



Cynulliad National
Cenedlaethol Assembly for
Cymru Wales

Committee on the Government of Wales Bill



Report on the Government of Wales Bill

March 2006

If you would like further hard copies of this report or a larger print version please contact:

Sarah Beasley
Committee Service
National Assembly for Wales
Cardiff Bay
CF99 1NA

Tel – 029 2089 8032

Assembly Website – <http://www.wales.gov.uk>

Committee Website – <http://www.wales.gov.uk/keypubassemgovofwalesbill/index.htm>

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Lord Dafydd Elis Thomas
Chair



Leighton Andrews
Labour



Nicholas Bourne
Welsh Conservative Party



Jocelyn Davies
Plaid Cymru



Mike German
Liberal Democrats



Jane Hutt
Labour



Ann Jones
Labour



Ieuan Wyn Jones
Plaid Cymru



Val Lloyd
Labour



David Melding
Welsh Conservative Party



Gwenda Thomas
Labour

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Report on the Government of Wales Bill

1. Background

The Government of Wales Bill, published on 8 December 2005, seeks to implement the proposals contained in the Better Governance for Wales White Paper¹, published in June 2005.

The Bill provides for: the formal separation of the executive and legislative arms of the Assembly; the enhancement of the Assembly's legislative powers; and the reform of its electoral arrangements.

The National Assembly for Wales established a special committee on 18 January 2006 to undertake a detailed scrutiny of the provisions contained in the Bill.

The Committee's terms of reference, agreed by plenary, were to:

- a) *Consider the proposals set out in the Bill;*
- b) *Consider such other matters arising from the Bill as the Committee may determine.*

The committee shall report its recommendations as appropriate and may, if they deem appropriate, do so through tabling motions in accordance with Standing Order 33.9. The Committee shall cease to exist on the date that the Bill receives Royal Assent.

2. Consideration of the Bill

Timing for consideration of the Bill was very tight and the Committee on the Better Governance for Wales White Paper had already taken extensive evidence on the Government's proposals for the development of devolution in Wales. The Bill Committee therefore concluded it would not take further evidence and instead focused on a detailed examination of the proposals contained in the Bill.

The Committee held 8 meetings to scrutinise the Bill. Clauses in Parts 3 & 4 of the Bill were considered first, followed by Clauses in Parts 1, 2, 5 & 6. This report includes a record of those meetings, the amendments considered and the votes taken.

Annex 1	List of amendments proposed and votes taken
Annex 2	Letter from the Business Minister on issues raised
Annex 3	Letter to the Secretary of State for Wales
Annex 4	Dates of meetings and Record of Proceedings

¹ Cm 6582

List of amendments proposed and votes taken

Amendments are listed in the order in which they were considered by the committee.

Amendment 1: proposed by the Welsh Conservative Group

Clause 92

It is noted that Assembly measures will have the same effect as an Act of Parliament.

Delete Part 3 of the Bill entirely (i.e. Clauses 92-101)

Amendment moved.

For, 5	Against, 5	Abstain, 0
Nick Bourne David Melding Mike German Ieuan Wyn Jones Jocelyn Davies	Jane Hutt Christine Gwyther Ann Jones Val Lloyd Gwenda Thomas	
	Casting Vote ² , 1 Lord Dafydd Elis-Thomas	

Amendment defeated.

Amendment 2: proposed by Ieuan Wyn Jones and Jocelyn Davies

Clause 93 - Insert new clause 93A:

“Scheme for parliamentary legislative provisions.

(1) The Secretary of State shall draw up and publish a scheme setting out the arrangements Her Majesty’s Government proposes to make in order to provide definitions of the scope within the provisions of government bills introduced into Parliament for Assembly Measures to be introduced in accordance with sections 92 and 93.

(2) The scheme referred to in (1) shall include guidance given to ministers regarding:
(a) the scope within legislation for matters to be determined by the Assembly or Welsh Ministers;
(b) arrangements for making it readily apparent within legislation or any explanatory notes published by ministers what the scope is for matters to be determined by the Assembly or Welsh Ministers.

(3) The Secretary of State shall amend or revise the scheme referred to in (1) from time to time as he considers appropriate.

² The Chair used his casting vote against all amendments in accordance with Standing Order 8.14

(4) The Secretary of State shall lay before the Assembly any scheme, or amendments to a scheme, made under this section.

(5) No scheme shall be made, amended or revised under this section unless the Assembly has first been consulted on such a scheme or amendments.”

Amendment withdrawn.

Amendment 3: proposed by Ieuan Wyn Jones and Jocelyn Davies

Schedule 5, page 109, line 46

At end insert:

“Field 21: police, probation, and prison service.”

Amendment withdrawn.

Amendment 4: proposed by Ieuan Wyn Jones and Jocelyn Davies

Schedule 5, page 109, line 46 at end insert:

“Field 22: energy.”

Amendment moved.

For, 5

Against, 5

Abstain, 0

Nick Bourne
David Melding
Mike German
Ieuan Wyn Jones
Jocelyn Davies

Jane Hutt
Christine Gwyther
Ann Jones
Val Lloyd
Gwenda Thomas

Casting Vote, 1
Lord Dafydd Elis-Thomas

Amendment defeated.

Amendment 4A: proposed by the Welsh Liberal Democrats

Schedule 5: Leave out.

Insert:

SCHEDULE 5

**RESERVED MATTERS
PART I
GENERAL RESERVATIONS**

The Constitution

1. The following aspects of the constitution are reserved matters, that is-

- (a) the Crown, including succession to the Crown and a regency,**
- (b) the Parliament of the United Kingdom,**
- (c) the continued existence of the High Court of Justiciary as a criminal court of first instance and of appeal,**
- (d) the continued existence of the Court of Session as a civil court of first instance and of appeal.**

2. - (1) Paragraph 1 does not reserve-

- (a) Her Majesty's prerogative and other executive functions,**
- (b) functions exercisable by any person acting on behalf of the Crown, or**
- (c) any office in the Welsh Administration.**

(2) Sub-paragraph (1) does not affect the reservation by paragraph 1 of the management (in accordance with any enactment regulating the use of land) of the Crown Estate.

(3) Sub-paragraph (1) does not affect the reservation by paragraph 1 of the functions of the Security Service, the Secret Intelligence Service and the Government Communications Headquarters.

3. - (1) Paragraph 1 does not reserve property belonging to Her Majesty in right of the Crown or belonging to any person acting on behalf of the Crown or held in trust for Her Majesty for the purposes of any person acting on behalf of the Crown.

(2) Paragraph 1 does not reserve the ultimate superiority of the Crown.

(3) Sub-paragraph (1) does not affect the reservation by paragraph 1 of-

- (a) the hereditary revenues of the Crown, other than revenues from bona vacantia, ultimis haeres and treasure trove,**
- (b) the royal arms and standard,**
- (c) the compulsory acquisition of property held or used by a Minister of the Crown or government department.**

4. - (1) Paragraph 1 does not reserve property held by Her Majesty in Her private capacity.

(2) Sub-paragraph (1) does not affect the reservation by paragraph 1 of the subject-matter of the Crown Private Estates Acts 1800 to 1873.

Political parties

5. The registration and funding of political parties is a reserved

matter.

Foreign affairs etc.

6. - (1) International relations, including relations with territories outside the United Kingdom, the European Communities (and their institutions) and other international organisations, regulation of international trade, and international development assistance and co-operation are reserved matters.

(2) Sub-paragraph (1) does not reserve-

(a) observing and implementing international obligations, obligations under the Human Rights Convention and obligations under Community law,

(b) assisting Ministers of the Crown in relation to any matter to which that sub-paragraph applies.

Public service

7. - (1) The Civil Service of the State is a reserved matter.

Defence

8. - (1) The following are reserved matters-

(a) the defence of the realm,

(b) the naval, military or air forces of the Crown, including reserve forces,

(c) visiting forces,

(d) international headquarters and defence organisations,

(e) trading with the enemy and enemy property.

(2) Sub-paragraph (1) does not reserve-

(a) the exercise of civil defence functions by any person otherwise than as a member of any force or organisation referred to in sub-paragraph (1)(b) to (d) or any other force or organisation reserved by virtue of sub-paragraph (1)(a),

(b) the conferral of enforcement powers in relation to sea fishing.

Treason

9. Treason (including constructive treason), treason felony and misprision of treason are reserved matters.

PART II

SPECIFIC RESERVATIONS

Preliminary

1. The matters to which any of the Sections in this Part apply are reserved matters for the purposes of this Act.

2. A Section applies to any matter described or referred to in it when read with any illustrations, exceptions or interpretation provisions in that Section.

3. Any illustrations, exceptions or interpretation provisions in a Section relate only to that Section (so that an entry under the heading "exceptions" does not affect any other Section).

Reservations

Head A - Financial and Economic Matters

A1. Fiscal, economic and monetary policy Fiscal, economic and monetary policy, including the issue and circulation of money, taxes and excise duties, government borrowing and lending, control over United Kingdom public expenditure, the exchange rate and the Bank of England.

Exception Local taxes to fund local authority expenditure (for example, council tax and non-domestic rates).

A2. The currency Coinage, legal tender and bank notes.

A3. Financial services Financial services, including investment business, banking and deposit-taking, collective investment schemes and insurance.

Exception The subject-matter of section 1 of the Banking and Financial Dealings Act 1971 (bank holidays).

A4. Financial markets Financial markets, including listing and public offers of securities and investments, transfer of securities and insider dealing.

A5. Money laundering The subject-matter of the Money Laundering Regulations 1993, but in relation to any type of business.

Head B - Home Affairs

B1. Misuse of drugs The subject-matter of-

(a) the Misuse of Drugs Act 1971,

(b) sections 12 to 14 of the Criminal Justice (International Co-operation) Act 1990 (substances useful for manufacture of controlled drugs), and

(c) Part V of the Criminal Law (Consolidation) (Scotland) Act 1995 (drug trafficking) and, so far as relating to drug trafficking, the Proceeds of Crime (Scotland) Act 1995.

B2. Data protection The subject-matter of-

(a) the Data Protection Act 1998, and

(b) Council Directive 95/46/EC (protection of individuals with regard to the processing of personal data and on the free movement of such data).

Interpretation If any provision of the Data Protection Act 1998 is not in force on the principal appointed day, it is to be treated for the purposes of this reservation as if it were.

B3. Elections Elections for membership of the House of Commons, the European Parliament and the Parliament, including the subject-matter of-

(a) the European Parliamentary Elections Act 1978,

(b) the Representation of the People Act 1983 and the Representation of the People Act 1985, and

(c) the Parliamentary Constituencies Act 1986,

so far as those enactments apply, or may be applied, in respect of such membership.

B4. Firearms The subject-matter of the Firearms Acts 1968 to 1997.

B5. Entertainment The subject-matter of-

- (a) the Video Recordings Act 1984, and
- (b) sections 1 to 3 and 5 to 16 of the Cinemas Act 1985 (control of exhibitions).

The classification of films for public exhibition by reference to their suitability for viewing by persons generally or above a particular age, with or without any advice as to the desirability of parental guidance.

B6. Immigration and nationality Nationality; immigration, including asylum and the status and capacity of persons in the United Kingdom who are not British citizens; free movement of persons within the European Economic Area; issue of travel documents.

B7. Scientific procedures on live animals The subject-matter of the Animals (Scientific Procedures) Act 1986.

B8. National security, interception of communications, official secrets and terrorism National security.

The interception of communications; but not the subject-matter of Part III of the Police Act 1997 (authorisation to interfere with property etc.) or surveillance not involving interference with property.

The subject-matter of-

- (a) the Official Secrets Acts 1911 and 1920, and
- (b) the Official Secrets Act 1989, except so far as relating to any information, document or other article protected against disclosure by section 4(2) (crime) and not by any other provision of sections 1 to 4.

Special powers, and other special provisions, for dealing with terrorism.

B9. Betting, gaming and lotteries Betting, gaming and lotteries.

B10. Emergency powers Emergency powers.

B11. Extradition Extradition.

B12. Lieutenancies The subject-matter of the Lieutenancies Act 1997.

Head C - Trade and Industry

C1. Business associations The creation, operation, regulation and dissolution of types of business association.

Exceptions

The creation, operation, regulation and dissolution of-

- (a) particular public bodies, or public bodies of a particular type, established by or under any enactment, and
- (b) charities.

Interpretation

"Business association" means any person (other than an individual) established for the purpose of carrying on any kind of business, whether or not for profit; and "business" includes the provision of benefits to the members of an association.

C2. Insolvency In relation to business associations-

- (a) the modes of, the grounds for and the general legal effect of winding up, and the persons who may initiate winding up,
- (b) liability to contribute to assets on winding up,

- (c) powers of courts in relation to proceedings for winding up, other than the power to sist proceedings,
- (d) arrangements with creditors, and
- (e) procedures giving protection from creditors.

Preferred or preferential debts for the purposes of the Bankruptcy (Scotland) Act 1985, the Insolvency Act 1986, and any other enactment relating to the sequestration of the estate of any person or to the winding up of business associations, the preference of such debts against other such debts and the extent of their preference over other types of debt.

Regulation of insolvency practitioners.

Co-operation of insolvency courts.

Exceptions

In relation to business associations-

- (a) the process of winding up, including the person having responsibility for the conduct of a winding up or any part of it, and his conduct of it or of that part,
- (b) the effect of winding up on diligence, and
- (c) avoidance and adjustment of prior transactions on winding up.

Floating charges and receivers, except in relation to preferential debts, regulation of insolvency practitioners and co-operation of insolvency courts.

Interpretation

"Business association" has the meaning given in Section C1 of this Part of this Schedule.

"Winding up", in relation to business associations, includes winding up of solvent, as well as insolvent, business associations.

C3. Competition Regulation of anti-competitive practices and agreements; abuse of dominant position; monopolies and mergers.

Exception

Regulation of particular practices in the legal profession for the purpose of regulating that profession or the provision of legal services.

C4. Intellectual property Intellectual property.

Exception

The subject-matter of Parts I and II of the Plant Varieties Act 1997 (plant varieties and the Plant Varieties and Seeds Tribunal).

C5. Import and export control The subject-matter of the Import, Export and Customs Powers (Defence) Act 1939.

Prohibition and regulation of the import and export of endangered species of animals and plants.

Exceptions

Prohibition and regulation of movement into and out of Wales of-

- (a) food, animals, animal products, plants and plant products for the purposes of protecting human, animal or plant health, animal welfare or the environment or observing or implementing obligations under the Common Agricultural Policy, and
- (b) animal feeding stuffs, fertilisers and pesticides for the purposes of protecting human, animal or plant health or the environment.

C6. Consumer protection Regulation of-

- (a) the sale and supply of goods and services to consumers,
 - (b) guarantees in relation to such goods and services,
 - (c) hire-purchase, including the subject-matter of Part III of the Hire-Purchase Act 1964,
 - (d) trade descriptions, except in relation to food,
 - (e) misleading and comparative advertising, except regulation specifically in relation to food, tobacco and tobacco products,
 - (f) price indications,
 - (g) trading stamps,
 - (h) auctions and mock auctions of goods and services, and
 - (i) hallmarking and gun barrel proofing.
- (a) the Hearing Aid Council Act 1968,
 - (b) the Unsolicited Goods and Services Acts 1971 and 1975,
 - (c) Parts I to III and XI of the Fair Trading Act 1973,
 - (d) the Consumer Credit Act 1974,
 - (e) the Estate Agents Act 1979,
 - (f) the Timeshare Act 1992,
 - (g) the Package Travel, Package Holidays and Package Tours Regulations 1992, and
 - (h) the Commercial Agents (Council Directive) Regulations 1993.

Exception The subject-matter of section 16 of the Food Safety Act 1990 (food safety and consumer protection).

C7. Product standards, safety and liability Technical standards and requirements in relation to products in pursuance of an obligation under Community law.

Product safety and liability.

Product labelling.

Exceptions Food, agricultural and horticultural produce, fish and fish products, seeds, animal feeding stuffs, fertilisers and pesticides.

In relation to food safety, materials which come into contact with food.

C8. Weights and measures Units and standards of weight and measurement.

Regulation of trade so far as involving weighing, measuring and quantities.

C9. Telecommunications and wireless telegraphy Telecommunications and wireless telegraphy.

Internet services.

Electronic encryption.

The subject-matter of Part II of the Wireless Telegraphy Act 1949 (electromagnetic disturbance).

C10. Post Office, posts and postal services The Post Office, posts (including postage stamps, postal orders and postal packets) and regulation of postal services.

C11. Research Councils Research Councils within the meaning of the Science and Technology Act 1965.

The subject-matter of section 5 of that Act (funding of scientific research) so far as relating to Research Councils.

C12. Designation of assisted areas The subject-matter of section 1 of the Industrial Development Act 1982.

C13. Industrial Development Advisory Board The Industrial Development Advisory Board.

C14. Protection of trading and economic interests The subject-matter of-

(a) section 2 of the Emergency Laws (Re-enactments and Repeals) Act 1964 (Treasury power in relation to action damaging to economic position of United Kingdom),

(b) Part II of the Industry Act 1975 (powers in relation to transfer of control of important manufacturing undertakings), and

(c) the Protection of Trading Interests Act 1980.

Head D - Energy

D1. Electricity Generation, transmission, distribution and supply of electricity.

The subject-matter of Part II of the Electricity Act 1989.

Exception

The subject-matter of Part I of the Environmental Protection Act 1990.

D2. Oil and gas Oil and gas, including-

(a) the ownership of, exploration for and exploitation of deposits of oil and natural gas,

(b) the subject-matter of section 1 of the Mineral Exploration and Investment Grants Act 1972 (contributions in connection with mineral exploration) so far as relating to exploration for oil and gas,

(c) offshore installations and pipelines,

(d) the subject-matter of the Pipe-lines Act 1962 (including section 5 (deemed planning permission)) so far as relating to pipelines within the meaning of section 65 of that Act,

(e) pollution relating to oil and gas exploration and exploitation, but only outside controlled waters (within the meaning of section 30A(1) of the Control of Pollution Act 1974),

(f) the subject-matter of Part II of the Food and Environment Protection Act 1985 so far as relating to oil and gas exploration and exploitation, but only in relation to activities outside such controlled waters,

(g) restrictions on navigation, fishing and other activities in connection with offshore activities,

(h) liquefaction of natural gas, and

(i) the conveyance, shipping and supply of gas through pipes.

Exceptions

The subject-matter of-

(a) sections 10 to 12 of the Industry Act 1972 (credits and grants

for construction of ships and offshore installations),
(b) Part I of the Environmental Protection Act 1990.

The manufacture of gas.

The conveyance, shipping and supply of gas other than through pipes.

D3. Nuclear energy Nuclear energy and nuclear installations, including-

- (a) nuclear safety, security and safeguards, and
- (b) liability for nuclear occurrences.

Exceptions

The subject-matter of-

- (a) Part I of the Environmental Protection Act 1990, and
- (b) the Radioactive Substances Act 1993.

D4. Energy conservation The subject-matter of the Energy Act 1976, other than section 9.

Exception

The encouragement of energy efficiency other than by prohibition or regulation.

Head E - Transport

E1. Road transport The subject-matter of-

- (a) the Motor Vehicles (International Circulation) Act 1952,
- (b) the Public Passenger Vehicles Act 1981 and the Transport Act 1985, so far as relating to public service vehicle operator licensing,
- (c) section 17 (traffic regulation on special roads), section 25 (pedestrian crossings), Part V (traffic signs) and Part VI (speed limits) of the Road Traffic Regulation Act 1984,
- (d) the Road Traffic Act 1988 and the Road Traffic Offenders Act 1988,
- (e) the Vehicle Excise and Registration Act 1994,
- (f) the Road Traffic (New Drivers) Act 1995, and
- (g) the Goods Vehicles (Licensing of Operators) Act 1995.

Regulation of proper hours or periods of work by persons engaged in the carriage of passengers or goods by road.

The conditions under which international road transport services for passengers or goods may be undertaken.

Regulation of the instruction of drivers of motor vehicles.

Exceptions

The subject-matter of sections 39 and 40 (road safety information and training) and 157 to 159 (payments for treatment of traffic casualties) of the Road Traffic Act 1988.

E2. Rail transport Provision and regulation of railway services.

Rail transport security.

The subject-matter of the Channel Tunnel Act 1987.

The subject-matter of the Railway Heritage Act 1996.

Exceptions

Grants so far as relating to railway services; but this exception does not apply in relation to-

- (a) the subject-matter of section 63 of the Railways Act 1993 (government financial assistance where railway administration orders made),
- (b) "railway services" as defined in section 82(1)(b) of the Railways Act 1993 (carriage of goods by railway), or
- (c) the subject-matter of section 136 of the Railways Act 1993 (grants and subsidies).

Interpretation "Railway services" has the meaning given by section 82 of the Railways Act 1993 (excluding the wider meaning of "railway" given by section 81(2) of that Act).

E3. Marine transport The subject-matter of-

- (a) the Coastguard Act 1925,
- (b) the Hovercraft Act 1968, except so far as relating to the regulation of noise and vibration caused by hovercraft,
- (c) the Carriage of Goods by Sea Act 1971,
- (d) section 2 of the Protection of Wrecks Act 1973 (prohibition on approaching dangerous wrecks),
- (e) the Merchant Shipping (Liner Conferences) Act 1982,
- (f) the Dangerous Vessels Act 1985,
- (g) the Aviation and Maritime Security Act 1990, other than Part I (aviation security),
- (h) the Carriage of Goods by Sea Act 1992,
- (i) the Merchant Shipping Act 1995,
- (j) the Shipping and Trading Interests (Protection) Act 1995, and
- (k) sections 24 (implementation of international agreements relating to protection of wrecks), 26 (piracy) and 27 and 28 (international bodies concerned with maritime matters) of the Merchant Shipping and Maritime Security Act 1997.

Navigational rights and freedoms.

Financial assistance for shipping services which start or finish or both outside Wales.

Exceptions Ports, harbours, piers and boatslips, except in relation to the matters reserved by virtue of paragraph (d), (f), (g) or (i).

Regulation of works which may obstruct or endanger navigation.

E4. Air transport

Regulation of aviation and air transport, including the subject-matter of-

- (a) the Carriage by Air Act 1961,
- (b) the Carriage by Air (Supplementary Provisions) Act 1962,
- (c) the Carriage by Air and Road Act 1979 so far as relating to carriage by air,
- (d) the Civil Aviation Act 1982,

- (e) the Aviation Security Act 1982,**
- (f) the Airports Act 1986, and**
- (g) sections 1 (endangering safety at aerodromes) and 48 (powers in relation to certain aircraft) of the Aviation and Maritime Security Act 1990,**

and arrangements to compensate or repatriate passengers in the event of an air transport operator's insolvency.

Exceptions

The subject-matter of the following sections of the Civil Aviation Act 1982-

- (a) section 25 (Secretary of State's power to provide aerodromes),**
- (b) section 30 (provision of aerodromes and facilities at aerodromes by local authorities),**
- (c) section 31 (power to carry on ancillary business in connection with local authority aerodromes),**
- (d) section 34 (financial assistance for certain aerodromes),**
- (e) section 35 (facilities for consultation at certain aerodromes),**
- (f) section 36 (health control at Secretary of State's aerodromes and aerodromes of Civil Aviation Authority), and**
- (g) sections 41 to 43 and 50 (powers in relation to land exercisable in connection with civil aviation) where land is to be or was acquired for the purpose of airport development or expansion.**

The subject-matter of Part II (transfer of airport undertakings of local authorities), sections 63 and 64 (airport byelaws) and 66 (functions of operators of designated airports as respects abandoned vehicles) of the Airports Act 1986.

The subject-matter of sections 59 (acquisition of land and rights over land) and 60 (disposal of compulsorily acquired land) of the Airports Act 1986 where land is to be or was acquired for the purpose of airport development or expansion.

E5. Other matters Transport of radioactive material.

Technical specifications for public passenger transport for disabled persons, including the subject-matter of-

(a) section 125(7) and (8) of the Transport Act 1985 (Secretary of State's guidance and consultation with the Disabled Persons Transport Advisory Committee), and

(b) Part V of the Disability Discrimination Act 1995 (public transport).

Regulation of the carriage of dangerous goods.

Interpretation

"Radioactive material" has the same meaning as in section 1(1) of the Radioactive Material (Road Transport) Act 1991.

Head F - Social Security

F1. Social security schemes Schemes supported from central or local funds which provide assistance for social security purposes to or in respect of individuals by way of benefits.

Requiring persons to-

(a) establish and administer schemes providing assistance for social security purposes to or in respect of individuals, or

(b) make payments to or in respect of such schemes,

and to keep records and supply information in connection with such schemes.

The circumstances in which a person is liable to maintain himself or another for the purposes of the enactments relating to social security and the Child Support Acts 1991 and 1995.

The subject-matter of the Vaccine Damage Payment Scheme.

Illustrations

National Insurance; Social Fund; administration and funding of housing benefit and council tax benefit; recovery of benefits for accident, injury or disease from persons paying damages; deductions from benefits for the purpose of meeting an individual's debts; sharing information between government departments for the purposes of the enactments relating to social security; making decisions for the purposes of schemes mentioned in the reservation and appeals against such decisions.

Interpretation

"Benefits" includes pensions, allowances, grants, loans and any other form of financial assistance.

Providing assistance for social security purposes to or in respect of individuals includes (among other things) providing assistance to or in respect of individuals-

(a) who qualify by reason of old age, survivorship, disability, sickness, incapacity, injury, unemployment, maternity or the care of children or others needing care,

(b) who qualify by reason of low income, or

(c) in relation to their housing costs or liabilities for local taxes.

F2. Child support The subject-matter of the Child Support Acts 1991 and 1995.

Interpretation

If section 30(2) of the Child Support Act 1991 (collection of payments other than child support maintenance) is not in force on the principal appointed day, it is to be treated for the purposes of this reservation as if it were.

F3. Occupational and personal pensions The regulation of occupational pension schemes and personal pension schemes, including the obligations of the trustees or managers of such schemes.

Provision about pensions payable to, or in respect of, any persons, except-

(a) the persons referred to in section 81(3),

(b) in relation to a Welsh public authority with mixed functions or no reserved functions, persons who are or have been a member of the public body, the holder of the public office, or a member of the staff of the body, holder or office.

The subject-matter of the Pensions (Increase) Act 1971.

Schemes for the payment of pensions which are listed in Schedule 2 to that Act, except those mentioned in paragraphs 38A and 38AB.

Where pension payable to or in respect of any class of persons under a public service pension scheme is covered by this reservation, so is making provision in their case-

(a) for compensation for loss of office or employment, for their office or employment being affected by constitutional changes, or

circumstances arising from such changes, in any territory or territories or for loss or diminution of emoluments, or
(b) for benefits in respect of death or incapacity resulting from injury or disease.

Interpretation

"Pension" includes gratuities and allowances.

F4. War pensions Schemes for the payment of pensions for or in respect of persons who have a disablement or have died in consequence of service as members of the armed forces of the Crown.

The subject-matter of any scheme under the Personal Injuries (Emergency Provisions) Act 1939, sections 3 to 5 and 7 of the Pensions (Navy, Army, Air Force and Mercantile Marine) Act 1939 or section 1 of the Polish Resettlement Act 1947.

Illustration

The provision of pensions under the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 1983.

Interpretation

"Pension" includes grants, allowances, supplements and gratuities.

Head G - Regulation of the Professions

G1. Architects Regulation of the profession of architect.

G2. Health professions Regulation of the health professions.

Interpretation

"The health professions" means the professions regulated by-

- (a) the Pharmacy Act 1954,
- (b) the Professions Supplementary to Medicine Act 1960,
- (c) the Veterinary Surgeons Act 1966,
- (d) the Medical Act 1983,
- (e) the Dentists Act 1984,
- (f) the Opticians Act 1989,
- (g) the Osteopaths Act 1993,
- (h) the Chiropractors Act 1994, and
- (i) the Nurses, Midwives and Health Visitors Act 1997.

G3. Auditors Regulation of the profession of auditor.

Head H - Employment

H1. Employment and industrial relations

Employment rights and duties and industrial relations, including the subject-matter of-

- (a) the Employers' Liability (Compulsory Insurance) Act 1969,
- (b) the Employment Agencies Act 1973,
- (c) the Pneumoconiosis etc. (Workers' Compensation) Act 1979,
- (d) the Transfer of Undertakings (Protection of Employment) Regulations 1981,
- (e) the Trade Union and Labour Relations (Consolidation) Act 1992,
- (f) the Industrial Tribunals Act 1996,
- (g) the Employment Rights Act 1996, and
- (h) the National Minimum Wage Act 1998.

Exception

The subject-matter of the Agricultural Wages (Scotland) Act 1949.

H2. Health and safety The subject-matter of the following Parts of the Health and Safety at Work etc. Act 1974-

- (a) Part I (health, safety and welfare in connection with work, and control of dangerous substances) as extended or applied by section 36 of the Consumer Protection Act 1987, sections 1 and 2 of the Offshore Safety Act 1992 and section 117 of the Railways Act 1993, and
- (b) Part II (the Employment Medical Advisory Service).

Exception

Public safety in relation to matters which are not reserved.

H3. Job search and support The subject-matter of-

- (a) the Disabled Persons (Employment) Act 1944, and
- (b) the Employment and Training Act 1973, except so far as relating to training for employment.

Exception

The subject-matter of-

- (a) sections 8 to 10A of the Employment and Training Act 1973 (careers services), and
- (i) section 2(3)(c) (arrangements for the purpose of assisting persons to establish themselves as self-employed persons), and
- (ii) section 12 (disclosure of information).

Head J - Health and Medicines

J1. Abortion Abortion.

J2. Xenotransplantation
Xenotransplantation.

J3. Embryology, surrogacy and genetics
Surrogacy arrangements, within the meaning of the Surrogacy Arrangements Act 1985, including the subject-matter of that Act.

The subject-matter of the Human Fertilisation and Embryology Act 1990.

Human genetics.

J4. Medicines, medical supplies and poisons
The subject-matter of-

(a) the Medicines Act 1968, the Marketing Authorisations for Veterinary Medicinal Products Regulations 1994 and the Medicines for Human Use (Marketing Authorisations Etc.) Regulations 1994,

(b) the Poisons Act 1972, and

(c) the Biological Standards Act 1975.

"Medicinal products" has the same meaning as in section 130(1) of the Medicines Act 1968.

J5. Welfare foods Schemes made by regulations under section 13 of the Social Security Act 1988 (schemes for distribution of welfare foods).

Head K - Media and Culture

K1. Broadcasting The subject-matter of the Broadcasting Act 1990 and the Broadcasting Act 1996.

The British Broadcasting Corporation.

exception

Broadcasting in the medium of Welsh

K2. Public lending right The subject-matter of the Public Lending Right Act 1979.

K3. Government Indemnity Scheme The subject-matter of sections 16 and 16A of the National Heritage Act 1980 (public indemnities for objects on loan to museums, art galleries, etc.).

K4. Property accepted in satisfaction of tax
The subject-matter of sections 8 and 9 of the National Heritage Act 1980 (payments to Inland Revenue in respect of property accepted in satisfaction of tax, and disposal of such property).

Head L - Miscellaneous

L1. Judicial remuneration

L2. Equal opportunities Equal opportunities, including the subject-matter of-

- (a) the Equal Pay Act 1970,
- (b) the Sex Discrimination Act 1975,
- (c) the Race Relations Act 1976, and
- (d) the Disability Discrimination Act 1995.

Exceptions

The encouragement (other than by prohibition or regulation) of equal opportunities, and in particular of the observance of the equal opportunity requirements.

Interpretation

"Equal opportunities" means the prevention, elimination or regulation of discrimination between persons on grounds of sex or marital status, on racial grounds, or on grounds of disability, age, sexual orientation, language or social origin, or of other personal attributes, including beliefs or opinions, such as religious beliefs or political opinions.

"Equal opportunity requirements" means the requirements of the law for the time being relating to equal opportunities.

L3. Control of weapons Control of nuclear, biological and chemical weapons and other weapons of mass destruction.

L4. Ordnance survey The subject-matter of the Ordnance Survey Act 1841.

L5. Time Timescales, time zones and the subject-matter of the Summer Time Act 1972.

The calendar; units of time; the date of Easter.

Exceptions

The computation of periods of time.

The subject-matter of-

- (a) section 1 of the Banking and Financial Dealings Act 1971 (bank holidays), and
- (b) the Term and Quarter Days (Scotland) Act 1990.

L6. Outer space Regulation of activities in outer space.

Lembit clause?

PART III

GENERAL PROVISIONS

Scottish public authorities

1. - (1) This Schedule does not reserve any Scottish public authority if

some of its functions relate to reserved matters and some do not, unless it is a cross-border public authority.

(2) Sub-paragraph (1) has effect as regards-

(a) the constitution of the authority, including its establishment and dissolution, its assets and liabilities and its funding and receipts,

(b) conferring or removing any functions specifically exercisable in relation to the authority.

(3) Sub-paragraph (2)(b) does not apply to any function which is specifically exercisable in relation to a particular function of the authority if the particular function relates to reserved matters.

(4) An authority to which this paragraph applies is referred to in this Act as a Scottish public authority with mixed functions.

2. Paragraph 1 of Part I of this Schedule does not reserve any Scottish public authority with functions none of which relate to reserved matters (referred to in this Act as a Scottish public authority with no reserved functions).

Reserved bodies

3. - (1) The reservation of any body to which this paragraph applies has effect to reserve-

(a) its constitution, including its establishment and dissolution, its assets and liabilities and its funding and receipts,

(b) conferring functions on it or removing functions from it,

(c) conferring or removing any functions specifically exercisable in relation to it.

(2) This paragraph applies to-

(a) a body reserved by name by Part II of this Schedule,

(b) each of the councils reserved by Section C12 of that Part,

(c) the Commission for Racial Equality, the Equal Opportunities Commission and the National Disability Council.

Financial assistance to industry

4. - (1) This Schedule does not reserve giving financial assistance to commercial activities for the purpose of promoting or sustaining economic development or employment.

(2) Sub-paragraph (1)-

(a) does not apply to giving financial assistance to any activities in pursuance of a power exercisable only in relation to activities which are reserved,

(b) does not apply to Part I of this Schedule, except paragraph 9, or to a body to which paragraph 3 of this Part of this Schedule applies,

(c) is without prejudice to the exceptions from the reservations in Sections E2 and E3 of Part II of this Schedule.

(3) Sub-paragraph (1) does not affect the question whether any matter other than financial assistance to which that sub-paragraph applies is reserved.

Interpretation

5. - (1) References in this Schedule to the subject-matter of any enactment are to be read as references to the subject-matter of that enactment as it has effect on the principal appointed day or, if it ceased to have effect at any time within the period ending with that day and beginning with the day on which this Act is passed, as it had effect immediately before that time.

(2) Subordinate legislation under section 129(1) may, in relation to the operation of this Schedule at any time before the principal appointed day, modify the references to that day in sub-paragraph (1).

Amendment withdrawn.

Amendment 5: proposed by Ieuan Wyn Jones and Jocelyn Davies

Clause 94, page 51, line 29 at end insert:

“(5A) In the event of approval of a draft statutory instrument by the Assembly, as specified in (5) (a), but there not being within 60 days of that approval, an approval by a resolution of each House of Parliament as specified in (5) (b), subsection (5) shall cease to have effect in the case of that draft statutory instrument, and the procedure specified in (5B) will then apply to that draft statutory instrument.

**(5B) The procedure which will apply in cases specified in (5A) will be –
No recommendation is to be made to Her Majesty in Council to make an Order in Council under this section unless a draft of the statutory instrument containing the Order in Council –**

**(a) has been laid before, and approved by a resolution of, the Assembly, and
(b) the resolution of the Assembly is passed on a vote in which the number of Assembly members voting in favour of it is not less than two-thirds of the total number of Assembly seats.”**

Amendment moved.

For, 3

Against, 7

Abstain, 0

Ieuan Wyn Jones
Jocelyn Davies
Mike German

Jane Hutt
Christine Gwyther
Ann Jones
Val Lloyd
Gwenda Thomas
Nick Bourne
David Melding

Amendment defeated.

Amendment 5A: proposed by the Welsh Liberal Democrats

Clause 94(7) Page 51 Line 36

Insert at end of (b) “Reasons for the refusal must fall within (8).”

Amendment moved.

For, 5	Against, 5	Abstain, 0
Nick Bourne David Melding Mike German Ieuan Wyn Jones Jocelyn Davies	Jane Hutt Christine Gwyther Ann Jones Val Lloyd Gwenda Thomas	
	Casting Vote, 1 Lord Dafydd Elis-Thomas	

Amendment defeated.

Amendment 5B: proposed by the Welsh Liberal Democrats

Clause 94(7) Page 51 Line 36 – Insert new subsection after (b):

“(8) A refusal that falls within (7)(b) only applies if the Secretary of State has reason to believe that the Assembly Measure -

- (a) would have an adverse effect on any matter which is not specified in Part 1 of Schedule 5**
- (b) might have a serious adverse impact on water resources in England, water supply in England or the quality of water in England,**
- (c) would have adverse impact on the law as it applies in England, or**
- (d) would be incompatible with any international obligation or the interests of defence or national Security.”**

Following discussion, the Member proposing the amendment suggested that the vote should be on the principle of a test of reasonableness being included in this Clause.

Amendment moved.

For, 5	Against, 5	Abstain, 0
Nick Bourne David Melding Mike German Ieuan Wyn Jones Jocelyn Davies	Jane Hutt Christine Gwyther Ann Jones Val Lloyd Gwenda Thomas	
	Casting Vote, 1 Lord Dafydd Elis-Thomas	

Amendment defeated.

Amendment 6: proposed by the Welsh Conservative Group

Add new para (8) and renumber subsequent para's:

“(8) The Secretary of State may not refuse to lay the draft on the grounds of a policy disagreement with the resolution of the Assembly.”

Amendment withdrawn.

Amendment 7: proposed by Ieuan Wyn Jones and Jocelyn Davies

Clause 95, page 52, line 11:

After “Counsel General”, insert “or the Assembly”.

Amendment moved.

For, 5

Against, 5

Abstain, 0

Nick Bourne
David Melding
Mike German
Ieuan Wyn Jones
Jocelyn Davies

Jane Hutt
Christine Gwyther
Ann Jones
Val Lloyd
Gwenda Thomas

Casting Vote, 1
Lord Dafydd Elis-Thomas

Amendment defeated.

Amendment 8: proposed by Ieuan Wyn Jones and Jocelyn Davies

Clause 96, page 52, line 21:

At end insert “, or (c) by any committee of the Assembly established under section 28 or section 30.”

Amendment withdrawn.

Amendment 9: proposed by the Welsh Conservative Group

Recommendation: Standing Orders should protect a set amount of time for AMs not in the Welsh Assembly Government to introduce Assembly Measures.

Amendment withdrawn.

Amendment 10: proposed by Ieuan Wyn Jones and Jocelyn Davies

Clause 98, page 53, line 44:

After “Counsel General”, insert “or the Assembly”.

Amendment withdrawn.

Amendment 67: proposed by Ieuan Wyn Jones and Jocelyn Davies

Clause 102 - page 56, line 25 at end insert:

“(3A) If a resolution passed by the Assembly under section 103 includes the text of the question which the Assembly proposes should be included on the ballot paper at the referendum, that text shall be included in any recommendation made to Her Majesty in Council to make an Order in Council under subsection (1).”

Amendment withdrawn.

Amendment 52: proposed by the Welsh Liberal Democrats

Clause 102(5) Page 56 Line 32 –

Leave out from ‘Assembly’ and insert ‘Senedd Members voting.’

Amendment moved.

For, 5	Against, 5	Abstain, 0
Nick Bourne	Jane Hutt	
David Melding	Christine Gwyther	
Mike German	Ann Jones	
Ieuan Wyn Jones	Val Lloyd	
Jocelyn Davies	Leighton Andrews	
	Casting Vote, 1	
	Lord Dafydd Elis-Thomas	

Amendment defeated.

Amendment 69: proposed by Ieuan Wyn Jones and Jocelyn Davies

Clause 102 page 56 line 32

Delete the words “is not less....Assembly seats” and replace with the words “represents a majority of Assembly Members present and voting in favour”

Amendment moved.

For, 5	Against, 5	Abstain, 0
Nick Bourne	Jane Hutt	
David Melding	Christine Gwyther	
Mike German	Ann Jones	
Ieuan Wyn Jones	Val Lloyd	
Jocelyn Davies	Leighton Andrews	
	Casting Vote, 1	
	Lord Dafydd Elis-Thomas	

Amendment defeated.

Amendment 68: proposed by Ieuan Wyn Jones and Jocelyn Davies

Clause 102, page 56, lines 35 and 36

Delete the words “Secretary of State” and replace with the words, “the Assembly”

Amendment withdrawn.

Amendment 66: proposed by Ieuan Wyn Jones and Jocelyn Davies

Delete clauses 102 and 103 (to be read in conjunction with the amendment to clause 64)

Amendment moved.

For, 3

Against, 5

Abstain, 2

Ieuan Wyn Jones
Jocelyn Davies
Mike German

Jane Hutt
Christine Gwyther
Ann Jones
Val Lloyd
Leighton Andrews

Nick Bourne
David Melding

Amendment defeated.

Amendment 11: proposed by the Welsh Conservative Group

Clause 103. In para (1a) delete “moved by the First Minister or a Welsh Minister appointed under section 48.”

Delete para 1b.

Amendment withdrawn.

Amendment 70: proposed by Ieuan Wyn Jones and Jocelyn Davies

Clause 103, page 57, line 7:

**Leave out from “the number” to “Assembly seats”, and insert:
“a majority of Assembly Members present and voting vote in favour”.**

Amendment withdrawn.

Amendment 71: proposed by Ieuan Wyn Jones and Jocelyn Davies

Clause 104, line 25

**Delete the word “referendum” and replace with “poll” and in line 26 delete the words “section 102(1)” and replace with “section 64(1)”
(to be read in conjunction with amendment to clause 64)**

Amendment withdrawn.

Amendment 12: proposed by the Welsh Conservative Group

Clause 107/Schedule 7. Part 1(15)

Remove: “The Children’s Commissioner (established under the Children Act 2004 (c.31))” from the list of exemptions.

Amendment withdrawn.

Amendment 72 – proposed by Ieuan Wyn Jones and Jocelyn Davies

Schedule 7, page 115, leave out line 17

Amendment moved.

For, 5

Against, 5

Abstain, 0

Nick Bourne
David Melding
Mike German
Ieuan Wyn Jones
Jocelyn Davies

Jane Hutt
Christine Gwyther
Ann Jones
Val Lloyd
Leighton Andrews

Casting Vote, 1
Lord Dafydd Elis-Thomas

Amendment defeated.

Amendment 73 – proposed by Ieuan Wyn Jones and Jocelyn Davies

Schedule 7, page 116, line 19:

Leave out from “Regulation of” to “dominant position and”.

Amendment withdrawn.

Amendment 74 – proposed by Ieuan Wyn Jones and Jocelyn Davies

Schedule 7, page 116:

Leave out lines 44 to 47.

Amendment withdrawn.

Amendment 75 – proposed by Ieuan Wyn Jones and Jocelyn Davies

Schedule 7, page 117.

Leave out lines 1 to 7.

Amendment moved.

For, 3

Against, 5

Abstain, 2

Ieuan Wyn Jones
Jocelyn Davies
Mike German

Jane Hutt
Christine Gwyther
Ann Jones
Val Lloyd
Leighton Andrews

Nick Bourne
David Melding

Amendment defeated.

Amendment 76 – proposed by Ieuan Wyn Jones and Jocelyn Davies

Schedule 7, page 119:

Leave out line 2.

Amendment moved.

For, 3

Against, 5

Abstain, 2

Ieuan Wyn Jones
Jocelyn Davies
Mike German

Jane Hutt
Christine Gwyther
Ann Jones
Val Lloyd
Leighton Andrews

Nick Bourne
David Melding

Amendment defeated.

Amendment 77 – proposed by Ieuan Wyn Jones and Jocelyn Davies

Schedule 7, page 119:

Leave out lines 38 and 39.

Amendment moved.

For, 3

Against, 5

Abstain, 2

Ieuan Wyn Jones
Jocelyn Davies
Mike German

Jane Hutt
Christine Gwyther
Ann Jones
Val Lloyd
Leighton Andrews

Nick Bourne
David Melding

Amendment defeated.

Amendment 78 – proposed by Ieuan Wyn Jones and Jocelyn Davies

Schedule 7, page 119:

Leave out line 42.

Amendment moved.

For, 3	Against, 5	Abstain, 2
Ieuan Wyn Jones Jocelyn Davies Mike German	Jane Hutt Christine Gwyther Ann Jones Val Lloyd Leighton Andrews	Nick Bourne David Melding

Amendment defeated.

Amendment 79 – proposed by Ieuan Wyn Jones and Jocelyn Davies

Schedule 7, page 121, line 41 at end insert:

“Field 21. police, probation, and prison service.”

Amendment moved.

For, 5	Against, 5	Abstain, 0
Nick Bourne David Melding Mike German Ieuan Wyn Jones Jocelyn Davies	Jane Hutt Christine Gwyther Ann Jones Val Lloyd Leighton Andrews	
	Casting Vote, 1 Lord Dafydd Elis-Thomas	

Amendment defeated.

Amendment 80 - proposed by Ieuan Wyn Jones and Jocelyn Davies

Schedule 7, page 121, line 41 at end insert:

“Field 22. energy.”

Amendment moved.

For, 5	Against, 5	Abstain, 0
Nick Bourne David Melding Mike German	Jane Hutt Christine Gwyther Ann Jones	

Ieuan Wyn Jones
Jocelyn Davies

Val Lloyd
Leighton Andrews

Casting Vote, 1
Lord Dafydd Elis-Thomas

Amendment defeated.

Amendment 19: proposed by the Welsh Liberal Democrats

Clause 1(1) Page 1 Line 5 –

Leave out from ‘an’ and insert ‘there is to be a Parliament for Wales to be known as the ‘Senedd’

Amendment moved.

For, 1

Against, 7

Abstain, 2

Mike German

Jane Hutt
Christine Gwyther
Ann Jones
Val Lloyd,
Leighton Andrews
Nick Bourne
David Melding

Ieuan Wyn Jones
Jocelyn Davies

Amendment defeated.

Amendment 20: proposed by the Welsh Liberal Democrats

Clause 1 Page 1 Line 7

Leave out subsection (2)

Amendment moved.

For, 3

Against, 7

Abstain, 0

Ieuan Wyn Jones
Jocelyn Davies
Mike German

Jane Hutt
Christine Gwyther
Ann Jones
Val Lloyd
Leighton Andrews
Nick Bourne
David Melding

Amendment defeated.

Amendment 81: proposed by Ieuan Wyn Jones and Jocelyn Davies

Clause 1, page 1

Leave out lines 8 and 9.

Amendment moved.

For, 3

Against, 7

Abstain, 0

Ieuan Wyn Jones
Jocelyn Davies
Mike German

Jane Hutt
Christine Gwyther
Ann Jones
Val Lloyd
Leighton Andrews
Nick Bourne
David Melding

Amendment defeated.

Amendment 22: proposed by the Welsh Liberal Democrats

Clause 1(3) Page 1 Line 12

Leave out 'Assembly' and insert 'Senedd'

Amendment fell.

Amendment 23: proposed by the Welsh Liberal Democrats

Clause 1(4) Page 1 Line 16

Leave out 'Assembly' and insert 'Senedd'

Amendment fell.

Amendment 82: proposed by Ieuan Wyn Jones and Jocelyn Davies

Clause 1, page 1, line 17 at end insert:

**“(3A) The system of election shall be a single transferable vote system under which –
a vote is capable of being given so as to indicate the voter’s order of preference for the
candidates, and
a vote is capable of being transferred to the next choice -
(i) when the vote is not required to give a prior choice the necessary quota of votes, or
(ii) when, owing to the deficiency in the number of votes given for a prior choice, that
choice is eliminated from the list of candidates.”**

Amendment withdrawn.

Amendment 24: proposed by the Welsh Liberal Democrats

Clause 1(5) Page 1 Line 18

Leave out ‘Assembly’ and insert ‘Senedd’

Amendment fell.

Amendment 84: proposed by Ieuan Wyn Jones and Jocelyn Davies

Clause 2, page 2, line 7

Leave out “four” and insert “twelve”.

Amendment withdrawn.

Amendment 83: proposed by Ieuan Wyn Jones and Jocelyn Davies

Clause 2, page 2

Leave out line 2.

Amendment withdrawn.

Amendment 90: proposed by Ieuan Wyn Jones and Jocelyn Davies

Leave out Clause 8.

Amendment withdrawn.

Amendment 91: proposed by Ieuan Wyn Jones and Jocelyn Davies

Leave out Clause 9.

Amendment withdrawn.

Amendment 21: proposed by the Welsh Liberal Democrats

Clause 1

Insert new subsection ‘The Senedd is to consist of eighty members elected through the Single Transferable Vote from Multi- Member constituencies.’

Amendment withdrawn.

Amendment 25: proposed by the Welsh Liberal Democrats

Clause 2 Page 2 Line 2 – Leave out lines 1-12 and insert –

2. Senedd Constituencies

- (1) The Senedd constituencies shall each be formed from more than one parliamentary constituency in Wales.**
- (2) Each Senedd constituency shall be comprised of, no more than one tenth and no less than one twenty-fifth of the eligible electorate of Wales.**
- (3) The parliamentary boundary committee for Wales shall periodically recommend Senedd constituencies.**

Amendment withdrawn.

Amendment 112: proposed by Ieuan Wyn Jones and Jocelyn Davies

Delete 2(1) replace with "the secretary of state shall, by Order, determine the Assembly constituencies"

Amendment withdrawn.

Amendment 26: proposed by the Welsh Liberal Democrats

Clause 4(5) Page 3 Line 14 – Leave out from ‘Secretary of State’ and insert ‘Senedd has passed a resolution in favour with at least two thirds of the Senedd Members voting to support it.’

Amendment withdrawn.

Amendment 85: proposed by Ieuan Wyn Jones and Jocelyn Davies

Clause 4, page 2, line 40:

Leave out “seven”, insert “twenty-one”.

Amendment moved.

For, 5

Against, 5

Abstain, 0

Nick Bourne
David Melding
Mike German
Ieuan Wyn Jones
Jocelyn Davies

Jane Hutt
Christine Gwyther
Ann Jones
Val Lloyd
Leighton Andrews

Casting Vote, 1
Lord Dafydd Elis-Thomas

Amendment defeated.

Amendment 86: proposed by Ieuan Wyn Jones and Jocelyn Davies

Clause 5, page 3, line 22

Delete sub-clauses (a) and (b) and replace with the following words “if the Welsh Assembly Government loses a vote of confidence”

Amendment withdrawn.

Amendment 27: proposed by the Welsh Liberal Democrats

Clause 5(2)(b) Page 3 Line 23

Leave out ‘seats’ and insert ‘Members voting’

Amendment moved.

For, 5

Against, 5

Abstain, 0

Nick Bourne
David Melding
Mike German
Ieuan Wyn Jones
Jocelyn Davies

Jane Hutt
Christine Gwyther
Ann Jones
Val Lloyd
Leighton Andrews

Casting Vote, 1
Lord Dafydd Elis-Thomas

Amendment defeated.

Amendment 87: proposed by Ieuan Wyn Jones and Jocelyn Davies

Clause 5, page 3, line 34:

Leave out “seven”, insert “twenty-one”.

Amendment withdrawn.

Amendment 28: proposed by the Welsh Liberal Democrats

Clause 6(1) Page 4 Line 5

Leave out from ‘two’ and insert ‘one vote which will be cast preferentially’

Amendment withdrawn.

Amendment 29: proposed by the Welsh Liberal Democrats

Clause 6 Page 4 Line 7 – Leave out lines 7-23

Amendment withdrawn.

Amendment 88: proposed by Ieuan Wyn Jones and Jocelyn Davies

Leave out clause 6.

Amendment withdrawn.

Amendment 13: proposed by the Welsh Conservative Group

Clause 7.

In para (5) delete subsection (c) and in para (6) delete subsection (c)

Amendment moved.

For, 5

Against, 5

Abstain, 0

Nick Bourne
David Melding
Mike German
Ieuan Wyn Jones
Jocelyn Davies

Jane Hutt
Christine Gwyther
Ann Jones
Val Lloyd
Leighton Andrews

Casting Vote, 1
Lord Dafydd Elis-Thomas

Amendment defeated.

Amendment 30: proposed by the Welsh Liberal Democrats

Clause 7 Page 4 Line 37

Leave out (5)(c)

Amendment fell.

Amendment 31: proposed by the Welsh Liberal Democrats

Clause 7 Page 5 Line 3

Leave out (6)(c)

Amendment fell.

Amendment 89: proposed by Ieuan Wyn Jones and Jocelyn Davies

Clause 7, page 4, line 36:

Leave out sub-clause (c)

Amendment fell.

Amendment 32: proposed by the Welsh Liberal Democrats

Clause 8 Page 5 Line 8 – Leave out.

Amendment withdrawn.

Amendment 33: proposed by the Welsh Liberal Democrats

Clause 9 Page 5 Line 33 – Leave out. Insert new clause

8. Elections and Franchise

(1) This section applies to elections of members of the Assembly, including by-elections.

(2) Each vote in the poll at an election shall be a single transferable vote.

(3) A single transferable vote is a vote-

(a) capable of being given so as to indicate the voter's order of preference for the candidates for election as members for the constituency; and

(b) capable of being transferred to the next choice when the vote is not needed to give a prior choice the necessary quota of votes or when a prior choice is eliminated from the list of candidates because of a deficiency in the number of votes given for him.

Amendment withdrawn.

Amendment 14: proposed by the Welsh Conservative Group

Clause 11. In para (8)

Delete subsection (b)

Amendment moved.

For, 5

Against, 5

Abstain, 0

Nick Bourne
David Melding
Mike German
Ieuan Wyn Jones
Jocelyn Davies

Jane Hutt
Leighton Andrews
Ann Jones
Val Lloyd
Gwenda Thomas

Casting Vote, 1
Lord Dafydd Elis-Thomas

Amendment defeated.

Amendment 34: proposed by the Welsh Liberal Democrats

Clause 10 Page 6 Line 26 – Leave out

Amendment withdrawn.

Amendment 35: proposed by the Welsh Liberal Democrats

Clause 11 Page 7 Line 9 – Leave out. Insert new clause.

10. Vacancies

(1) The Secretary of State may by order make provision for the filling of vacancies occurring in the Assembly's membership.

(2) Such provision may be made by reference to by-elections or substitutes or recounted votes or such other method of filling vacancies as the Secretary of State thinks fit.

(3) The validity of any proceedings of the Assembly is not affected by any vacancy in its membership

Amendment withdrawn.

Amendment 36: proposed by the Welsh Liberal Democrats

Clause 12 Page 8 Line 6 – Insert new subsection:

(1)(c) Will be sixteen years or over.

Amendment withdrawn.

Amendment 37: proposed by the Welsh Liberal Democrats

Clause 12(1)(a) Page 8 Line 10-12

Insert 'subject to subsection (1)(c)'

Amendment withdrawn.

Amendment 38: proposed by the Welsh Liberal Democrats

Clause 12(1)(b) Page 8 Line 13-14

Insert 'subject to subsection (1)(c)'

Amendment withdrawn.

Amendment 39: proposed by the Welsh Liberal Democrats

Clause 12(2)(a) Page 8 Line 16-17 – Leave out.

Amendment withdrawn.

Amendment 15 – proposed by the Welsh Conservative Group

Clause 16. In para (1) add a new subsection (f) “holds the office of Children’s Commissioner for Wales”.

Amendment withdrawn.

Amendment 94 – proposed by Ieuan Wyn Jones and Jocelyn Davies

Clause 20, page 12, line 25:

Leave out “may”, insert “must”.

Amendment withdrawn.

Amendment 95 – proposed by Ieuan Wyn Jones and Jocelyn Davies

Clause 22, page 13 line 23

At the end add the words “save that different provision may not be made as between constituency Assembly Members and regional Assembly Members”

Amendment withdrawn.

Amendment 16 – proposed by the Welsh Conservative Group

Add new subsection (2) and renumber subsequent subsections accordingly:

“(2) The oath is to be taken (or the affirmation made) in public in the Assembly chamber”.

Amendment withdrawn.

Amendment 96 – proposed by Ieuan Wyn Jones and Jocelyn Davies

Clause 25, page 15, line 29

Delete the word “must” and replace with the word “may” and after the word election insert the words “and must within 21 days of the date of a general election”

Amendment withdrawn.

Amendment 41 – proposed by the Welsh Liberal Democrats

Clause 25(1)(a) Page 15 Line 30 – After ‘a’ insert ‘Acting’

Amendment withdrawn.

Amendment 42 – proposed by the Welsh Liberal Democrats

Clause 25(1)(a) Page 15 Line 30 – Leave out from ‘referred’.

Amendment withdrawn.

Amendment 43 – proposed by the Welsh Liberal Democrats

Clause 25(1)(b) Page 15 Line 32 – Leave out.

Amendment withdrawn.

Amendment 44 - proposed by the Welsh Liberal Democrats

**Clause 25 Page 15 - Insert new subsection (2) (1)The Assembly must, within 28 days following a general election, elect from among the Assembly members—
(a) a presiding officer (referred to in this Act as the “Presiding Officer”), and
(b) a deputy presiding officer (referred to in this Act as the Deputy Presiding Officer”).**

Amendment withdrawn.

Amendment 45 - proposed by the Welsh Liberal Democrats

Clause 25(7) Page 16 Line 11 – Insert new subsection:

(c) different political groups both of which are political groups without and executive role.

Amendment withdrawn.

Amendment 103: proposed by the Welsh Conservative Group

In para (2) subsection (b) delete all and replace with

“One Assembly Member from each political group”.

Amendment withdrawn.

Amendment 46: proposed by the Welsh Liberal Democrats

Clause 27(2)(b) Page 17 Line 15

At end insert ‘not belonging to the same political group.’

Amendment withdrawn.

Amendment 97: proposed by Ieuan Wyn Jones and Jocelyn Davies

Leave out clause 29

Amendment moved.

For, 5

Against, 5

Abstain, 0

Nick Bourne
David Melding
Mike German
Ieuan Wyn Jones
Jocelyn Davies

Jane Hutt
Leighton Andrews
Ann Jones
Val Lloyd
Gwenda Thomas

Casting Vote, 1
Lord Dafydd Elis-Thomas

Amendment defeated.

Amendment 17: proposed by the Welsh Conservative Group

Delete the clause and replace with:

“The composition of committees shall be determined by the procedures set out in Standing Orders and such procedures must generally have the effect of reflecting the overall representation of political groups in the Assembly in the composition of committees”.

Amendment moved.

For, 5

Against, 5

Abstain, 0

Nick Bourne
David Melding
Mike German
Ieuan Wyn Jones
Jocelyn Davies

Jane Hutt
Leighton Andrews
Ann Jones
Val Lloyd
Gwenda Thomas

Casting Vote, 1
Lord Dafydd Elis-Thomas

Amendment defeated.

Amendment 56: proposed by the Welsh Liberal Democrats

Clause 29 Page 18 Line 11 - Page 19 Line 14 (ss(2) – (9) – Leave out.

Amendment moved.

For, 5

Against, 5

Abstain, 0

Nick Bourne
David Melding
Mike German
Ieuan Wyn Jones
Jocelyn Davies

Jane Hutt
Leighton Andrews
Ann Jones
Val Lloyd
Gwenda Thomas

Casting Vote, 1
Lord Dafydd Elis-Thomas

Amendment defeated.

Amendment 55: proposed by the Welsh Liberal Democrats

Clause 29 Page 18 Line 11 – Insert new section (2):

The members of any committee established by the Assembly under subsection (28)(1) (a) shall be elected by the Assembly from among the Assembly members, and (b) shall, unless the committee exists solely to provide advice, be elected so as to secure that, as far as is practicable, the balance of the parties in the Assembly is reflected in the membership of the committee.

Amendment fell.

Amendment 57: proposed by the Welsh Liberal Democrats

Clause 29 Page 18 Insert new section:

(3) The Committees established by the Assembly in 28(1) shall be as far as is practicable chaired by member of political parties in proportion to their member of the Assembly.

Amendment fell.

Amendment 98: proposed by Ieuan Wyn Jones and Jocelyn Davies

Clause 33, page 21 line 22

At the end “The Secretary of State must publish his reasons for deciding that consultation is inappropriate under this sub-section within 21 days of making his decision”

Amendment moved.

For, 5

Against, 5

Abstention, 0

Nick Bourne
David Melding
Mike German
Ieuan Wyn Jones
Jocelyn Davies

Jane Hutt
Gwenda Thomas
Ann Jones
Val Lloyd
Leighton Andrews

Casting Vote, 1
Lord Dafydd Elis-Thomas

Amendment defeated.

Amendment 18: proposed by the Welsh Conservative Group

Clause 33.

Remove the sentence “The Secretary of State can participate by actually attending the plenary session, or by video link” from explanatory notes, page 34.

Amendment withdrawn.

Amendment 99: proposed by Ieuan Wyn Jones and Jocelyn Davies

New Clause:

**“33A. Consultation about representation in European Union institutions.
Within three months of the first Assembly election provided for under this Act, the Secretary of State for Wales must publish a document making proposals for increasing the representation of Wales in the UK Government’s representation within European Union institutions, and consult the Assembly about that document.
Within six months of the first Assembly election provided for under this Act, Her Majesty’s Government shall consider and make decisions concerning increasing the representation of Wales in the UK Government’s representation within European Union institutions.”**

Amendment withdrawn.

Amendment 63: proposed by the Welsh Liberal Democrats

Clause 34(1) Page 21 Line 24

Leave out ‘If not an Assembly Member’

Amendment withdrawn.

Amendment 64: proposed by the Welsh Liberal Democrats

Clause 34(1) Page 21 Line 25

Insert after ‘orders’ ‘but only to provide his legal opinion to Assembly Members’

Amendment withdrawn.

Amendment 65: proposed by the Welsh Liberal Democrats

Clause 34(2) Page 21 Line 27

Leave out ‘if not an Assembly Member’

Amendment withdrawn.

Amendment 114: proposed by the Welsh Liberal Democrats

Clause 49 Page 29 Line 30

At end insert (4)(a) ‘ The First Civil Service Commissioner shall make recommendations to the First Minister on the appointment of the Counsel general when a vacancy occurs in that office.’

Amendment withdrawn.

Amendment 115: proposed by the Welsh Liberal Democrats

Clause 49 Page 29 Line 31

Leave out subsection (5)

Amendment withdrawn.

Amendment 116: proposed by the Welsh Liberal Democrats

Clause 49 Page 29 Line 34

**Leave out ‘First Minister’ and insert ‘Permanent Secretary’
Amendment withdrawn.**

Amendment 117: proposed by the Welsh Liberal Democrats

Clause 49 Page 30 Line 1

Leave out subsection (8)

Amendment withdrawn.

Amendment 118: proposed by the Welsh Liberal Democrats

Clause 49 Page 30 Line 4

Leave out subsection (9)

Amendment withdrawn.

Amendment 100: proposed by Ieuan Wyn Jones and Jocelyn Davies

Clause 35, page 21, line 35:

**Leave out from “so far” to “reasonably practicable” in line 36, and insert -
“save in exceptional cases where it is not reasonably possible to do so”.**

Amendment moved.

For, 5	Against, 5	Abstention, 0
Nick Bourne David Melding Mike German Ieuan Wyn Jones Jocelyn Davies	Jane Hutt Gwenda Thomas Ann Jones Val Lloyd Leighton Andrews	
	Casting Vote, 1 Lord Dafydd Elis-Thomas	

Amendment defeated.

Amendment 101: proposed by Ieuan Wyn Jones and Jocelyn Davies

Clause 36, page 22, line 23

Delete sub-clause (6)

Amendment moved.

For, 5	Against, 5	Abstention, 0
Nick Bourne David Melding Mike German Ieuan Wyn Jones Jocelyn Davies	Jane Hutt Gwenda Thomas Ann Jones Val Lloyd Leighton Andrews	
	Casting Vote, 1 Lord Dafydd Elis-Thomas	

Amendment defeated.

Amendment 102: proposed by Ieuan Wyn Jones and Jocelyn Davies

Clause 37, page 23, line 14

Delete sub-clause (3)

Amendment withdrawn.

Amendment 104: proposed by the Welsh Conservative Group

In para (1) delete 'Assembly Government' and replace with 'Executive'.

Note: If approved, the above amendment will require a Welsh translation of 'Welsh Executive' and consequential amendments will be required throughout the Bill to use 'Welsh Executive' consistently.

Amendment moved.

Report on the Government of Wales Bill
Annex 1

For, 5	Against, 5	Abstention, 0
Nick Bourne, David Melding Mike German Ieuan Wyn Jones Jocelyn Davies	Jane Hutt Gwenda Thomas Ann Jones Val Lloyd Leighton Andrews	
	Casting Vote, 1 Lord Dafydd Elis-Thomas	

Amendment defeated.

Amendment 124: proposed by Ieuan Wyn Jones and Jocelyn Davies

Clause 45, page 27, line 25:

Leave out “Assembly Government, insert “Executive”.

Amendment fell.

Amendment 125: proposed by Ieuan Wyn Jones and Jocelyn Davies

Clause 45, page 27, line 26:

**Leave out “Assembly Government”, insert “Executive”.
Leave out “Cynulliad”.**

Amendment fell.

Amendment 126: Proposed by Ieuan Wyn Jones and Jocelyn Davies

Clause 46, page 28 line 10

Delete (5) and replace with “(5) Where a First Minister is for any reason unable to act or has resigned or the office of First Minister has become vacant the other Ministers shall remain in office until the Assembly nominates a new First Minister; and shall elect one from their number to discharge the functions of the First Minister until such time as a new First Minister is appointed.

Amendment moved.

For, 2	Against, 5	Abstention, 3
Ieuan Wyn Jones Jocelyn Davies	Jane Hutt Gwenda Thomas Ann Jones Christine Gwyther Leighton Andrews	Nick Bourne David Melding Mike German

Amendment defeated.

Amendment 140: Proposed by the Welsh Liberal Democrats

Clause 48, page 29, line 8, at end insert

“(1A) The First Minister shall not seek Her Majesty’s approval for any appointment under this section without the agreement of the Assembly”.

Amendment moved.

For, 5

Against, 5

Abstention, 0

Nick Bourne
David Melding
Mike German
Ieuan Wyn Jones
Jocelyn Davies

Jane Hutt
Gwenda Thomas
Ann Jones
Christine Gwyther
Leighton Andrews

Casting Vote, 1
John Marek

Amendment defeated.

Amendment 127: Proposed by Ieuan Wyn Jones and Jocelyn Davies

Clause 48 page 29 line 12

After “First Minister” add “or by a resolution of the Assembly to that effect.”

Amendment withdrawn.

Amendment 105: proposed by the Welsh Conservative Group

In subsection (5) after “resolves that the” insert “Welsh Minister or the”.

Amendment withdrawn.

Amendment 141: proposed by the Welsh Liberal Democrats

Clause 50, page 30, line 12, at end insert

“(1A) The First Minister shall not seek Her Majesty’s approval for any appointment under this section without the agreement of the Assembly”.

Amendment withdrawn.

Amendment 106: proposed by the Welsh Conservative Group

In subsection (5) after “resolves that the” insert “Deputy Minister or the”.

Amendment withdrawn.

Amendment 107: proposed by the Welsh Conservative Group

Clause 51.

New subsection (2) and renumber existing (2) as (3).

“(2) The number of Welsh Ministers shall not exceed 8 and the number of Deputy Welsh Ministers shall not exceed 5”.

Amendment withdrawn.

Amendment 128: proposed by Ieuan Wyn Jones and Jocelyn Davies

Clause 58, page 34 line 22

Delete “Welsh Ministers” and replace with “Assembly.”

Amendment withdrawn.

Amendment 130: proposed by Ieuan Wyn Jones and Jocelyn Davies

Clause 62, page 36 line 12

After “First Minister” insert “, the Assembly”

Amendment withdrawn.

Amendment 142: proposed by the Welsh Liberal Democrats

Clause 58, page 34, line 22

Leave out “Welsh Ministers” and insert “Assembly”.

Amendment withdrawn.

Amendment 119: proposed by the Welsh Liberal Democrats

Clause 60 Page 35

Leave out lines 23-27 and insert ‘promote or improve the general well being of Wales’

Amendment withdrawn.

Amendment 129: proposed by Ieuan Wyn Jones and Jocelyn Davies

Clause 61, page 36, line 10, at end insert:

“, including the implementation of any of the provisions of the Welsh Language Act 1993.”

Amendment withdrawn.

Amendment 131: proposed by Ieuan Wyn Jones and Jocelyn Davies

Clause 64, page 36, line 39:

Leave out “Welsh Ministers”, insert “Assembly”.

Amendment withdrawn.

Amendment 120: proposed by the Welsh Liberal Democrats

Clause 64 Page 36 line 39

After ‘Ministers’, insert ‘or the Assembly by resolution with a simple majority of those voting.’

Amendment withdrawn.

Amendment 133: proposed by Ieuan Wyn Jones and Jocelyn Davies

Clause 64, page 36, line 41:

After “Welsh Ministers”, insert: “including the pursuance of the provisions of section 33”.

Amendment withdrawn.

Amendment 132: proposed by Ieuan Wyn Jones and Jocelyn Davies

Clause 64, page 36, line 41:

Leave out “(other than that under section 62)”.

Amendment withdrawn.

Amendment 113: proposed by Ieuan Wyn Jones and Jocelyn Davies

Clause 64, page 36, line 42

Add the following words "and for ascertaining the views of those polled as to whether the Assembly act provisions in Part 4 should come into force"

Amendment withdrawn.

Amendment 134: proposed by Ieuan Wyn Jones and Jocelyn Davies

Clause 64, page 37, line 6:

Leave out “Welsh Ministers”, insert “Assembly”.

Amendment withdrawn.

Amendment 108: proposed by the Welsh Conservative Group

New Clause 74 (renumber subsequent clauses)

“74 Voluntary Sector Partnership Council

(1) The Welsh Ministers must establish and maintain a body to be known as the Voluntary Sector Partnership Council”.

Note: We would ask the Assembly’s legal team to draft the other subsections of the clause relating to appointments to the Council, its functions and membership. A similar model to the Partnership Council (local government) would be followed.

Amendment withdrawn.

Amendment 109: proposed by the Welsh Conservative Group

Clause 75.

Delete and replace with

(1) The Welsh Ministers must establish and maintain a body to be known as the Enterprise Council.

(2) The Enterprise Council is to consist of members appointed by the Welsh Ministers from among

(a) the Welsh Ministers

(b) the Deputy Ministers

(c) representatives of business organisations

Note: If the principle of an Enterprise Council is accepted, we would ask the Assembly’s legal team to draft further subsections relating to functions.

Amendment withdrawn.

Amendment 143: proposed by the Welsh Liberal Democrats

Clause 76, page 41, leave out lines 25 and 26 and insert –

“(6) Any Code or any revisions under subsection (5) shall have no effect unless approved by the Assembly”.

Amendment withdrawn.

Amendment 121: proposed by the Welsh Liberal Democrats

Clause 76 Page 41 Line 26

Leave out from ‘must’ and insert ‘have it approved by the Assembly by a simple majority of those voting before it will come into effect’

Amendment withdrawn.

Amendment 135: proposed by Ieuan Wyn Jones and Jocelyn Davies

Clause 77, page 41, line 37, at end insert:

“(3) The assessment referred to in (2) (b) must include an assessment of the effectiveness of those arrangements as regards each “group”, as defined in Part 1 of the Equality Act 2006.

Amendment withdrawn.

Amendment 136: proposed by Ieuan Wyn Jones and Jocelyn Davies

Clause 78, page 41, line 41, at end insert:

“(1A) The sustainable development scheme shall include statements setting out the provisions of any order introduced under subsection 81 (5).

Amendment withdrawn.

Amendment 137: proposed by Ieuan Wyn Jones and Jocelyn Davies

Clause 78, page 42, line 15:

Leave out “Welsh Ministers”, insert “Assembly”.

Amendment withdrawn.

Amendment 122: proposed by the Welsh Liberal Democrats

Clause 78(7) Page 42

**Leave out line 19 and insert
‘(b) have the copy approved by the Assembly by a simply majority of those voting’**

Amendment withdrawn.

Amendment 138: proposed by Ieuan Wyn Jones and Jocelyn Davies

Clause 78, page 42, line 19:

Leave out “Assembly”, insert “Welsh Ministers”.

Amendment withdrawn.

Amendment 123: proposed by the Welsh Liberal Democrats

Clause 117.

Based on the Barnett formula – new clause:

‘(1) The Secretary of State shall appoint a panel of not less than four and not more than six experts to recommend the sums of money to be allocated to the Welsh Consolidated Fund.

(2) The Secretary of State shall publish in full the terms of any recommendations made under subsection (1).

(3) The panel shall have regard to –

(a) the principle of fairness

(b) the principle of transparency

(c) the particular needs of Wales

Amendment moved.

For, 3

Against, 7

Abstention, 0

Mike German
Ieuan Wyn Jones
Jocelyn Davies

Jane Hutt
Gwenda Thomas
Ann Jones
Christine Gwyther
Leighton Andrews
Nick Bourne
David Melding

Amendment defeated

Amendment 144: proposed by the Welsh Liberal Democrats

Clause 124, page 67, line 5, at end insert

“(2A) An annual Budget motion must propose the approval of the amounts of resources requested by the relevant persons mentioned in Section 123 (3) (b) to (d).”

Amendment withdrawn.

Amendment 145: proposed by the Welsh Liberal Democrats

Schedule 10, page 155, line 16, at end insert

“66A In section 1(1) leave out “a” and insert “an Officer of the National Assembly for Wales, to be known as the”. “

Amendment withdrawn.

Amendment 146: proposed by the Welsh Liberal Democrats

Schedule 10, page 155, line 34, at end insert

**“(1A) after subsection (2) (e) insert –
“(ee) the Assembly; “. ”**

Amendment withdrawn.

Amendment 147: proposed by the Welsh Liberal Democrats

Schedule 10, page 156, line 10, after “Wales” insert “(or, in the case of a report made in respect of the National Assembly for Wales Commission, the Presiding Officer)”.

Amendment withdrawn.

Jane Hutt AM

**Minister for Assembly Business, Equalities and Children
Y Trefnydd a'r Gweinidog dros Gydraddoldebau a phlant**

Our ref/ Ein cyf:
Your Ref/ Eich cyf:

**Cardiff Bay/Bae Caerdydd
Cardiff/Caerdydd
CF99 1NA**

Lord Dafydd Elis-Thomas AM
Chair
Government of Wales Bill Committee
National Assembly for Wales
Cardiff
CF99 1NA

2 March 2006

ASSEMBLY COMMITTEE ON GOVERNMENT OF WALES BILL

The Committee has raised a number of issues on which I have agreed to respond.

Amendment 2 – Scheme for Parliamentary Legislative Provisions

Amendment 2 proposed a requirement that the Secretary of State draw up a scheme setting out the arrangements that the UK Government proposes to make in order to provide definitions of the scope of framework powers conferred on the Assembly by Acts of Parliament. I have considered the issue and whilst we understand the sentiments behind the amendment we do not believe that a statutory scheme is necessary.

In further clarification of our response the Devolution Guidance Note was updated following the publication of the White Paper, "Better Governance for Wales" to reflect the Government's commitment to the use of framework powers. The guidance has been issued to all government departments and is available on the Wales office, Assembly and Department for Constitutional Affairs' websites. The Department of Constitutional Affairs will update this after the Government of Wales Bill is enacted.

Amendment 4a – New Schedule 5

Amendment 4a proposed to delete Schedule 5 and replace it with a provision similar to that in the Scotland Act 1978. Whilst the amendment replicated the Schedule from the Scotland Act, the principle behind the amendment was clear.

The First Minister and Secretary of State set out the reasons for taking the approach in Schedule 5 of the Bill in their written evidence to the Welsh Affairs Committee (Annex 2 – Copy enclosed).

For the reasons detailed in that Annex, we see no reason to change the approach that has been adopted.

Amendment 9 – Standing orders in relation to Assembly Measures

At the meeting on 25th January I gave an assurance that we were content for the Standing Orders to make provision to protect a set amount of time for private members legislation. I am happy to repeat that assurance.

You also asked for clarification on why the Bill provides for the Counsel General to be able to put forward an Assembly Measure (Clause 96(1)(a)). Although the Counsel General will not from the outset have functions in respect of which he or she might be able to propose an Assembly Measure, the Counsel General will nevertheless be a member of the Welsh Assembly Government (albeit one without a vote, if not an Assembly Member). The Bill has to cater for circumstances which might arise whereby a member of the Welsh Assembly Government would seek to bring forward a proposed Measure relating to their functions. Including the Counsel General among those who may propose an Assembly Measure is a prudent provision to cover a possible future eventuality.

Amendment 12 – Children’s Commissioner

I agreed to clarify the reference to the Children’s Commissioner in Schedule 7, paragraph 15 of the Bill. I can confirm that this reference is to the Children’s Commissioner for England which was established by the Children Act 2004. the Children’s Commissioner for Wales was established by the Children’s Commissioner for Wales Act 2001 and the Care Standards Act 2000. Consequently I am able to reassure the Committee that legislation relating to the Children’s Commissioner for Wales would be within the competence of the Assembly.

Amendment 95 – Salary provision for Assembly Members

At the meeting on 1st February Ieuan Wyn Jones raised a query was about why the Assembly appeared to have discretion over Assembly Members' salaries.

Clause 20 says that the Assembly must make provision for the payment of salaries to Assembly Members. Clause 22 (1) says that different provision may be made under Section 20 or 21 "for different cases".

This gives the Assembly discretion, for example, to pay different salaries to the Presiding Officer, Deputy Presiding Officer and members holding other positions. There is similar provision in Section 83 (5) of the Scotland Act 1998. This is an Assembly power, not a power of the Welsh Ministers.

Amendment 45 – Election of Presiding Officer and Deputy Presiding Officer

There was also a query about the appointment of the Presiding Officer and the requirement in Clause 25 (7) that the Presiding Officer and Deputy Presiding Officer must not belong to the same political group or to political groups both of which have an executive role.

Clause 25 of the Bill requires the Assembly to elect a Presiding Officer and Deputy Presiding Officer at its first meeting following a general election. Paragraph 2 of Schedule 11 to the Bill confirms that this meeting must be held within 7 days after the May 2007 election. Paragraph 15 of Schedule 11 confirms that Clause 25 (1) applies following the May 2007 election.

For the “initial period” – that is, the period from the day of the May 2007 poll to the day when the First Minister of the Welsh Assembly Government is appointed – the question of whether the Presiding Officer and Deputy Presiding Officer both belong to a political group with an executive role will not be an issue as far as Clause 25 (7) of the Bill is concerned: it will not come into operation until the First Minister and Welsh Ministers have been appointed, under Clauses 46 and 48.

If, following the appointment of the First Minister and Welsh Ministers, it did become apparent that both the Presiding Officer and the Deputy Presiding Officer were members of a political group with an executive role, then they would have to take action to comply with Clause 25 (7). This action could consist of one or other of them resigning from the role or they could seek a resolution under Clause 25 (9) to disapply the rule. The same would apply in any future circumstance where the Presiding Officer and Deputy Presiding Officer found themselves in the same situation.

Amendment 108 – Consultation with the voluntary sector

As promised at the last meeting I have met with representatives of the voluntary sector to discuss the Voluntary Sector Partnership Scheme. The Bill provides that the Assembly Government will inherit the current scheme following the separation in May 2007. I gave assurances to the voluntary sector that the current Welsh Assembly Government would, if re-elected, continue to maintain the Voluntary Sector Partnership Council as part of the scheme.

Whilst not being able to agree the proposal to put the Voluntary Sector Partnership Council on a statutory footing, I agreed to discuss these arrangements further with voluntary sector spokespersons in the National Assembly for Wales.

We also discussed the success of the Council since its establishment and the need to maintain the best elements of the Council within the new constitutional framework.

Amendment 109 – Consultation with business

At the Report Stage of the Bill in the House of Commons the Government accepted an amendment which would place a statutory requirement on the Welsh Ministers to make a scheme setting out how they intend to take account of the effect upon the interest of business, in the exercise of their functions, as well as how they intend to

consult business organisations, including trade unions. This replaces the current requirement on the Assembly to consult with business organisations. We welcome the amendment and we look forward to building on the positive working relationship we have established with business and trade unions.

As with the voluntary sector, we do not think that it is necessary to have a statutory requirement for a business council. The only statutory partnership council is with another tier of government, local government, and that is an important distinction between partnership councils and the consultation schemes which should be maintained.

Amendments 146 and 147 - Public Services Ombudsman for Wales

These amendments, through amending Schedule 10, would make consequential amendments to the Public Services Ombudsman (Wales) Act 2005.

Amendment 146

The effect of amendment 146 would be to list the Assembly as an appropriate person under section 16 of the 2005 Act, so that the Ombudsman would be required to send to the Assembly all full reports of investigations into complaints against listed authorities.

Having had the opportunity to consider this further, I cannot see any reason why there should be a requirement to send copies of these reports to the Assembly.

I appreciate that the First Minister will be an appropriate person for these purposes, but the First Minister, as part of the Welsh Assembly Government, is in a different position to the Assembly. Listed authorities such as local authorities and various NHS bodies, for example, are funded by the Welsh Assembly Government. As a result, the Government has a direct interest in ensuring that these bodies carry out their functions efficiently.

Even though the Ombudsman will not be required to send copies of reports to the Assembly, Assembly Members will be able to access reports which are of interest to them. Listed authorities must make full reports of investigations into complaints against them available to the public when they receive them (for a period of at least three weeks) - on their website if they have one, and also at their offices. Any Assembly Member could pick up on these reports, or have them drawn to their attention by constituents, and they could also request copies of reports under section 16(5) of the 2005 Act.

Further, the Ombudsman can send a copy of a report to any person he thinks appropriate. If an investigation raises issues which the Ombudsman considers should be brought to the particular attention of the Assembly then he can, and I am sure he will, do so.

Finally, there is a mechanism for ensuring that the Assembly will be informed where the Assembly Government or Assembly Commission, as listed authorities, have not responded in a satisfactory way to an Ombudsman report. Where a report relates to

an investigation into a complaint against the Welsh Assembly Government or Assembly Commission, and the Government or Commission have not responded in a way which is satisfactory to the Ombudsman, the Ombudsman can issue a special report - and this special report must be laid before the Assembly. The detail of this mechanism for laying special reports before the Assembly is the subject of amendment 147.

Amendment 147

This makes a consequential amendment to section 24 of the Public Services Ombudsman (Wales) Act 2005.

Its effect would be that, where a special report has been made in relation to a complaint against the Assembly Commission, then it is for the Presiding Officer rather than the First Minister to lay a copy of the report before the Assembly, and also (unless action to the satisfaction of the Ombudsman has been taken or proposed) to give the Assembly notice of intention to move that the Assembly resolve to approve the recommendations in the special report.

I can see why this amendment was proposed, so that the responsibility for laying the special report lies with the Presiding Officer in the case of a report against the Assembly Commission.

However, I am not sure that this amendment is necessary. Section 24(2) and (3) of the 2005 Act merely set up a mechanism to ensure that a special report relating to the Welsh Assembly Government or the Commission is laid before the Assembly. There is no discretion involved. Therefore, in the case of a special report against the Assembly Commission, whether it is laid before the Assembly by the First Minister or the Presiding Officer, the end result would be the same.

Finally, there were a number of other assurances I gave the Committee which will now be on record and I am happy to re-iterate those assurances.

Annex 3

Rt Hon Peter Hain MP
Secretary of State for Wales
Gwydyr House,
Whitehall,
London SW1A 2ER

Committee on the Government of Wales Bill
Y Pwyllgor ar Fesur Llywodraeth Cymru

Bae Caerdydd / Cardiff Bay
Caerdydd / Cardiff CF99 1NA

8 March 2006

Committee on the Government of Wales Bill

The Committee has asked me to write to you concerning Clause 16 of the Government of Wales Bill.

Members agreed on the principle that the person holding the office of Children's Commissioner for Wales should be disqualified from being an Assembly Member.

It might be appropriate for this to be effected through Clause 16(1), although Members agreed that there may be other mechanisms within the Bill which could be used to achieve the same outcome.

I have attached the transcript of the Committee's discussion on this subject for your convenience and look forward to receiving your response in due course.

Yours Sincerely,

Y Gwir Anrh yr Arglwydd Dafydd Elis-Thomas CG AC
Llywydd
The Rt Hon the Lord Dafydd Elis-Thomas PC AM
Presiding Officer

Extract from verbatim report of Committee on Government of Wales Bill - 1/02/06
[826] **David Melding:** I propose amendment 15.

Clause 16, paragraph (1), add a new subsection (f):

'holds the office of Children's Commissioner for Wales'.

We believe that the children's commissioner should be excluded or disqualified from election. This would also apply in principle to the older person's commissioner. These are offices of great distinction that are there to comment on public affairs, therefore, you can reasonably expect people who take that role, as some of the other office holders that are listed, not to be active in the political process. If they are active, it would diminish their office, even if they were to resign, because there would be a suspicion that they prepared for political life in some way through the exercise of that office. We would add the children's commissioner to the list of disqualified persons.

Gwenda Thomas: I completely agree that this is a desirable end, but I do not think that this is the way to do it. There are two ways of doing it and the Bill allows for one of them. The first one would be to include the requirement that the children's commissioner could not be an AM in his or her contract of employment. The second is that clause 12(5) of the Bill allows for specific offices to be designated as ones that the holding of which does not permit membership of the Assembly.

Mr Rawlings: It is clause 16(5).

Gwenda Thomas: It is clause 16(5). Therefore there is no need to amend the Bill in order to achieve the principle of what David is saying.

Nick Bourne: I thank Gwenda for those comments, but, with respect, I think that we could turn that on its head. The Order in Council procedure is perhaps for offices that are not yet in being, which will come in subsequently, when you will need to deal with them without an amending statute. Where we have the Act, there is no reason why we cannot add to the list at this stage, given your expressed support, which we welcome. You would then not need to use the Order in Council procedure. Are we agreed that it is a reasonable end? I think that it is desirable that those office holders are not in the political arena.

Gwenda Thomas: I agree that it is a desirable end, but I do not see that it necessitates the amending of the Bill. I think that the Bill is flexible enough to allow for that.

David Melding: I do not doubt the voracity of what we are being told, but I find it strange that we are being told that it is all right because clause 16(5) has been designed for this purpose. It is a bit like going from Cardiff to Newport via Wrexham again. Why on earth can we not just put it in with the list of disqualified offices? Come on. This smacks of your wanting this Bill to go through in a state of complete virginity when it comes to altering it or not. We have not had any response from the Government on any amendment. I find that we are battering against the Atlantic wall here and there is no give.

[827] **Nick Bourne:** There is a serious issue here. We are here to look at the Bill in terms of suggesting amendments. We have been met with a barrage of stone walls on political issues, which I can understand, but when it comes to an issue on which there is expressed agreement, it raises the question of why we are sitting here scrutinising this Bill, if we hear from the Government that it agrees with the point, but it does not want to amend the Bill. If the Minister wants to tell us now that she is not going to give way on any of the proposals, we might as well say that they are all tied five-five and all with a casting vote and give up here and now. There is not much purpose going through this Bill if—

[828] **Leighton Andrews:** Fine with me.

[829] **Nick Bourne:** There is a serious point here, Leighton. I do not think that it is amusing. This is a serious issue. Generally in committee, on these occasions—I speak with experience of the review of Assembly procedure and so on—there has been a consensual approach to issues that are not party

Report on the Government of Wales Bill
Annex 3

political. This cannot be seen as a party-political issue. You agree with it and yet we are meeting a stone wall, as you are saying that you do not want to amend the Bill. Is that going to be the attitude to every proposal that we put forward? It has been up until now.

6.40 p.m.

[830] **Gwenda Thomas:** On the contrary, I do not see that there is a need to vote for an amendment just for the sake of amending the Bill. I believe that, on this issue, the Bill is flexible enough to allow the principle of what you are saying, which I think is desirable, but I still do not see that we need to amend the Bill.

[831] **Ieuan Wyn Jones:** Let us talk about the current commissioner—I will not name him, but there is a person in post. There is no provision in his contract to prevent him from being an Assembly Member.

[832] **Jocelyn Davies:** We do not know that.

[833] **Ieuan Wyn Jones:** No, we do not, but, for the purposes of this little debate, we can take it that there is not. Let us assume, for the sake of argument, that that person wants to become a candidate for a political party. There is nothing in his contract that says that he cannot, but we have all agreed that that should not happen. What Gwenda is saying is that the Secretary of State would then turn around and say, 'Let us pass an Order in Council to prevent him'. That is a ridiculous way of doing it, because we all agree that he should not be a candidate and yet this poor person does not know that we do not want him to be a candidate. He could make a perfectly reasonable assumption that, because he is not disqualified, he can be a candidate, but the Secretary of State would come down on him like a tonne of bricks. Why do we not make it perfectly clear in the Bill that he cannot be a candidate? What could be more reasonable than that?

[834] **Gwenda Thomas:** We would need to think long and hard about that Order in Council, because I do not think that it would be confined to the children's commissioner. We will be appointing a commissioner for older people and I know that there are other offices that are probably covered in any case. I had to give up membership of the Lord Chancellor's advisory committee, for example, before becoming a candidate for the National Assembly. So this is not a new principle, and I believe that that Order in Council would have to cover offices other than that of the children's commissioner and would be a very useful way of doing that, having thought long and hard about the provisions of the Order in Council.

[835] **David Melding:** If we write it into clause 16 now, that Order in Council would be strengthened if other offices were created—and that seems likely in terms of the older persons' commissioner—because the precedent would be established in the Bill. This law comes into force from 2007, when, I believe, the present commissioner's term is up, and he is only entitled to one term of seven years, so we could be recruiting someone who still, technically, has a right to seek public office, unless we put this in here. This is obviously the most direct way to get this principle accepted and I hope that, even at this late hour, the Minister will give ground.

[836] **Jane Hutt:** I wanted to go back to the point that Nick made, because we do not, in any way, want to undermine what is coming forward in terms of amendments and the opportunity for discussion. We are new to this, are we not?

[837] **Nick Bourne:** No, not really; we have had this in other committees.

[838] **Jane Hutt:** It is very helpful for us to be able to discuss these amendments, cross-party, as we are doing, and for the Government to hear them.

[839] The point of principle is about how we use this Bill and legislation. That is the point that Gwenda has made. We have provisions in this Bill and, in so many cases, we have been saying that we want less on the face of the Bill and more for us to be able to implement. There are amendments further on regarding issues that we think Standing Orders will address, so we will not have to amend the face of the Bill in those regards. That will probably emerge in the discussion later on. So, it is about how we use

this legislation. This requires some consideration. We have not considered it, it has not come up in the Assembly before, and we need to give it consideration, probably in the lead-up to the new appointment, and I think that Hugh would say that we will have to have a new Order in Council anyway in relation to those public offices that we have in place. Therefore, it would be premature to amend this when we have not been through that process. That would be the reason for voting against this.

[840] **Michael German:** It always strikes me that if you go to a court of law or you create a rule or a law that has the effect of pointing the finger at any one individual, it is always a dangerous provision to follow because, essentially, it looks as though it has been done specifically for that person, rather than the post that that person holds. I accept Gwenda's point that there may well be other posts that we do not know about, but we seem to have come up with one post where I would suggest there is uniformity of view as to whether this postholder should be eligible to be a candidate. If the circumstances arise, would you want to go through the process of asking for an Order in Council when that person was in post and had made it clear that he or she wanted to be a candidate for the election? You then create a debate about that person, not the postholder. It is the post of the children's commissioner—which I think we all want to see as an independent post and able to be outside the world of politics—that has been sought here.

[841] Therefore, while I accept that there may be others, this is one post on which we quite clearly have a view, and I do not see why it could not be included in the list, with the Order-in-Council process to be used for ones that we do not know about or that no-one has thought about at the present time.

[842] **Nick Bourne:** I agree entirely with what has been said there. However, to come back on what the Minister has said, in a sense, we have templates for what we are doing today, perhaps not on a Bill, but there has been cross-party working. The National Assembly Advisory Group, and the Assembly review of procedures, are both examples of when there was cross-party agreement on issues. The advisory group was before the Assembly was created, but there was cross-party working on it, as there was on the Assembly review of procedure in the first Assembly, and where, on occasion, there was all-party consensus. There appear to be, and I note that you, Minister, have said, warm words on this, but it will be much more impressive if it is backed up by some action. So far, you have resembled a night watchman at the crease, content with blocking the ball and perhaps not scoring many runs, but determined not to give way on any issue at all, even those that cannot be said to be in any way politically partisan. This is one of them.

[843] Therefore, if I may speak on behalf of the opposition parties, I suspect, I feel that we are going through this Bill and scrutinising important issues, only to find that a decision has been taken that you are not going to give way on anything. Once you have given way, I will find it much more impressive that you are determined to work in a cross-party way on some of these issues at least.

[844] **Jane Hutt:** All that I can is that we are rather constrained by the amendment process. We had this a short while ago. We believe that this would be a desirable objective, but it is a case of what is the right route and mechanism to achieve it—we do not feel that that is to be achieved through amending the Bill. However, I would be happy to agree that this committee could say to the Secretary of State that it felt that it was desirable, and that we would like him to consider the best mechanism. That means amending your amendment slightly, but I think that we would be happy to say that we see that this is desirable, that we would like this to be in our report on this committee's deliberations and would like the Secretary of State to consider the best mechanism to achieve this.

[845] **The Presiding Officer:** If it is helpful to the committee, I had originally envisaged that the report might take the form of recommendation for amendment. However, there is nothing to prevent us from reporting in whichever way we want. Therefore, if we want to report certain more firmed-up proposals, which are recommendations for amendment, and others that are, as it were, messages to the Secretary of State, there is nothing to prevent us from doing that.

[846] **Nick Bourne:** I welcome the Minister's suggestion. It has given some ground, and is at least a move in the right direction. I regret that it does not go further, but it is at least some ground.

[847] **The Presiding Officer:** Therefore, is the amendment withdrawn?

6.50 p.m.

[848] **David Melding:** Subject to the report saying that one way of securing the independence of the office would be to add to the list under clause 16(1), or to use another mechanism. Provided that that is expedited, and provided that there is a possibility of that amendment, without it being exclusively the case, we can, in light of the Minister's remarks, withdraw the amendment.

[849] **The Presiding Officer:** Before the amendment is withdrawn, are there any other comments?

[850] **Leighton Andrews:** Broadly, we are all seeking the same objective, but I wish to advance one argument. In this clause, there are two posts designated—the Auditor General for Wales and the Public Services Ombudsman for Wales—that, in a sense, are roles that are somewhat different, given their generality, to those of, say, the children's commissioner or the commissioner for older people. I would not necessarily want to include those positions in the Bill in the same way. Gwenda has advanced perfectly legitimate ways of carrying this out. There is a particular status for the auditor general, and Members who sit on the Audit Committee will understand what I mean by that. The more you broaden the roles in the Bill, the more you are in danger of producing a long list and, ultimately, weakening the special status of those two roles.

[851] **David Melding:** With respect, that is an argument not to disqualify the children's commissioner. Although you can make that argument, I do not think that that would reflect the consensus that has emerged here.

[852] **The Presiding Officer:** Before we lose sight of what I thought was a chink of agreement, perhaps the best approach, if we do not have agreement for a recommendation to amend, would be for me to write to the Secretary of State and circulate the draft to all committee members. Would that be appropriate?

[853] **David Melding:** I think that what we want is to say that one way of doing it would be to add to the list, and that another way would be to have an Order in Council. I think that we can live with that.

[854] **The Presiding Officer:** We will come back to this when we come to look at our report. We will add to that a draft letter to the Secretary of State. So, amendment 15 is withdrawn. We move to amendment 94, with which it would be convenient to take amendment 95.

Committee on the Government of Wales Bill

Dates of Meetings

Date	Meeting reference
Tuesday 24 January 2006	GWB(2)-01-06
Wednesday 25 January 2006	GWB(2)-02-06
Monday 30 January 2006	GWB(2)-03-06
Wednesday 1 February 2006	GWB(2)-04-06
Wednesday 8 February 2006	GWB(2)-05-06
Tuesday 14 February 2006	GWB(2)-06-06
Monday 6 March 2006	GWB(2)-07-06
Thursday 9 March 2006	GWB(2)-08-06

Transcripts of these meetings are available at:

<http://assembly/rop/ROP/Committees/GWB/GWB.htm>

