance for Wales*'.

Provisions that apply to both England and Wales include legislation for discipline², behaviour and exclusion and food and drink³. In a Press Release⁴, the Minister for Education and Lifelong Learning has said that "Framework powers will be used - for the first time for education in Wales – to develop provision further in these fields as policy development work dictates. The areas covered by the framework powers will also include: school admissions, organisation, attendance, food and drink in schools, travel arrangements and a range of measures in support of the 14-19 Learning Pathways agenda."

Clause 154 of the bill contains the full detail of the framework power relating to Wales.

154 Framework power relating to Wales

The Assembly may by regulations make provision relating to Wales about any of the following matters—

- (a) the categories of school that may be maintained by local education authorities;
- (b) the establishment and discontinuance of schools maintained by local education authorities, their change from one category to another and their alteration in other respects;
- (c) the admission of pupils to schools maintained by local education authorities;
- (d) the curriculum in such schools;
- (e) school attendance, the behaviour of pupils at school, school discipline and the exclusion of pupils from school (including the duties of parents in connection with those matters);
- (f) the making of arrangements for the provision of education for persons of compulsory school age who have been excluded from schools or who for any other reason would not otherwise receive suitable education;
- (g) entitlement to primary, secondary and further education and to training;
- (h) the provision of services that are intended to encourage, enable or assist people—
 - (i) to participate effectively in education or training,
 - (ii) to take advantage of opportunities for employment, or
 - (iii) to participate effectively in the life of their communities;
- (i) travel of persons receiving primary, secondary or further education or training to and from the schools or other places where they receive it;
- (j) food and drink provided on school premises or provided for children at a place where they receive education or childcare.

Clause 155 in the Bill details restrictions on the framework powers. In particular, the Assembly cannot make any provision that increases taxation.

On 29 March 2006, the Minister told the Education, Lifelong Learning and Skills committee that, following extensive consultation,

"The Assembly will be able to make new legislation for school admission arrangements, the establishment, categorisation and discontinuation of schools, behaviour, discipline and exclusion of pupils, food and drink provided in schools, travel for school pupils and students in Further Education and Training, the curriculum and pupil attainment and support. Currently

¹ Welsh Assembly Government Press Release, Wales welcomes Education and Inspections Bill, 28 February 2006,

² The Education and Inspection Bill [134]: Clauses 75-83 and 84-86

³ The Education and Inspection Bill [134]: Clauses 73-74

⁴ Welsh Assembly Government Press Release, Wales welcomes Education and Inspections Bill, 28 February 2006,



the Assembly has regulatory powers in these areas but the framework powers will enable the Assembly to make legislation within these areas named, akin to primary legislation. As a result of the enactment of the Government of Wales Bill, these framework powers will be converted into Assembly measures.”

The Minister then went onto say that, following consultation with key stakeholders, the first areas for early Welsh legislation will be food and drink in schools, the curriculum and entitlement (including 14-19 provision) and school transport.

However the Assembly has some existing powers in each of these areas for example

The Education Act 2002 provides for a separate National Curriculum for Wales with powers for the Assembly to add, amend and disapply subjects;

and it is not clear, at this stage, how the powers granted in the Bill take this forward and how these will enhance the Assembly's existing regulatory powers.

Amendments to Education and Inspections Bill

The Education and Inspections Bill is currently being scrutinised by a House of Commons Standing Committee. UK Government amendments⁵ were tabled on 18 April 2006 for looked after children (LAC) including a new clause for the Bill to apply to Wales only. The amendments will permit the Assembly to make regulations about the admission of LAC to maintained schools in Wales.

The new clause has been drafted to permit the Assembly to use its discretion in the drafting of regulations. Any regulations would be subject to consultation with stakeholders prior to introduction and would be subject to the Assembly's regulation making procedure.

Provision for LAC could have been made using the framework power in clause 154 by virtue of its relationship with school admissions. However the Welsh Assembly Government thought that it was preferable to introduce legislation more quickly by creating a regulation making power on the face of the Bill rather than delay action until the framework power was developed. The UK Government is also introducing amendments for new provisions for LAC in England. These differ to the provision proposed in Wales.

Jane Davidson, Minister for Education, Lifelong Learning and Skills, has drawn Members' attention to this amendment by the House of Commons Standing Committee in her Minister's report to the Assembly's Education, Lifelong Learning and Skills committee, which is to be discussed on Wednesday 3rd May 2006⁶.

The Welsh Assembly Government has prepared a memorandum on the framework provisions contained in the Bill (Decision Report dated 24 April 2006⁷). The memorandum sets out the background and context relevant to the provisions in clauses 154 and 155 of the Bill.

The memorandum notes that there are a number of examples in the Bill where provision in Wales post enactment will be the same as provision in England but where the framework power allows for such policies to be developed over time. One such example is in the clauses in Part 7 of the Bill relating to school discipline and behaviour and exclusion.

The memorandum notes and the Welsh Assembly Government proposes to commission a

⁵ Amendments to be Discussed by the House of Commons,
<http://www.publications.parliament.uk/pa/cm200506/cmbills/134/amend/cmam134.htm>

⁶ National Assembly for Wales, Education, Lifelong Learning and Skills committee paper (ELLS(2) 07-06 (p1) Minister's Report <http://www.wales.gov.uk/keypubassemedlearnskills/content/agendas-e.htm>

⁷ Decision Report, 24 April 2006
<http://www.information.wales.gov.uk/content/decisionreports/education/education/education%20%20inspections%20bill%20-%20welsh%20assembly%20government%20memorandum.rtf>

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report on these issues to provide a benchmark of the situation in Wales, including examples of good practice, and which will provide recommendations to address the issues. The memorandum goes on to state that:

“Until the Welsh Assembly Government has had the opportunity to consult interested parties on the detail of these matters it is not in a position to specify subordinate legislation powers for Wales in the same level of detail as is given in the Bill regarding England.”

and notes that proposals developed will be subject to thorough scrutiny and approval by the Assmebly.



<i>Bill</i>	<i>Parliamentary Stage</i>	<i>Assembly Stage</i>
<p>Equality Bill [HL] (G)</p> <p>The Bill implements measures outlined in the White Paper Fairness for All: A New Commission for Equality and Human Rights. It provides for the establishment of the Commission for Equality and Human Rights (CEHR), a single integrated body to underpin legislation on race, gender, disability, religion or belief, sexual orientation, the proposed legislation on age and human rights.</p> <p>The CEHR will establish a committee for Wales. The Commission will include a Commissioner for Wales.</p> <p>An Equality Bill was introduced in the last session of Parliament but ran out of time.</p>	<ul style="list-style-type: none"> • 18/05/05 Lords: 1st reading • 15/06/05 Lords: 2nd reading • 06/07/05 Lords: Committee Stage 1st day • 11/07/05 Lords: Committee Stage 2nd day • 13/07/05 Lords: Committee Stage 3rd day • 19/10/05 Lords: Report Stage • 09/11/05 Lords: 3rd reading • 11/11/05 Commons: 1st reading • 21/11/05 Commons: 2nd reading • 29/11/05 Commons: Standing Committee 1st day • 01/12/05 Commons: Standing Committee 2nd day • 06/12/05 Commons: Standing Committee 3rd day • 08/12/05 Commons: Standing Committee 4th day • 16/01/06 Commons: Remaining Stages • 13/02/06 Lords: Considerations of amendments • 16/02/06 Royal Assent – Equality Act 2006 	<p>Remitted to Assembly's Equality of Opportunity Committee on 21/06/05</p> <ul style="list-style-type: none"> • 30/06/05 Bill Scrutinised by EOP Committee • 07/05 Report Laid before the Assembly



Key Clauses and further information

The Bill contains no specific powers for the Assembly.

Schedule 1 to the Bill sets out provisions relating to the constitution of the CEHR, including; its members (the Commissioners) and their appointment criteria; regulation of its proceedings; its powers of delegation and the committees to which certain functions must be delegated; preparation of its annual report; its financial arrangements; and its status.

Paragraph 2 (2)(c) of Schedule 1 to the Bill states that

The Secretary of State shall ensure that the Commission includes ...

(c) a Commissioner appointed under paragraph 1(1), with the consent of the National Assembly for Wales, who knows about conditions in Wales.

Paragraphs 16 to 31 set out the requirements for the CEHR to establish a Scotland Committee and a Wales Committee. Each Committee shall be chaired by the relevant Commissioner with knowledge of conditions in Scotland or Wales. The Committees must be established before any of the general duties (clauses 8 to 13) come into force. The CEHR is obliged to consult the Scotland or Wales Committee before undertaking a function that, in its opinion, may affect people in Scotland and Wales respectively.

The Committees have delegated decision-making powers in respect of the activities listed in clause 14 in so far as the activities, in the opinion of the CEHR, affect Scotland and Wales. They will also have delegated power under clause 12(2)(c) and clause 12(2)(d) to provide advice to the devolved administrations in respect of law which, in the opinion of the CEHR, affects only Scotland or Wales respectively.

Paragraph 32 requires the CEHR to prepare and publish an annual report, including in relation to its activities in Scotland and Wales, and submit it to the Secretary of State. The Secretary of State must lay the annual report before Parliament. The annual report must also be sent to the Scottish Parliament and the National Assembly for Wales.



<i>Bill</i>	<i>Parliamentary Stage</i>	<i>Assembly Stage</i>
<p>Government of Wales Bill (G)</p> <p>The Bill will enhance the Assembly's powers and reform its structure and electoral system to create a more transparent and accountable body.</p>	<ul style="list-style-type: none"> • 15/06/05 White Paper, Better Governance for Wales published • 08/12/05 Commons: 1st Reading • 09/01/06 Commons: 2nd Reading and Programme Motion • 23/01/06 Commons: Committee Stage • 24/01/06 Commons: Committee Stage • 30/01/06 Commons: Committee Stage • 27/02/06 Commons: Remaining Stages • 28/02/06 Commons: Remaining Stages • 01/03/06 Lords: 1st Reading • 22/03/06 Lords: 2nd reading • 29/03/06 Lords: Motion • 19/04/06 Lords: Committee Stage • 03/05/06 Lords: Committee Stage • 06/06/06 Lords: Committee Stage 	<ul style="list-style-type: none"> • 28/06/05 Assembly Committee on the White Paper established. The Committee met to gather evidence during June and July 2005. • 13/09/05 Report of the Committee on the White Paper published • 18/01/06 Assembly Committee on the Government of Wales Bill established • 15/03/06 Report of the Committee on the Government of Wales Bill laid before the Assembly • 22/03/06 Report discussed in Plenary
<p><i>Key clauses and further information</i></p> <p>This Bill relates solely to Wales. It completed its passage in the House of Commons on 28 February 2006 and is expected to receive its second reading in the House of Lords in mid March. In the Assembly the Government of Wales Bill Committee, which was established by a Motion in Plenary on 18 January 2006, has considered the Bill on a clause by clause basis. Its' Report was discussed in Plenary on 22 March. The Bill completed its committee stage in the House of Lords on 6 June. The Opposition parties defeated the Government by passing an amendment to retain the status quo on dual candidacy by 133 votes to 114. However, Peter Hain has said that this will be reversed when the Bill returns to the Commons. Report Stage in the Lords will be on Tuesday 27 and Wednesday 28 June.</p>		



<i>Bill</i>	<i>Parliamentary Stage</i>	<i>Assembly Stage</i>
<p>Health Bill (G)</p> <p>The Bill will aim to implement proposals set out in the Department of Health Public Health White Paper Choosing Health (November 2004). One of the key proposals in the Bill is to ban smoking in public places, apart from specifically exempt licensed premises.</p>	<ul style="list-style-type: none"> • 27/10/05 Commons: 1st reading • 29/11/05 Commons: 2nd reading • 06/12/05 Commons: Standing Committee 1st day • 08/12/06 Commons: Standing Committee 2nd day • 13/12/06 Commons: Standing Committee 3rd day • 15/12/05 Commons: Standing Committee 4th day • 20/12/05 Commons: Standing Committee 5th day • 10/01/06 Commons: Standing Committee 6th day • 14/02/06 Commons: Remaining Stages • 15/02/06 Lords: 1st reading • 01/03/06 Lords: 2nd reading • 14/03/06 Lords: Motion for approval • 20/04/06 Lords: Committee Stage • 24/04/06 Lords: Committee Stage • 09/05/06 Lords: Committee Stage • 15/05/06 Lords: Committee Stage • 22/05/06 Lords: 	<p>Remitted to Assembly's Health & Social Services Committee on 21/06/05</p> <ul style="list-style-type: none"> • 19/01/06 Bill Scrutinised by HSS Committee • 01/02/06 Report Laid before the Assembly



	<p>Committee Stage</p> <ul style="list-style-type: none"> 25/05/06 Lords: Committee Stage 	
<p><i>Key clauses and further information</i></p> <p>Unlike the NHS Redress Bill, the Health Bill does not contain framework powers.</p> <p>The Bill contains eighty-three clauses and nine schedules, 46 of which delegate powers in the form of regulations, orders and directions. The Delegated Powers and Regulatory Reform Committee has reported that they consider the powers in the bill appropriately delegated and subject to an appropriate level of scrutiny in most respects. (The Committee drew attention to a number of matters relating specifically to some of the provisions relating to smoking.) A memorandum from the Department of Health to the Committee stated:</p> <p style="padding-left: 40px;">This memorandum notes where powers have been delegated to the National Assembly for Wales, but it does not seek to explain how the Assembly will use that power. This is because public health and the health service in Wales are devolved matters. It is therefore appropriate that the detail of how the delegated powers in this Bill will be exercised in relation to Wales is set out in secondary legislation made and scrutinised by the National Assembly for Wales, in accordance with its own procedures.</p> <p>Powers to make subordinate legislation which are conferred by this Bill on the National Assembly for Wales will be exercised by a democratically elected body, with appropriate safeguards in respect of human rights and a strong bias in favour of consultation. Procedures for approving Assembly Subordinate Legislation are at least equivalent to the affirmative resolution procedure in Westminster. It should also be noted that Directions, which usually have no Parliamentary scrutiny at Westminster, may be classed as Assembly General Subordinate Legislation if they are made by way of a statutory instrument, and as such may be subject to the Assembly's subordinate legislation procedure.</p> <p>Part 1 of the Bill extends to England and Wales and relates to the banning of smoking in public places. It sets out a detailed framework within which "the appropriate national authority" (i.e. the Secretary of State in relation to England and the National Assembly in relation to Wales) must operate. There may be extensive regulation-making powers, but they are the equivalent of the Secretary of State's powers. They do not therefore constitute "framework powers". As health is a devolved issue, the Bill allows for different approach to be taken in Wales on the issue of whether there should be any exemptions to allow smoking in certain licensed premises.</p> <p>Part 2 of the Bill relates to healthcare associated infections. The Minister for Health and Social Services has indicated that he considers that Wales already has sufficient powers to maintain and improve healthcare standards in the NHS in Wales, which is why the Assembly Government did not seek a Welsh component to this part of the Bill.</p> <p>In answer to questions about why the Assembly Government did not seek framework powers for the Health Bill during HSS Committee Scrutiny of the Bill on 19 January 2006, the Minister responded,</p> <p>Brian Gibbons: "You will know that the Health and Social Care Department was the first Assembly department to go down the route of asking for a framework clause in the redress Bill, so we are not against it in principle. We looked at each of the major clauses here, particularly in relation to security and fraud, and looked at healthcare-associated infections, smoking, ophthalmic services and one or two other items to see if they were conducive to enhancing what we wanted to do in Wales, and the judgment that we made was, 'Probably not' and that, in all of the areas, with the exception of smoking, we had a fairly robust framework to move the agenda forward in the way that we wanted in Wales. As I said, because we were the first department to pioneer the framework clause, we had a little experience in terms of establishing the process, and the key element in terms of the redress Bill was that, as the First Minister has said on other occasions, in looking for framework</p>		



legislation, we have to state the reason why Wales is different and specific and why we do not have the ability to proceed without the framework clause. We were able to make that case for the NHS Redress Bill, but, in our honest opinion, we felt that we could not make that same case in these other areas, because we felt that either we did not want to go down that route, as in the case of ophthalmic services, or in terms of the routes that we did want to go down, we did not have adequate powers to deal with them."

The Minister went on to say,

"One of the judgments that we made in the NHS Redress Bill and some of the signals that we were getting from Westminster were that there had to be some immediacy about the framework clause. In other words, if we were arguing for a framework clause that we might or might not use either now or at some time in the distant future, that would not have been a compelling case at this early stage. In making the case for framework legislation, there had to be some immediacy in the sense that we would be likely to use that framework legislation sometime within the next couple of years in order to have a strong intellectual case for it."

<i>Bill</i>	<i>Parliamentary Stage</i>	<i>Assembly Stage</i>
<p>Marine Bill (draft)</p> <p>The Bill will provide a new framework for the seas, based on marine spatial planning.</p>	<p>No scheduled publication date</p>	<p>Remitted to Assembly's Environment, Planning & Countryside Committee on 21/06/05</p>

<i>Bill</i>	<i>Parliamentary Stage</i>	<i>Assembly Stage</i>
<p>Mental Health Bill</p> <p>The Bill will introduce a new legal framework for the treatment of people with mental disorders without their consent, when this is necessary to protect them or others from harm. The Department of Health published a Draft Mental Health Bill in the 2003-04 Parliamentary session.</p> <p>The Minister for Health and Social Services made an oral statement in Committee on 23 March 2006 confirming that the Bill was to be dropped and that the UK Government would be proceeding with a short bill that would amend the existing Mental Health Act 1983, rather than a whole scale replacement of the legislation. This followed significant criticism of the Draft Mental Health Bill 2004.</p>	<p>23/03/06 Bill Dropped</p>	<p>Remitted to Assembly's Health & Social Services Committee on 21/06/05</p>



Key clauses and further information:

On 23 March 2006, the Minister for Health and Social Services made an oral statement in Committee. Brian Gibbons confirmed that the Bill was to be dropped and that the UK Government would be proceeding with a short bill that would amend the existing Mental Health Act 1983, rather than a whole scale replacement of the legislation. This followed significant criticism of the Draft Mental Health Bill 2004.

Committee Members raised questions about whether this is an England and Wales Bill; whether there were Welsh sections that could be amended and whether the Assembly will have the opportunity to do things differently.

The Minister had only been made aware of the decision to go ahead with this late the day before the announcement, so his responses were provisional. He said that it was his understanding that some parts of the Bill will have a Welsh dimension, although he suspected that some parts of it will not.

Jenny Randerson made the following points in relation to seeking framework powers:

However, when you have had time to consider the issue properly, Minister, will you look at this and see what scope there is for us in Wales, in terms of seeking framework powers for those aspects of the legislation that are not Home-Office-driven? That is the Government's commitment. We have special concerns in Wales about the provision of mental health treatment, which poses very special challenges. We would not necessarily always want to take the same view here as is taken in England. So, when we next discuss this, I will press you to give us an answer on how far it would be possible to have framework powers and to consider whether you wish to do that.

The Minister responded:

I am happy to do that. We generally take that approach, but, in some cases, you do not need that because regulation allows us to deliver what we want. However, looking at framework powers would be one of our options once we see the Bill. I have not seen the Bill; it is much too early to make a call on that, but I accept your point, and the distinction that you make between the Home Office and the Department of Health is probably a useful defining line for determining where we should be looking to see what powers we should have on that.

<i>Bill</i>	<i>Parliamentary Stage</i>	<i>Assembly Stage</i>
<p>National Lottery Bill (G)</p> <p>The Bill will make the distribution of Lottery money more strategic and set up the Big Lottery Fund as a single body with a new good cause and single set of simpler rules, to make it easier for potential applicants to access Lottery money. A National Lottery Bill was introduced in the last session of Parliament but ran out of time.</p>	<ul style="list-style-type: none"> • 24/05/05 Commons: 1st reading • 14/06/05 Commons: 2nd reading • 11/10/05 Programme Motion • 25/10/05 Commons: Standing Committee A: 1st day • 27/10/05 Commons: Standing Committee A: 2nd day • 01/11/05 Commons: 	<p>Remitted to Assembly's Culture, Welsh Language & Sport Committee on 21/06/05</p> <ul style="list-style-type: none"> • 29/09/05 Bill considered by CWLS Committee • 19/10/05 Bill Considered by CWLS Committee • 02/12/05 Report Laid before the Assembly



	<p>Standing Committee A: 3rd day</p> <ul style="list-style-type: none"> • 03/11/05 Commons: Standing Committee A: 4th day • 19/01/06 Commons: Remaining Stages • 20/01/06 Lords: 1st reading • 06/02/06 Lords: 2nd reading • 13/02/06 Lords: Motion • 13/03/06 Lords: Provisional Committee Stage • 21/03/06 Lords: Committee Stage • 30/03/06 Lords: Motion • 24/04/06 Lords: Report Stage • 23/05/06 Lords: 3rd reading 	
<p><i>Key clauses and further information</i></p> <p>The main feature of the Bill is the formal establishment of the Big Lottery Fund. It includes provisions that will enable the Welsh Assembly Government to:</p> <ul style="list-style-type: none"> • set the outcomes and priorities that are to be addressed by the Big Lottery Fund's programmes in Wales (within an overall UK framework); • issue policy directions to the Big Lottery Fund, in respect of Wales; • agree the appointment of a Wales member to the UK Board (Schedule 2:Paragraph 1) ; and; • agree the appointment of members to the Wales committee (Schedule 2: Paragraph 7). <p>None of the powers conferred on the Assembly allow any greater flexibility than is given to the equivalent Minister in England.</p>		



<i>Bill</i>	<i>Parliamentary Stage</i>	<i>Assembly Stage</i>
<p>Natural Environment and Rural Communities Bill (G)</p> <p>The Bill is intended to implement key aspects of the Government's Rural Strategy published in July 2004. A Draft Natural Environment and Rural Communities Bill was published in the 2004-05 Parliamentary session.</p>	<ul style="list-style-type: none"> • 19/05/05 Commons: 1st reading • 06/06/05 Commons: 2nd reading • 21/06/05 - 05/07/05 Commons Standing Committee • 11/10/05 Commons: Committee - Remaining Stages • 12/10/05 Lords: 1st reading • 07/11/05 Lords: 2nd reading • 10/11/05 Lords: motion for approval • 15/11/05 Lords: motion for approval • 24/01/06 Lords: Committee Stage • 30/01/06 Lords: Committee Stage • 01/02/06 Lords: Committee Stage • 08/02/06 Lords: Committee Stage • 15/03/06 Lords: report stage • 30/03/06 Royal Assent – Natural Environment and Rural Communities Act 2006 	<p>Remitted to Assembly's Environment, Planning & Countryside Committee on 21/06/05</p> <ul style="list-style-type: none"> • 19/07/05 Bill scrutinised by EPC Committee • 22/09/05 Bill scrutinised by EPC Committee; amendment secured to the Bill • 23/09/05 Report laid before the Assembly



Key clauses and further information

The principal purpose of the Bill is to implement key aspects of the UK Government's Rural Strategy for England, which was published in July 2004. In so doing it establishes two new agencies, Natural England and the Commission for Rural Communities (Part 1).

In addition, the Bill introduces measures in Parts 2 to 10 which amend existing legislation affecting Wales in a range of policy areas including: nature conservation, wildlife, sites of special scientific interest, national parks, rights of way, and the reform of agricultural bodies. Many of these measures aim to streamline delivery and simplify the existing legislative framework.

The Bill received Royal Assent on 30 March 2006.



<i>Bill</i>	<i>Parliamentary Stage</i>	<i>Assembly Stage</i>
<p>NHS Redress Bill [HL] (G)</p> <p>The Bill will introduce an NHS Redress Scheme intended to provide a speedy and appropriate response when something goes wrong and compensation where appropriate.</p>	<ul style="list-style-type: none"> • 12/10/05 Lords: 1st reading • 02/11/05 Lords: 2nd reading • 21/11/05 Lords: Grand Committee 1st day • 23/11/05 Lords: Grand Committee 2nd day • 15/02/06 Report Stage • 01/03/06 Lords: 3rd reading • 01/03/06 Commons: 1st reading • 05/06/06 Commons: 2nd reading 	<p>Remitted to Assembly's Health & Social Services Committee</p> <ul style="list-style-type: none"> • 23/11/05 Bill to be considered by HSS Committee • 01/12/05 Report Laid before the Committee
<p><i>Key clauses and further information</i></p> <p>Clause 17 of the Bill comprises a broad framework power allowing the National Assembly for Wales to make regulations to determine arrangements for redress which are most relevant to the policies and plans for the health service in Wales. Clause 17 is the first framework clause to be brought before Parliament following the publication of the White Paper, <i>Better Governance for Wales</i>.</p> <p>The Chairman of the Constitution Committee asked the Minister for State, Lord Warner, for clarification about whether it is the Government's intention to adopt similar provisions in future bills concerning Wales.</p> <p>Lord Warner confirmed that it is the Government's intention, in appropriate cases, to adopt similar provisions in future Bills as a means of conferring broader legislative powers on the Assembly. However the precise approach to provisions for Wales will be considered carefully in relation to each Bill. If there is no identifiable need for different Bill provision in relation to Wales (for example if the provision envisaged for subordinate legislation in relation to both England and Wales gives sufficient flexibility) then broader framework provisions for Wales may not be required: Part 1 of the Health Bill is a case in point.</p>		



<i>Bill</i>	<i>Parliamentary Stage</i>	<i>Assembly Stage</i>
<p>Legislative and Regulatory Reform Bill (G)</p> <p>The Legislative and Regulatory Reform Bill 2005-06 extends the scope of the powers available to Ministers to amend statute law by Order and at the same time relaxes the constraints of parliamentary scrutiny on the Order making process.</p> <p>The wide-ranging power in Part 1 of the Bill potentially allows ministers to amend, repeal or replace any legislation, although the Government has committed itself to not using the procedure to deliver “highly political measures”.</p> <p>The Constitution Committee of the House of Lords has expressed its concern at the “unprecedentedly wide powers” the Bill seeks to confer on Ministers. The Bill will allow ministers to require regulators to adhere to a code of practice, based on principles that were enumerated in the Hampton Review, <i>Reducing administrative burdens</i>. It also seeks to simplify the process of updating technical European Union Regulations.</p>	<ul style="list-style-type: none"> • 11/01/06 Commons: 1st reading • 09/02/06 Commons: 2nd reading • 28/02/06 Commons: Standing Committee A: 1st day • 02/03/06 Commons: Standing Committee A: 2nd day • 07/03/06 Commons: Standing Committee A: 3rd day • 09/03/06 Commons: Standing Committee A: 4th day • 15/05/06 Commons: Report Stage: 1st day • 16/05/06 Commons: Report Stage: 2nd day • 17/05/06 Lords: 1st reading • 13/06/06 Lords: 2nd reading 	<p>Remitted to Assembly's Economic Development & Transport Committee on 21/06/05</p> <ul style="list-style-type: none"> • 16/03/06 Bill scrutinised by EDT Committee • 03/05/06 Bill scrutinised by EIN Committee

Key clauses and further information

Background

The Legislative and Regulatory Reform Bill was presented to Parliament on Wednesday 11 January 2006. The Bill has three aims: to increase the pace of regulatory reform, restructure the regime for private regulators and improve the way in which EU legislation is implemented in UK law.

The Bill extends the scope of the powers available to Ministers to amend statute law by Order and at the same time relaxes the constraints of parliamentary scrutiny on the Order making process.

When originally drafted, Clause 1 of the Bill contained the wide-ranging power that potentially would allow ministers to amend, repeal or replace any legislation, although the Government had given an undertaking not to use the procedure to deliver "highly political measures". At the time the Constitution Committee of the House of Lords expressed its concern at the "unprecedentedly wide powers" the Bill sought to confer on Ministers.

The Bill was amended in Standing Committee between 28 February and 9 March and more recently in Report Stage on 15 and 16 May.

As amended, Clause 1 now confers a slightly narrower power on Ministers to make provision by order which they consider would serve the purpose of "removing or reducing any burden, or removing or reducing the overall burdens, to which any person is subject as a direct or indirect result of any legislation."

The Bill will allow Ministers to require regulators to adhere to a code of practice, based on principles that were set out in the Hampton Review, *Reducing administrative burdens*.

It also seeks to simplify the process of updating technical European Union Regulations.

Relevance to Wales

The Bill, as currently amended applies in relation to Wales and includes provisions that relate specifically to the powers of the Assembly. However, none of the powers conferred on the Assembly allow any greater flexibility than is given to the equivalent Minister in England.

Part 1

The main provisions in Part 1 in relation to Wales include:

Where an order seeks to alter the functions of the Assembly, it can do so only with the permission of the Assembly, (Clause 12) and,

- Where an order does not seek to alter the functions of the Assembly, but relates to an area for which the Assembly has responsibility, the Minister must consult with the Assembly before making the order. (Clause 14)

Clause 10, which deals with Scotland, prevents a Minister of the Crown making a provision that would be within the legislative competence of the Scottish Parliament, except insofar as it is consequential, supplementary, incidental or transitional.

The difference between clause 10 in relation to Scotland and clause 12 in relation to Wales is noteworthy. An order under this Act could not legislate for Scotland in relation to a devolved matter, save in the limited circumstances referred to above. The power in relation to Wales is much broader.



1.1 Part 2

There are two specific references to Wales in Part 2:

- Clause 24 allows a Minister to issue or revise a code of practice which applies to regulators. However, a Minister may not specify a regulatory function that is exercisable only in or as regards Wales: instead the power is conferred on the Assembly and any such functions may be specified, by order, by the Assembly
- Clause 26(3)(c) prevents a Minister specifying a regulatory function that is exercisable only in or as regards Wales for the purposes of clause 23, which sets out “the regulatory principles”, and clause 24, which provides for the issuing and revision of a Code of Practice. Clause 26(4) instead provides that the Assembly may by Order specify such a function for those purposes.

1.2 Part 3

There are a number of provisions in Part 3 of the Bill of relevance to the Assembly.

- Clause 27 will assist the Assembly in its legislative role. Currently, when domestic legislation refers to a Community instrument which has been amended or applied by other Community instruments, it is necessary to specify all the instruments which have amended or applied it. This can make for very long references. Clause 25 is designed to make the drafting of domestic instruments simpler in that, in future, a reference to a “Community instrument”, in any legislation, will be taken as a reference to the instrument “as so amended, extended or applied”.
- Clause 28(1) amends the Interpretation Act 1978 to add to the terms defined in Schedule 1 the expressions “EEA agreement” and “EEA state”. That will enable those expressions to be used in Assembly legislation without the need to define them specifically in that legislation.
- Section 2 of the *European Communities Act 1972* allows Ministers to make regulations to implement Community obligations in the United Kingdom. Clause 29 of the Bill additionally grants Ministers the power to make orders, rules or schemes to implement Community obligations. This power is conferred on the Assembly in the areas for which it has responsibility and will be exercisable by statutory instrument.

Clause 30 will enable subordinate legislation made for the purposes of implementing Community obligations to refer to community instruments “as amended from time to time”. Accordingly, it will not be necessary to make repeated amending legislation to update cross-references to Community instruments as happens frequently in relation to animal health and food legislation. This will reduce the volume of routine legislation required to be made.

Amendments in Committee Stage

Standing Committee considered the Bill over eight sessions between 28 February and 9 March 2006. The Committee accepted very few amendments to the Bill. A number of Opposition-initiated amendments that reflected concerns about the Bill that were discussed on second reading were rejected by the Committee. The five amendments to clause 27 that were accepted, without a vote, by the Committee were described as “drafting amendments that are aimed at improving a technical clause to make it more precise”.

Two new clauses were also added to the Bill; again the Minister described them as minor “technical” amendments relating to the European Communities Act.

Consideration by EDT/EIN Committee – including discussions surrounding the relationship with the Government of Wales Bill



EDT Committee - 16 March 2006

The Bill was discussed at the Economic Development and Transport Committee on 16 March 2006, which was attended by representatives of CBI Wales and the Cabinet Office.

Members of the committee raised a number of concerns that reflected the controversy reported in the press and the recent discussions in the Standing Committee regarding the scope of the Order-making powers in Part 1. Members were concerned that the scope of the Bill and the powers it gives to Ministers potentially goes much further than simply enabling the regulatory burden on business to be reduced. A Member remarked that the Bill "gives Ministers powers far beyond those that they currently have, and it takes power away from Westminster as well as, potentially, from Assembly Members". In relation to clause 9, it was suggested that a concern might be that Assembly legislation could be amended by UK Government Ministers, because clause 9 is not drawn sufficiently widely to prevent Assembly legislation from being amended without the consent of the Assembly, although consultation would be required under clause 11(1).

The Government had made an undertaking not to deliver 'highly controversial' proposals by Order, although this is not enshrined in the Bill itself. During the course of the discussion the Cabinet Office conceded that under the Bill it would technically be possible to abolish the National Assembly for Wales by Order, rather than by an Act. However, the Assembly would have to give its consent to such an Order for it to be passed.

There was also discussion around the complexities raised by the fact that the Bill refers to the current constitutional position in Wales which is subject to change given that the *Government of Wales Bill* is going through Parliament at the same time. For example, where the Bill currently requires the 'agreement of the Assembly', this could be changed by a consequential amendments Order made by the Secretary of State under clause 159 (2) of the Government of Wales Bill to the 'agreement of Welsh Ministers'.

In light of the issues raised, Andrew Davies clarified the position with the Secretary of State and returned to the Committee with a paper on 3 May.
EIN Committee - 3 May 2006 (discussing Bill 141)

On the issue of the what is meant by the 'agreement of the Assembly', the Minister's paper reiterated that the current wording in the Bill means that the consent of the Assembly as a whole is required in these circumstances, as constituted by the Government of Wales Act 1998. However, the *Government of Wales Bill* provides that when the separation of the Assembly executive and legislature takes place in 2007, the functions exercised by the Assembly will become functions of the Welsh Ministers unless different provision is made by Order in Council. Thus as things stand, after May 2007 it will be the Welsh Ministers who will have to give their consent to orders which affect their functions and who will have to be consulted on proposals relating to their functions.

According to this paper it would not be possible for an order to be made under the Bill to abolish the National Assembly for Wales as, "the use of those powers to abolish the NAW would be outside the bill's scope". However, when the paper was discussed on 3 May the accuracy of this statement was questioned by one of the Members of the Committee as it contradicted the advice from the Cabinet Office official at the meeting on 16 March.

With regards to the question of whether the Bill provisions could be used to override legislation made in Wales, and on the relationship between the Bill and the Government of Wales Bill the paper stated

As regards subordinate legislation which will be made prior to May 2007 by the Assembly and after May 2007 by the Welsh Ministers, that subordinate legislation could not be modified without the consent of either the Assembly or – when they have assumed those functions - the Welsh Ministers. Most legislative and regulatory



reform orders will be modifying provisions in Acts of Parliament.

However the LRR Bill is silent as to what consent is required where a legislative or regulatory reform order proposes to modify an Assembly Measure or an Act of the Assembly (which is possible given the definition of "legislation" in clause 1 (3) of the LRR Bill) or when a legislative or regulatory reform order seeks to make provision that is within the legislative competence of the Assembly. The Welsh Assembly Government position is that the consent of the Assembly should be required in such cases. This is being pursued in conjunction with the Cabinet Office: it is quite normal for amendments to Bills to have to be made to take account of other legislation being considered in the same session.

In addition the Government of Wales Bill will create the opportunity for the Assembly to acquire competence to legislate by Assembly Measure on particular matters (or, following a referendum, by Act of the Assembly on all devolved subjects). It will therefore be open to the Welsh Ministers and the Assembly to seek to take the initiative, if they wish, in implementing legislative or regulatory reform on devolved matters.

The Committee's Legal Adviser questioned the assertion that "subordinate legislation could not be modified without the consent of either the Assembly or – when they have assumed those functions - the Welsh Ministers". The Assembly Government official said they would seek further legal advice.

Andrew Davies stated that the Welsh Assembly Government were "discussing with the Cabinet Office the tabling of amendments which would take into account changes subsequent to the Government of Wales Bill reaching the statute book, and addressing concerns such as the one (raised by the Committee's legal adviser)."

Amendments in Report Stage – 15 and 16 May 2006

The main Amendments to the Bill agreed during the Report Stage include:

- the scope of the order-making power has been slightly narrowed to focus on "removing or reducing any burden, or removing or reducing the overall burdens, to which any person is subject as a direct or indirect result of any legislation."
- excepted enactments have now been included such that the powers of the bill may not be used to amend or repeal any of its own provisions in Part 1 or those of the Human Rights Act 1998
- A committee of either House charged with reporting on the order can now recommend that no further proceedings be taken on a draft order if it considers that the provision made by the draft order does not serve the purposes or satisfy the conditions set out in Part 1. Where such a recommendation is made by a committee, no further proceedings may be taken in relation to the order unless the committee's recommendation is overturned by a resolution of the relevant House in the same Parliamentary session. That means that the House will not proceed to an affirmative resolution and the Minister will therefore be unable to make the order.

None of the clauses that mention 'Wales', 'the Assembly' or the 'National Assembly for Wales' have been amended since the Bill was first printed in January 2006, although they have been re-numbered due to the insertion of new clauses.

Members' Research Service: Research Paper
Gwasanaeth Ymchwil yr Aelodau: Papur Ymchwil



Cynulliad National
Cenedlaethol Assembly for
Cymru Wales



<i>Bill</i>	<i>Parliamentary Stage</i>	<i>Assembly Stage</i>
<p>Road Safety Bill [HL] (G)</p> <p>The measures included in the Bill are intended to improve road safety and to achieve the targets set in the UK Government's ten-year road safety strategy, Tomorrow's roads - safer for everyone. A Road Safety Bill was introduced in the last session of Parliament but ran out of time.</p>	<ul style="list-style-type: none"> • 24/05/05 Lords: 1st reading • 08/06/05 Lords: 2nd reading • 27/06/05 Lords: Committee Stage 1st day • 05/07/05 Lords: Committee Stage 2nd day • 26/10/05 Lords: Committee Stage 3rd day • 07/11/05 Lords: Motion for Approval • 22/11/05 Lords: Grand Committee 1st day • 29/11/05 Lords: Report Stage • 10/01/06 Lords: 3rd Reading • 11/01/06 Commons: 1st Reading • 21/03/06 Commons: Standing Committee A: 1st day • 23/03/06 Commons: Standing Committee A: 2nd day • 28/03/06 Commons: Standing Committee A: 3rd day • 18/04/06 Commons: Standing Committee A: 4th day • 20/04/06 Commons: Standing Committee A: 5th day 	<p>Remitted to Assembly's Economic Development & Transport Committee on 21/06/05</p> <ul style="list-style-type: none"> • 28/09/05 Bill considered by EDT Committee • 14/10/05 Report Laid Before the Assembly



Key clauses and further information

Largely a non-devolved matter. Clause 1 replaces and extends the scope of section 40 of the Road Traffic Act 1988. The amended section 40 enables the Secretary of State (for England) or the National Assembly for Wales to make payments to local authorities, as well as other authorities and bodies, for meeting the whole or part of the capital or running costs of any measure for promoting road safety. This Clause offers greater scope for the National Assembly for Wales to direct funding to Welsh road safety projects such as those suggested within the Road Safety Strategy for Wales.

<i>Bill</i>	<i>Parliamentary Stage</i>	<i>Assembly Stage</i>
<p>Tourism Accommodation (Wales) Bill (draft)</p> <p>The Bill would have provided for the statutory registration and inspection of tourist accommodation</p>	<p>The draft bill will no longer be published this Spring and has been withdrawn.</p>	

<i>Bill</i>	<i>Parliamentary Stage</i>	<i>Assembly Stage</i>
<p>Transport (Wales) Bill (G)</p> <p>The Bill will give the Assembly the powers it needs to take forward its integrated transport policies. A Transport (Wales) Bill was introduced in the last session of Parliament but ran out of time.</p>	<ul style="list-style-type: none"> • 19/05/05 Commons: 1st reading • 16/06/05 Commons: 2nd reading • 28/06/05 Commons: Committee Stage • 17/10/05 Commons: Committee - Remaining Stages • 18/10/05 Lords: 1st reading • 01/11/05 Lords: 2nd reading • 09/11/05 Lords: Motion for approval • 24/11/05 Lords Grand Committee: 1st day • 10/01/06 Lords: Report Stage • 14/02/06 Lords: 3rd reading • 16/02/06 Royal Assent – Transport (Wales) Act 2006 	<p>Remitted to Assembly's Economic Development & Transport Committee on 21/06/05</p> <p>The Draft Transport (Wales) Bill was the subject of joint scrutiny with the Welsh Affairs Committee in 2004. The Clauses relating to the railways in Wales were subsequently removed in the Transport (Wales) Bill, following announcement of the UK Government's plans for reorganisation of the railways and publication of the Railways Bill (now the Railways Act 2005). As there were no further changes to the Bill following the general election, the Committee did not have anything to add to the original report laid before the Assembly on 20/09/04</p>



Key clauses and further information

The Bill will give the National Assembly for Wales specific powers and responsibilities in relation to transport.

The Bill received Royal Assent on 16 February 2006.



Other Bills being considered by Assembly Committees

<i>Bill</i>	<i>Parliamentary Stage</i>	<i>Assembly Stage</i>
<p>Electoral Administration Bill (G)</p> <p>The measures included in the Bill are the establishment of Co-ordinated on-line record of electors (CORE) schemes, measures to combat electoral fraud, the conduct of elections and regulation of parties</p>	<ul style="list-style-type: none"> • 11/10/05 Commons: 1st reading • 25/10/05 Commons: 2nd reading & Programme motion • 08/11/05 Committee stage: 1st day • 15/11/05 Commons: Standing Committee B: 1st day • 17/11/05 Commons: Standing Committee B: 2nd day • 22/11/05 Commons: Standing Committee B: 3rd day • 11/01/06 Commons: Report Stage • 12/01/06 Lords: 1st reading • 13/02/06 Lords: 2nd reading • 28/02/06 Lords: Committee Stage • 21/03/06 Lords: Committee Stage • 23/03/06 Lords: Committee Stage • 24/04/06 Lords: Committee Stage • 08/05/06 Lords: Report stage 1st day • 15/05/06 Lords: Report Stage • 07/06/06 Lords: 3rd reading 	<p>Local Government and Public Services discussing the Bill</p> <ul style="list-style-type: none"> • 13/10/05 Bill considered in LGPS Committee • 09/11/05 Bill considered in LGPS Committee • 17/11/05 Bill considered in LGPS Committee • 04/01/06 Report laid Before the Assembly • 11/01/06 Plenary Motion passed calling on the UK Government to bring forward the Committee's proposed amendments



Key clauses and further information

The Bill is a UK Bill as the Department for Constitutional Affairs (DCA) has responsibility for co-ordination on UK-wide election matters and UK-wide electoral law. Responsibility for the conduct of council elections, both at county and community level, rests with the Office of the Deputy Prime Minister (ODPM). The Assembly has limited powers with regard to timing of local elections.

The Assembly's Local Government and Public Services Committee is conducting an inquiry into electoral arrangements for local government and Assembly elections in Wales. On this basis, it was decided to scrutinise the *Electoral Administration Bill* with a view to contributing to debates at the Committee stages in Parliament. On 11 January 2006 a motion to call upon the UK Government to amend the *Electoral Administration Bill* (as recommended in the Committee Report) under Standing Order No. 33.9 was approved in Plenary. The Bill has completed its passage through the Commons and has entered Committee stage in the Lords. Members of the LGPS Committee met with peers in the House of Lords to discuss its recommendations for amendments on 16 January 2006. Baroness Gale made reference to the Committee's Report and recommendations during the Second Reading Debate (HL, 13 February 2006, c.1030). On 20 March Lord Falconer, reacting to the controversy about undeclared loans taken out by political parties, announced his intention to amend the Bill in order to tighten the current disclosure rules. The Bill was remitted to a Committee of the Whole House in respect of amendments dealing with the regulation of loans to and, and corresponding transactions concerning, political parties in early May and has completed its Report stage. It received its Third Reading on 7 June 2006. The First Minister wrote to the Secretary of State for Wales on 22 March to inform him of the motion passed by the Assembly in January. None of the amendments proposed in the LGPS Report have been successful.

Other Bills Currently Before Parliament

Government Bills

- Armed Forces Bill (G)
- Civil Aviation Bill (G)
- Company Law Reform (HL) (G)
- Compensation (HL) (G)
- Crossrail (Hybrid Bill) (G)
- Electoral Administration Bill (G)
- European Union Bill (G)
- Fraud Bill [HL] (G)
- Housing Corporation (Delegation) etc Bill (G)
- Northern Ireland (Miscellaneous Provisions) Bill (G)
- Northern Ireland (Offences) Bill (G)
- Police and Justice Bill (G)
- Safeguarding Vulnerable Groups Bill (G)
- Violent Crime Reduction Bill (G)
- Wireless Telegraphy Bill (G)
- Work and Families Bill (G)

Private Members' and Private Bills

The first six Private Members' Bills on the ballot are indicated separately below.

- Employment Tribunals (Representation And Assistance In Discrimination Proceedings) Bill (B1) – Bill Dropped
 - Rights of Savers Bill (B2)
 - Armed Forces (Parliamentary Approval for Participation in Armed Conflict) Bill (B3) – Bill Dropped
 - Climate Change and Sustainable Energy Bill (B4)
 - Criminal Law (Amendment) (Protection of Property) Bill (B5)
 - International Development (Reporting and Transparency) Bill (B6)
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- Abandoned Inland Waterways (Protection) Bill
 - Age of Sale of Tobacco Bill
 - Aid Effectiveness (Independent Evaluation) Bill
 - Attendance Allowance and Disability Living Allowance (Information) Bill
 - Assisted Dying for the Terminally Ill Bill
 - Bishops (Consecration of Women) Bill
 - Borough Freedom (Family Succession) Bill
 - Breast Cancer Bill
 - Breastfeeding etc. Bill
 - British Overseas Territories Bill
 - British Subjects (Registration) Bill
 - Bus Services Bill
 - Care of Older and Incapacitated People (Human Rights) Bill
 - Children's Food Bill
 - Climate Change (Contraction and Convergence) Bill
 - Computer Misuse Bill
 - Constitutional Reform (Prerogative Powers and Civil Service etc.) Bill
 - Crime Prevention and the Built Environment Bill
 - Criminal Justice Act 1988 (Amendment) Bill
 - Crown Employment Nationality Bill



- Disabled Children's Assessment and Services Bill
- Dynamic Demand Appliances Bill
- Electoral Systems Bill
- Emergency Workers (Protection) Bill
- Employment (Advertisement Of Pay And Pension Rights) Bill
- Energy Bill
- Estate Agents (Independent Redress Scheme) Bill
- Estate Agents (Redress Schemes) Bill
- European Communities Act 1972 (Disapplication) Bill
- European Union (Implications of Withdrawal) Bill
- Family Law (Property and Maintenance) Bill
- Fishery Limits (United Kingdom) Bill
- Fireworks (Amendment) Bill
- Food Supplements (European Communities Act 1972 Disapplication) Bill
- Green Belt Reform Bill
- Harbours Bill
- HBOS Group Reorganisation Bill
- Humber Bridge Act Bill
- Housing (Council Tenants and Leaseholders) Bill
- Housing Development (Infrastructure Requirements) Bill
- Housing and Commercial Development (Water Supply Assessment) Bill
- Identification and Support of Carers (Primary Health Care) Bill
- Income Tax (Earnings Exemption for Persons Living in Poverty) Bill
- Independent School Closures (Provisions for Pupils) Bill
- Infrastructure Audit (Housing Development) Bill
- Interception of Communications (Admissibility of Evidence) Bill
- International Development (Anti-Corruption Audit) Bill
- Leicester City Council Bill
- Licensing Act 2003 (Amendment) Bill
- Licensing of Child Location Services Bill
- Lighter Evenings (Experiment) Bill
- Liverpool City Council Bill
- Liverpool City Council (Prohibition of Smoking in Places of Work) Bill
- Local Government and Planning (Parkland and Windfall Development) Bill
- Local Government Consultation Bill
- Local Government Referendums Bill
- London Local Authorities Bill
- London Local Authorities (Prohibition of Smoking in Places of Work) Bill
- London Local Authorities and Transport for London Bill
- Maidstone Borough Council Bill
- Management of Energy in Buildings Bill
- Merseyside Local Authorities (Prohibition of Smoking in Places of Work) Bill
- Misuse of Drugs (Reclassification of Methylamphetamine) Bill
- Motor Vehicles (Anti-Social Use) Bill
- Notification of Redundancy Bill
- Occasional Sales Bill
- Palliative Care for the Terminally Ill Bill
- Pardon for Soldiers of the Great War Bill
- Parliamentary Constituencies (Equalisation) Bill
- Pharmaceutical Labelling (Warning of Cognitive Function Impairment) Bill
- Police (Northern Ireland) Bill
- Powers of Entry Bill
- Prevention of Scalding Injuries (Bathing in the Home) Bill
- Prison Reform (Mental Health) Bill
- Procurement of Innovative Technologies and Research Bill
- Professional Football (Supporter Involvement) Bill

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Cynulliad National
Cenedlaethol Assembly for
Cymru Wales

- Protection of Private Gardens (Housing Development) Bill
- Protection of Runaway and Missing Children Bill
- Regulation of Laser Eye Surgery Bill
- Regulation of Mortgage Repossessions Bill
- Rehabilitation Leave Bill
- Representation of the People (Amendment) Bill
- Road Safety and Parking Bill
- Road Traffic Regulation (Location Filming) Bill
- Road Traffic Signs (Enforcement Cameras) Bill
- Sale of Green Belt Land Bill
- Small and Medium-Sized Enterprises (Exemption from Regulations) Bill
- Scottish Parliament (Candidates) Bill
- Sunday Trading Act 1994 (Amendment) Bill
- Sustainable Communities Bill
- Telecommunications Masts (Planning Control) Bill
- Trade in Endangered Animals on the Internet Bill
- Transport for London Bill
- Trespass with a Vehicle (Offences) Bill
- Vehicle Registration Marks Bill
- Video Games Bill
- Water and Sewerage Charges (Limit on Household Expenditure) Bill
- Whitehaven Harbour Bill