

LEGISLATIVE CONSENT MEMORANDUM LOCALISM BILL

Supplementary Legislative Consent Motion

1. “That the National Assembly for Wales, in accordance with Standing Order 29.6, agrees that, in addition to the provisions referred to in motions NNDM4642, NNDM4722 and NNDM4785, those further provisions which have been brought forward in the Localism Bill relating to Compulsory Purchase Order Planning Assumptions, Ground 16 of Schedule 2 to the Housing Act 1985 and Assets of Community Value in so far as they fall within the legislative competence of the National Assembly for Wales, should be considered by the UK Parliament.”

Background

2. The Legislative Consent Motion at paragraph 1 above has been tabled by Carl Sargeant AM, Minister for Local Government and Communities, under Standing Order 29.6 of the Standing Orders (SO) of the National Assembly for Wales (the National Assembly). This Legislative Consent Memorandum is laid under SO 29.2. SO 29 prescribes that a Legislative Consent Motion must be tabled, and a Legislative Consent Memorandum laid, before the National Assembly if a UK Parliamentary Bill makes provision in relation to Wales, for a purpose within the legislative competence of the National Assembly.

3. The Localism Bill (the Bill) was introduced on the 13th December 2010. The Bill can be found at: <http://services.parliament.uk/bills/2010-11/localism.html>

Summary of the Bill and its Policy Objectives

4. The Bill is sponsored by the Department for Communities and Local Government. It is the UK Government’s aim that the Bill is to devolve greater powers to councils and neighbourhoods in England, give local communities control over decision making, including through the use of financial incentives, and is a key piece of legislation that affects a wide range of existing housing and local government legislation. As town and country planning is devolved, the planning provisions within the bill primarily relate to England.

5. The Localism Bill has already been the subject of Legislative Consent Motions (NNDM4642, NNDM4722 and NNDM4785) in the National Assembly, where the National Assembly gave its consent for the relevant provisions of the Bill, in so far as they fell within the competence of the National Assembly, to be considered by Parliament.

6. The Memoranda that accompanied those Motions are attached at **Annexes 1 – 3**.

Further provisions which require the consent of the National Assembly and policy objectives.

7. Since the time of introduction of the Bill in December 2010, the UK Government has introduced a number of further provisions by way of Government amendments.

8. Compulsory Purchase Order Planning Assumptions: These provisions are largely technical in nature and aim to change the underlying principles for assessing compensation for landowners whose land has been subject to compulsory purchase. The amendments propose changes to sections 14 – 21 of the Land Compensation Act 1961. The reforms change the planning assumptions used when assessing compensation, which are currently predicated on the development plan system created by the Town and Country Planning Act 1959 and which are now considered to be complex and out of date. The reforms aim to achieve fairer awards and easier determination for claimants and local planning authorities. The reforms are based on Law Commission recommendations and are promoted by a number of relevant professional bodies, including the Compulsory Purchase Association and Royal Institution of Chartered Surveyors in Wales.

9. It is the view of the Welsh Government that the provisions referred to in paragraph 8 fall to some extent within the National Assembly's legislative competence as set out in paragraph 18 (town and country planning) of Schedule 7 to the Government of Wales Act 2006. They also fall to some extent within a number of other subjects in Schedule 7, for the purposes of which changes to the law of compulsory purchase could be made, including highways, transport facilities and services, and economic regeneration and development (paragraphs 10 and 4 of Schedule 7).

10. Ground 16 of Schedule 2 to the Housing Act 1985: These provisions aim to address a defect in the current legislation. Ground 16 currently states that, if a tenant succeeds to a secure tenancy of a dwelling that is bigger than is reasonably required by him/her, the local housing authority landlord can serve notice to seek possession. Ground 16 is only available if the successor tenant was not the spouse or civil partner of the deceased tenant. The landlord must also offer a more suitably-sized home, so the tenant will not be made homeless. This ground is discretionary, i.e. the Court can refuse the application, if they consider it is unreasonable. The process has to be started between six and twelve months after the death of the original tenant.

The amendment would mean that a court could decide whether the time period for moving the successor tenant is deemed to have started six months after the death of the original tenant or six months after the date on which the landlord became aware of the death, if later. The intention behind the amendment is to allow the time period to start later if there was a delay in the landlord becoming aware of the tenant's death. This stems from a case in the Court of Appeal involving Newport City Council in 2008 where the tenant's son had failed to notify the local authority of the original tenant's death until

after the 12 month window had passed. The court decided that, under the current law, the son had the right to succeed to the tenancy automatically.

11. It is the view of the Welsh Government that the provisions referred to in paragraph 10 fall within the National Assembly's legislative competence as set out in Subject 11 (Housing) of Schedule 7 to the Government of Wales Act 2006.

12. Assets of Community Value: These provisions aim to amend clauses in Chapter 4 of Part 4 of the Bill so as to move onto the face of the Bill provision which as currently drafted is to be implemented through regulations, in order to address concerns raised in Lords Committee. The main amendments are:

Amendments 202B to 202F – amend clause 76 (land of community value) so as to put a definition of land of community value on to the face of the Bill and retain a regulation-making power to enable land to be excluded from being land of community value.

Amendments 202G to 202K – amend clause 77 (procedure for including land in list) to provide that land can be included in the list only in response to a community nomination or where permitted by regulations, to remove the power to specify in regulations persons who may make community nominations, to remove the ability of local authorities to include land in the list by acting on its own initiative, and to add local voluntary and community bodies with a local connection to those who may make community nominations.

Amendment 202L and 203 – amendment 202L amends clause 79 (notice of inclusion or removal) to provide that where it is not reasonably practicable to give notice as required under subsection (2), a local authority must take reasonable alternative steps to bring the notice to the person's attention and amendment 203 removes the regulation power to make further provision under subsection (2).

Amendments 203A and 203B – clause 81 (unsuccessful community nominations) is amended to provide that land may be removed from the list of unsuccessful nominations after 5 years and to remove the regulation making power in subsection (4) allowing further provision to be made about the list.

Amendment 203C – clause 82 (publication and inspection of lists) is amended by removing the regulation-making power in subsection (2) to make provision about the duty to publish lists under subsection (1).

Amendment 203D – clause 83(5) (moratorium) is amended so as to list on the face of the Bill a number of types of disposal to be exempt from the moratorium requirements in subsection (1).

Amendments 203E to 203G – clause 83 (6) amended so as to put the moratoriums on the face of the Bill.

Amendment 203H –new subsections (6A) and (6B) inserted to provide definitions of terms in (5).

Amendment 203J - clause 83 - removes the delegated power to prescribe moratorium periods.

13. It is the view of the Welsh Government that the provisions referred to in paragraph 12 fall within the National Assembly's legislative competence as set out in subject 12 (local government) in Part 1 of Schedule 7 to the Government of Wales Act 2006. The Assembly also has competence for economic development, which includes the social development of communities.

14. As the proposed amendments to the Localism Bill go beyond the consent previously given by the National Assembly, a further Legislative Consent Motion is required under SO 29. The tabled amendments may be accessed on the Parliamentary website at: <http://services.parliament.uk/bills/2010-11/localism.html>

15. These amendments to existing clauses in the Bill and the new clauses will give effect to the following:

a) **Compulsory Purchase Order Planning Assumptions:** The effects of the amendments are:

- The reforms change the planning assumptions when assessing compensation so that they are considered from the valuation date, effectively the present, rather than the date on which the notices were given. This would avoid local planning authorities having to reconstruct the planning landscape from 10-15 years before the valuation date.
- The proposals remove the wartime rebuilding rights for buildings destroyed in the war or in existence in 1948 from planning assumptions which has led to cases where local authorities have been forced to pay significantly more than the land is worth.
- Local planning authorities will be able to charge a fee for issuing Certificates of Appropriate Alternative Development (CAAD), used for the purposes of assessing compensation.
- Appeals against CAADS are currently determined by Welsh Ministers. The new clause provides that appeals would be determined by the Upper Tribunal (Lands Chamber). It will enable the Upper Tribunal to combine appeals against CAADS with the determination of compensation in a single action.

b) **Ground 16 of Schedule 2 to the Housing Act 1985:**

- The amendment would mean that a court could decide whether the time period for moving the successor tenant is deemed to have started six months after the death of the original tenant or six months after the

date on which the landlord became aware of the death, if later. This would effectively rectify a defect in the current legislation.

c) Assets of Community Value:

- The main effect of the amendments to clauses 76, 77, 79, 81, 82 and 83 is to place on to the face of the Bill provision that was previously left to regulation, in order to address concerns raised in the Lords Committee.
- Thus clause 76 is amended so as to put the definition of land of community value on the face of the Bill and to exclude ancillary use of land from the definition. A regulation-making power is retained to enable land to be excluded from being land of community value. Clause 77 is amended so as to remove the ability for land to be included in the list by a local authority acting on its own initiative. The power in clause 77 to specify in regulations other persons who may make community nominations is removed and instead provision is made to permit voluntary or community bodies with a local connection to make community nominations.
- The effect of the amendments to clause 79 (notice of inclusion or removal) is to ensure that where it is not reasonably practicable to give notice as required under subsection (2), a local authority must take reasonable alternative steps to bring the notice to the person's attention and also to remove the delegated power in subsection (2).
- The effect of the amendments to clause 81 (unsuccessful community nominations) is to provide that land may be removed from the list after 5 years and to remove the regulation making power in subsection (4).
- The effect of the amendment to clause 82 (publication and inspection of lists) is the removal of another regulation-making power.
- The effect of the amendments to clause 83(5) (moratorium) is to put on the face of the Bill a list of relevant disposals to be exempt from the moratorium requirements.
- The effect of the amendments to clause 83 (6) and (7) is to remove the regulation making power to prescribe moratorium periods and put them on the face of the Bill.

16. This Legislative Consent Memorandum has therefore been laid, and the Legislative Consent Motion tabled before the National Assembly for consideration.

Advantages of utilising this Bill

17. It is the view of the Welsh Government that it is appropriate to deal with these provisions in this UK Bill as it represents the most appropriate and

proportionate legislative vehicle to enable these provisions to apply in Wales at the earliest opportunity.

Financial Implications

18. There are no anticipated financial implications for the Welsh Government of the relevant provisions of the Localism Bill which cannot be absorbed as part of existing obligations.

Carl Sargeant AM
Welsh Minister for Local Government and Communities
September 2011

ANNEX 1

LEGISLATIVE CONSENT MEMORANDUM

LOCALISM BILL

Legislative Consent Motion

1. “To propose that the National Assembly for Wales, in accordance with Standing Order 26.4, agrees that provisions relating to local government pay accountability, the abolition of the duty to promote local democracy, the abolition of the petitions duty, the discharge of homelessness duties into the private rented sector and the Tenant Services Authority reform in Parts 1 and 6 of the Localism Bill (“the Bill”), as introduced into the House of Lords on 13th December 2010, in so far as they fall within the legislative competence of the National Assembly for Wales, should be considered by the UK Parliament.”

Background

2. The Legislative Consent Motion at paragraph 1 above has been tabled by Carl Sargeant AM, Minister for Social Justice and Local Government, under Standing Order 26.4 of the Standing Orders (“SO”) of the National Assembly for Wales (the “National Assembly”). This Legislative Consent Memorandum is laid under SO 26.2. SO 26 prescribes that a Legislative Consent Motion must be tabled, and a Legislative Consent Memorandum laid before the National Assembly, if a UK Parliamentary Bill makes provision in relation to Wales for a purpose that falls within the legislative competence of the National Assembly, or has a negative impact on that competence.
3. The Localism Bill was introduced into the House of Lords on the 13th December 2010. The Bill can be found at:

<http://services.parliament.uk/bills/2010-11/localism.html>

Summary of the Bill and its Policy Objectives

4. The Bill is sponsored by the Department for Communities and Local Government. It is the UK Government’s aim that the Bill is to devolve greater powers to councils and neighbourhoods, give local communities control over decision making, including through the use of financial incentives, and is a key piece of legislation that affects a wide range of existing housing, planning and local government legislation.
5. The Bill contains provisions to enable the empowerment of local people, the freeing of local government from central and regional control, provision of a share in local growth for local communities and a more efficient and local planning system.

Provisions in the Bill for which consent is sought

6. Clauses 21 to 26 of the Bill (**Local Government Pay Accountability**): These provisions aim to increase the transparency of local authority spending on staff in order to aid public understanding and lead to efficiency savings. The provisions require authorities to develop and publish an annual policy on senior officers pay. The senior officers to be covered by the provisions are those appointed upon joint negotiating committee (JNC) terms and conditions. The proposals will apply to principal councils and fire and rescue authorities in Wales.
7. The provisions within the Bill relating to senior officers' pay policy statements fall within the legislative competence of the National Assembly as provided for within Matter 12.5(a) of Schedule 5 to the Government of Wales Act 2006 ("GoWA 2006") as they relate to "the making of arrangements by relevant Welsh authorities to secure improvement in the way in which they exercise their functions", namely the way in which they determine the terms and conditions of their senior members of staff.
8. Clauses 27 and 28 of the Bill (**Abolish the duty to Promote Local Democracy and Abolish Petitions Duty**): These provisions within the Bill repeal the duties placed on local authorities within the Local Democracy, Economic Development and Construction Act 2009 (the 2009 Act) to provide facilities for making petitions, and to promote democracy. The relevant sections of the 2009 Act are yet to be commenced in Wales, and have only been brought into partial force in England.

The petitions sections of the 2009 Act require local authorities to make, publicise and comply with a scheme for handling both paper and electronic petitions, and place duties upon them regarding the provision of facilities for the submission of electronic petitions. The intention was to make local decision-making in relation to petitions presented to principal local authorities more transparent, by requiring them to respond to petitions which meet certain criteria and making the responses to petitions publicly available.

The duty to promote democracy requires local authorities to promote understanding amongst the public of public bodies in their area, in terms of what these bodies do and their democratic arrangements and how the public can take part in those arrangements. These provisions are considered ineffective in both England and Wales.

9. The provisions in the Bill repealing the duties in relation to petitions and the promotion of democracy fall within the legislative competence of the National Assembly as provided for within Matter 12.5 (b) of Schedule 5 to the Government of Wales Act 2006 ("GoWA 2006") which permits the National Assembly to legislate for the making of arrangements by authorities for the involvement in the exercise of their functions of people

who are likely to be affected by, or interested in, the exercise of their functions.

10. Clauses 124 and 125 of the Bill (**Homelessness – Discharge of homelessness duties into the private rented sector**): These clauses amend the Housing Act 1996 with regard to the discharge of homelessness duties to homeless persons by local authorities. Local authorities owe a range of duties to homeless people, and in cases where the household is in a priority need category and have not been responsible for making themselves homeless, the authority is obliged to find housing for them temporarily until they are rehoused. The rehousing duty is at present normally met by providing social housing, and although the duty can be met by providing private rented sector housing, this has to be with the consent of the applicant. The amendment will permit a discharge of the duty on a local authority by provision of private rented sector housing without the consent of the applicant (subject to certain safeguards).
11. The National Assembly has legislative competence in relation to Homelessness under Matter 11.8 of Part 1 to Schedule 5 of the Government of Wales Act 2006 ("GoWA 2006") to legislate in relation to Wales and this provision is within the legislative competence of the National Assembly".
12. Clause 150 of the Bill (**Transfer of functions from the Office for Tenants and Social Landlords (the Office) to the Homes and Communities Agency (HCA)**): Clause 150(2)(a)-(c) amends Part 1 of Schedule 16 to the Housing and Regeneration Act 2008 so as to abolish the Office (known as the Tenant Services Authority ("the TSA"). The 2008 Act is amended so as to create the Regulation Committee of the HCA and to transfer the functions of the Office to the HCA (ie functions concerning the regulation of providers of social housing registered in England). The clauses also contain some changes to the regulatory functions.
13. The National Assembly has legislative competence in relation to Matter(s) 11.2 (social housing providers) and 11.3 (social housing bodies) in Part 1 of Schedule 5 to the Government of Wales Act 2006 ("GoWA 2006") to legislate in relation to Wales. There is no provision for Wales in the Bill relating to TSA reforms, however, because some English registered providers of social housing are landlords of dwellings situated in Wales, it is considered that these provisions are within legislative competence.
14. It is the view of the Assembly Government, therefore, that, to the extent that these provisions are within the National Assembly's legislative competence under Matter(s) 12.5a, 12.5b, 11.8, 11.2 and 11.3, the agreement of the National Assembly is required under SO 26. SO 26 prescribes that a Legislative Consent Motion and Memorandum needs to be tabled and laid, respectively, before the National Assembly, if a UK

Parliamentary Bill makes provision in relation to Wales that falls within the legislative competence of the National Assembly.

Advantages of utilising this Bill

15. These new clauses will;
 - increase the transparency of local authority spending on staff in order to aid public understanding and lead to efficiency savings;
 - repeal provisions which impose duties upon local authorities in relation to the receiving and handling of petition and the promotion of democracy that are considered to be ineffective;
 - amend local authority duties towards homeless persons
 - transfer functions from the Office for Tenants and Social Landlords to the Homes and Communities Agency.
16. It is the view of the Welsh Assembly Government that it is appropriate to deal with these provisions in this UK Bill as it represents the most appropriate and proportionate legislative vehicle to enable these provisions to apply in Wales.
17. This Legislative Consent Memorandum has therefore been laid, and the Legislative Consent Motion tabled, before the National Assembly for consideration.

Financial Implications

18. There are no anticipated financial implications for the Welsh Assembly Government of any subsequent implementation of the relevant provisions of the UK Localism Bill which cannot be absorbed as part of existing obligations.

Carl Sargeant AM
Welsh Minister for Social Justice and Local Government
February 2011

ANNEX 2

LEGISLATIVE CONSENT MEMORANDUM LOCALISM BILL

Supplementary Legislative Consent Motion

1. “That the National Assembly for Wales, in accordance with Standing Order 29.6, agrees that, in addition to the provisions referred to in motion NNDM4642, those further provisions which have been brought forward in the Localism Bill relating to the general and charging powers for fire and rescue authorities in Wales and the community right to buy, in so far as they fall within the legislative competence of the National Assembly for Wales, should be considered by the UK Parliament.”

Background

2. The Legislative Consent Motion at paragraph 1 above has been tabled by Carl Sargeant AM, Minister for Local Government and Communities, under Standing Order 29.6 of the Standing Orders (SO) of the National Assembly for Wales (the National Assembly). This Legislative Consent Memorandum is laid under SO 29.2. SO 29 prescribes that a Legislative Consent Motion must be tabled, and a Legislative Consent Memorandum laid, before the National Assembly if a UK Parliamentary Bill makes provision in relation to Wales, for a purpose that falls within the legislative competence of the National Assembly.

3. The Localism Bill (the Bill) was introduced on the 13th December 2010. The Bill can be found at: <http://services.parliament.uk/bills/2010-11/localism.html>

Summary of the Bill and its Policy Objectives

4. The Bill is sponsored by the Department for Communities and Local Government. It is the UK Government’s aim that the Bill is to devolve greater powers to councils and neighbourhoods, give local communities control over decision making, including through the use of financial incentives, and is a key piece of legislation that affects a wide range of existing housing, planning and local government legislation.

5. The Bill contains provisions to enable the empowerment of local people, the freeing of local government from central and regional control, provision of a share in local growth for local communities and a more efficient and local planning system.

6. The Localism Bill has already been the subject of a Legislative Consent Motion (NNDM4642) in the National Assembly, where the National Assembly gave its consent for the relevant provisions of the Bill, in so far as they fell within the competence of the National Assembly, to be considered by Parliament.

7. The Memorandum that accompanied that Motion is attached at **Annex 1**.

Further provisions which require the consent of the National Assembly and policy objectives.

8. Since the time of introduction of the Bill in December 2010, the UK Government has introduced a number of further provisions by way of Government amendments.

9. A number of amendments were tabled by the UK Government on 10th May 2011 which proposed that the clauses in the Bill which provide certain fire and rescue authorities in England with a general power of competence and charging powers, should also be applied to fire and rescue authorities in Wales. The tabled amendments may be accessed on the Parliamentary website at: <http://services.parliament.uk/bills/2010-11/localism.html>

10. It is the view of the Welsh Government that the provisions referred to in paragraph 9 fall within the National Assembly's legislative competence as set out in Part 4 of, and Subject 7 (fire and rescue services and fire safety) of Schedule 7 to the Government of Wales Act 2006..

11. An amendment tabled by the UK Government on 10th May 2011 proposes new Clauses to be inserted into the Bill. In relation to Wales, one of the Clauses provides that the Welsh Ministers will be able to provide advice and assistance in relation to land of community value in Wales. The tabled amendment may be accessed on the Parliamentary website at: <http://services.parliament.uk/bills/2010-11/localism.html>

12. It is the view of the Welsh Government that the provisions referred to in paragraph 11 fall within the National Assembly's legislative competence as set out in Subject 12 (local government) in Part 1 of Schedule 7 to the Government of Wales Act 2006 .

13. As the proposed amendments to the Localism Bill go beyond the consent previously given by the National Assembly, a further Legislative Consent Motion is required under SO 29.

14. These amendments to existing clauses in the Bill and the new clauses will:

a) General Power and Charging Powers for Fire and Rescue Authorities

Provide fire and rescue authorities (FRAs) in Wales with equivalent powers to those contained in the Bill on introduction for FRAs in England. These provisions will extend powers of competence for certain FRAs in England. In accordance with these powers, the FRAs will be able to do anything they consider appropriate for the purposes of carrying out any of their functions, anything they consider appropriate for purposes incidental to their functions, anything they consider appropriate for purposes indirectly incidental to their functions, and anything they consider to be connected with any of their functions or which is incidental to their functions. In addition they will also be

able to do anything for a commercial purpose that they are otherwise authorised to do.

Effectively FRAs in England will be able to do anything, so long as they believe the activity is connected with any of their functions as a Fire and Rescue Authority. The activity does not have to be a direct one, and it will be sufficient if the activity is intended to be beneficial to the performance of their functions. In exercising these powers, FRAs will have the same restrictions placed upon them as local authorities in England under the new general power of competence, in that the power cannot be used to raise taxes or borrow money (other than in line with existing arrangements) and it cannot be used to override existing legislation so as to enable FRAs to do anything that they are already prohibited from doing by any statute.

The Bill also provided FRAs in England with extended charging powers. In accordance with the extended powers FRAs will be able to charge any person (including another FRA) for any action taken by them within the UK, (up to full cost recovery), subject to a number of express exceptions, for example, extinguishing fires, or protecting life and property in the event of fires. The Secretary of State also has the power, by order, to disapply the charging power in respect of the provision of particular services.

The current charging power of FRAs is to be found within section 19 of the Fire and Rescue Services 2004 Act. It permits the Welsh Ministers to prescribe, by order, the activities for which FRAs are permitted to charge. Under the new powers being introduced FRAs in England will be given an autonomous power to charge and there will be no need for the Secretary of State to make an order authorising charging.

The Welsh Ministers considered the clauses relating to the competence and charging powers of FRAs in England and determined that they should be applied to Welsh FRAs. The UK Government amendments introduced at Commons report stage on this topic have the effect of applying these powers to the Welsh FRAs.

b) Community Right to Buy amendment- clauses about provision of advice and assistance

Makes provision for a relevant authority to provide advice and assistance in relation to land of community value in England in Wales. In relation to Wales, the relevant authority is the Welsh Ministers. The amendment will enable the Welsh Ministers to do anything that they consider appropriate for the purpose of giving advice and assistance to anyone in relation to taking steps or preparing, considering or deciding whether to take steps under the community right to buy provisions, or to a community interest group in relation to bidding or acquiring or preparing to bid for land on an authority's list or bring such land into effective use. Advice or assistance can include the making of arrangements or the provision of financial assistance.

15. This Legislative Consent Memorandum has therefore been laid, and the Legislative Consent Motion tabled, before the National Assembly for consideration.

Advantages of utilising this Bill

16. It is the view of the Welsh Government that it is appropriate to deal with these provisions in this UK Bill as it represents the most appropriate and proportionate legislative vehicle to enable these provisions to apply in Wales at the earliest opportunity and will allow the Welsh Ministers to introduce appropriate legislation in accordance with Welsh priorities and concerns.

Financial Implications

17. The financial implications of any subsequent consultation, legislation or guidance arising from a future decision to exercise the power to make Orders under the relevant provisions will be subject to full consideration of affordability and to a Regulatory Impact Appraisal which would include an analysis of costs and benefits.

Carl Sargeant AM

Welsh Minister for Local Government and Communities

May 2011

ANNEX 3

LEGISLATIVE CONSENT MEMORANDUM LOCALISM BILL

Supplementary Legislative Consent Motion

1. "That the National Assembly for Wales, in accordance with Standing Order 29.6, agrees that, in addition to the provisions referred to in motions NNDM4642 and NNDM4722, those further provisions which have been brought forward in the Localism Bill relating to Tenancy Deposit Schemes and HMO licensing, in so far as they fall within the legislative competence of the National Assembly for Wales, should be considered by the UK Parliament."

Background

2. The Legislative Consent Motion at paragraph 1 above has been tabled by Huw Lewis AM, Minister for Housing, Regeneration and Heritage, under Standing Order 29.6 of the Standing Orders (SO) of the National Assembly for Wales (the National Assembly). This Legislative Consent Memorandum is laid under SO 29.2. SO 29 prescribes that a Legislative Consent Motion must be tabled, and a Legislative Consent Memorandum laid, before the National Assembly if a UK Parliamentary Bill makes provision in relation to Wales, for a purpose within the legislative competence of the National Assembly.

3. The Localism Bill (the Bill) was introduced on the 13th December 2010. The Bill can be found at: <http://services.parliament.uk/bills/2010-11/localism.html>

Summary of the Bill and its Policy Objectives

4. The Bill is sponsored by the Department for Communities and Local Government. It is the UK Government's aim that the Bill is to devolve greater powers to councils and neighbourhoods, give local communities control over decision making, including through the use of financial incentives, and is a key piece of legislation that affects a wide range of existing housing, planning and local government legislation.

5. The Bill contains provisions to enable the empowerment of local people, the freeing of local government from central and regional control, provision of a share in local growth for local communities and a more efficient and local planning system.

6. The Localism Bill has already been the subject of Legislative Consent Motions (NNDM4642 and NNDM4722) in the National Assembly, where the National Assembly gave its consent for the relevant provisions of the Bill, in so far as they fell within the competence of the National Assembly, to be considered by Parliament.

7. The Memoranda that accompanied those Motions are attached at **Annex 1 and 2**.

Further provisions which require the consent of the National Assembly and policy objectives.

8. Since the time of introduction of the Bill in December 2010, the UK Government has introduced a number of further provisions by way of Government amendments.

9. A number of amendments were tabled by the UK Government on 30th June 2011 which made minor and technical amendments to the primary legislation covering Tenancy Deposit Schemes and HMO licensing as contained within the Housing Act 2004. The tabled amendments may be accessed on the Parliamentary website at: <http://services.parliament.uk/bills/2010-11/localism.html>

10. It is the view of the Welsh Government that the provisions referred to in paragraph 9 fall within the National Assembly's legislative competence as set out in Paragraph 11 of Schedule 7 ("Housing") to the Government of Wales Act 2006.

11. As the proposed amendments to the Localism Bill go beyond the consent previously given by the National Assembly, a further Legislative Consent Motion is required under SO 29.

12. These amendments to existing clauses in the Bill and the new clauses will give effect to the following:

a) **Tenancy Deposit Schemes:** It is proposed that the Housing Act 2004 is amended to make minor technical amendments to sections of the Act covering Tenancy Deposit Protection to ensure that the legislation fully protects tenants' deposits and closes loopholes in the current legislation as drafted.

b) **HMO Licensing:** The amendments will also change existing legislation on licensing of Houses in Multiple Occupation (HMO) to exclude buildings managed or controlled by fully mutual housing co-operatives that are not registered social landlords from the licensing requirements.

13. This Legislative Consent Memorandum has therefore been laid, and the Legislative Consent Motion tabled, before the National Assembly for consideration.

Advantages of utilising this Bill

14. It is the view of the Welsh Government that it is appropriate to deal with these provisions in this UK Bill as it represents the most appropriate and proportionate legislative vehicle to enable these provisions to apply in Wales at the earliest opportunity

Financial Implications

15. There are no anticipated financial implications for the Welsh Government of [any subsequent implementation of] the relevant provisions of the Localism Bill which cannot be absorbed as part of existing obligations.

Huw Lewis AM

Welsh Minister for Housing, Regeneration and Heritage

July 2011