

# Subordinate Legislation Committee

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## Subordinate Legislation Committee

### Review of Bills before Parliament for possible scrutiny under Standing Order 15.6(ii)

This document has been prepared by National Assembly for Wales lawyers in order to provide information and advice to Assembly Members and their staff in relation to matters under consideration by the Assembly and its committees and for no other purpose. Every effort has been made to ensure that the information and advice contained in it are accurate, but no responsibility is accepted for any reliance placed on them by third parties

#### Purpose

1. The purpose of this note is to consider whether there are further Bills before Parliament during the current session that would be suitable for the Committee to consider in relation to the delegation to Welsh Ministers of powers to make subordinate legislation.

#### Background

2. The Committee has already considered the Business Rate Supplements Bill, and is currently finalising its consideration of the Apprenticeships, Skills, Children and Learning Bill.

3. In reviewing Bills before Parliament, only government bills are considered since numerous private members bills of various types stand little prospect of success and are much more limited in scope. The Annex to this note sets out the government bills that have been introduced during the current session.

4. It will be seen that a number of the Bills have already received Royal Assent, whilst others are so far advanced that it is too late for the Assembly to make a meaningful contribution. Others relate to international or financial issues and apply across the UK with no devolved aspect other than those required to reflect the different legal systems in different parts of the UK.

5. The Coroners and Justice Bill contains a small number of powers delegated to Welsh Ministers and is at an early stage in the Lords.

The Equality Bill is at a very early stage and contains powers for Welsh Ministers, but it is intended that it be scrutinised by the Equality of Opportunity Committee.

The Health Bill contains a number of provisions suitable for scrutiny and is awaiting consideration in the Commons.

The Local Democracy, Economic Development And Construction Bill contains a number of Welsh provisions and is awaiting consideration in the Commons.

The Marine And Coastal Access Bill also awaits consideration in the Commons and contains significant Welsh provisions.

The Policing And Crime Bill contains very limited powers for Welsh Ministers and awaits scrutiny in the Lords.

The Welfare Reform Bill contains very limited powers for Welsh Ministers and is already at committee stage in the second House (Lords).

6. As the Committee will be aware, it is becoming increasingly common for Bills to be published in draft prior to formal consideration. Currently available are the following draft bills on the following subjects: Antarctica, Bribery, Civil Law Reform, Communications Data, Community Empowerment in England, Floods and Water, and Immigration Simplification. Of these, Floods and Water is much the most suitable for consideration by the Assembly.

#### Conclusion

7. Unless the Committee is minded to carry out a quick scrutiny of one the current Bills referred to in paragraph 6 above, it is suggested that preparatory work be carried out to enable the Committee to consider the draft Floods and Water Bill once the recommendations in its report have been agreed.

Legal Services  
National Assembly for Wales  
May 2009

#### Annex

##### Apprenticeships, Skills, Children and Learning Bill

Currently being considered by the Subordinate Legislation Committee.

##### Banking Bill

This Bill has already received Royal Assent.

### **Borders, Citizenship And Immigration Bill**

This Bill applies to the whole of the UK. Different provisions are made only where required by the separate legal systems of Scotland and Northern Ireland. There are no powers for Welsh Ministers.

This Bill has completed its passage through the Lords and is awaiting consideration in the Commons.

### **Business Rate Supplements Bill**

This Bill has already been scrutinised by the Subordinate Legislation Committee.

### **Consolidated Fund Bill**

This Bill has already received Royal Assent.

### **Consolidated Fund (Appropriation) Bill**

This Bill has already received Royal Assent.

### **Coroners And Justice Bill**

In relation to Wales, the Bill does not relate to devolved matters or confer functions on the Welsh Ministers, except for the following:

Coroners - functions relating to the investigation of deaths by coroners are not devolved, but coroners are appointed and funded by local authorities. Under Schedule 2 to the Bill, the Lord Chancellor will be required to consult the Welsh Ministers before making an order to specify the coroners areas for England and Wales or subsequently alter coroner area boundaries in Wales, and before he determines which one of a group of local authorities - which form a coroner area - should act as the lead authority to liaise with coroners for various administrative purposes;

Death certification - the Bill places a duty on Local Health Boards (LHBs) to appoint medical examiners and clause 19 gives the Welsh Ministers the power to make regulations about various matters relating to medical examiners;

Sentencing - clause 118 places a duty on the Sentencing Council to assess the impact on prison and probation resources of policy and legislative proposals, including proposals put forward by the Welsh Assembly Government, referred to the Council by the Lord Chancellor. Where an assessment relates to a proposal of the Welsh Ministers, the Bill requires them to lay a copy of the Council's report of the assessment before the National Assembly for Wales;

This Bill has completed its passage through the Commons and is awaiting second reading in the Lords.

### **Corporation Tax Bill**

This Bill has already received Royal Assent.

### **Equality Bill**

The Bill forms part of the law of England and Wales. It also, with the exception of one clause, forms part of the law of Scotland. There are also a few provisions which form part of the law of Northern Ireland. It is intended that it be scrutinised by the Equality of Opportunity Committee.

It was only introduced at the end of April and second reading in the Commons is scheduled for the 11th May.

### **Finance Bill**

This Bill applies to the United Kingdom.

It is currently at its committee stage in the Commons.

### **Geneva Conventions And United Nations Personnel (Protocols) Bill**

This Bill applies to the United Kingdom.

This Bill has completed its passage through the Lords and is awaiting committee stage in the Commons.

### **Health Bill**

The Bill confers a number of new or expanded powers on the Welsh Ministers.

This Bill has completed its passage through the Lords and is awaiting consideration in the Commons.

## **Industry And Exports (Financial Support) Bill**

This Bill applies to the United Kingdom. There are no powers for Welsh Ministers.

This Bill has completed its passage through the Commons and is awaiting second reading in the Lords.

## **Local Democracy, Economic Development And Construction Bill**

In Part 1, Chapters 1 and 2 apply to Wales as they apply to England and, where functions are conferred on the Secretary of State in relation to England, they are conferred on the Welsh Ministers in relation to Wales. Chapters 3 and 4 apply to England only and Chapters 5 and 6 apply to England and Wales.

In Part 2, clauses 30 and 31 do not apply to Wales. Section 32 applies only to Wales and confers measure-making powers on the National Assembly for Wales in relation to governance and overview and scrutiny arrangements of local authorities (see the commentary on that clause). Chapter 2 of Part 2 applies equally to England and Wales and confers functions on the Welsh Ministers in relation to Wales.

Part 3, which relates to local government boundary and electoral change, applies on the whole only to England, but there are some repeals to uncommenced provisions of the Political Parties, Elections and Referendums Act 2000 ("PPERA") which apply to Wales.

Parts 4, 5, 6 and 7 do not apply to Wales.

Part 8 (construction contracts) applies to Wales as it applies to England.

This Bill has completed its passage through the Lords and is awaiting consideration in the Commons.

## **Marine And Coastal Access Bill**

The Bill confers some new functions on Welsh Ministers. The National Assembly for Wales is given the ability to make provision for establishment and maintenance of a route (or routes) for the coast and to secure public access for purpose of open air recreation to land either at the coast, used in association with land at the coast or used in association with the route (or routes) under Part 9.

The Bill is currently at report stage in the Lords prior to consideration in the Commons.

## **Northern Ireland Bill**

This Bill has already received Royal Assent

## **Perpetuities and Accumulations Bill**

The Bill extends to England and Wales and implements a Law Commission report. It does not affect the functions of the National Assembly for Wales.

The Bill is currently at second reading in the Lords prior to consideration in the Commons.

## **Policing And Crime Bill**

"The Bill applies to Wales in the same way as to England; however the provision and schedule on lap dancing (clause 25 and schedule 3) will be commenced by order of the Welsh Ministers as it is a devolved matter. These provisions on lap dancing also give powers to make secondary legislation on certain matters to the Welsh Ministers."

The Bill is currently at report stage in the Commons prior to consideration in the Lords.

## **Political Parties And Elections Bill**

The Bill extends to the whole of the United Kingdom. The Bill does not have any special effect on Wales and does not affect the National Assembly for Wales.

The Bill is currently at report stage in the Lords having been considered in the Commons.

## **Postal Services Bill**

The Bill extends to the United Kingdom.

This Bill has completed its passage through the Lords and is awaiting consideration in the Commons

## **Saving Gateway Accounts Bill**

The provisions of the Bill extend to the whole of the United Kingdom.

The Bill is currently at report stage in the Lords having been considered in the Commons.

## **Welfare Reform Bill**

In general, the provisions of the Bill apply to Wales in the same way as they apply to England. The exception is that clause 37 enables regulations under clause 33 to be made by the Welsh ministers in certain cases.

The Bill is currently at committee stage in the Lords having been considered in the Commons.