



Llywodraeth Cymru  
Welsh Government

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## **WRITTEN STATEMENT BY THE WELSH GOVERNMENT**

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**TITLE** SUPREME COURT JUDGMENT – LOCAL GOVERNMENT  
BYELAWS (WALES) BILL REFERENCE

**DATE** 21 NOVEMBER 2012

**BY** FIRST MINISTER OF WALES

The Supreme Court has today handed down its unanimous judgment in the case of the Local Government Byelaws (Wales) Bill Reference by the Attorney General for England and Wales. All of the Justices agreed with the Welsh Government that the Bill is within the competence of the National Assembly for Wales.

This case involves a legal challenge to the first Bill to be passed by the Assembly under its new primary legislative powers.

The Supreme Court considered whether sections 6 and 9 of the Bill were outside the legislative competence of the Assembly because they remove or enable the removal (respectively) of pre-commencement functions of UK Government Ministers of the Crown without the consent of the Secretary of State to do so.

The Counsel General for Wales (supported by the Welsh Government Legal Services Team of lawyers and Mr Clive Lewis Q.C.) appeared before the Supreme Court on 9<sup>th</sup> and 10<sup>th</sup> October and robustly defended the challenge. The Counsel General argued that the Bill establishes a new local procedure for the making of byelaws by local authorities in Wales. The Counsel General submitted that the requirement that byelaws must be confirmed by the Welsh Government or by the UK Government before they can take effect was, therefore, no longer required. The removal of these functions was, he argued, within competence because that was incidental or consequential on the provisions in the Bill creating the new local procedure and therefore fell within the ambit of paragraph 6(1)(b) of Part 3 of Schedule 7 to the Government of Wales Act 2006.

Lord Neuberger, the President of the Supreme Court, gave the leading judgment. He said that “Section 6 of the Bill plainly is intended to have the effect of removing the need for confirmation by the Welsh Ministers of any byelaw made under the scheduled enactments. That is a primary purpose of the Bill, as is clear from reading the provisions quoted above, both in itself and for the purpose of streamlining and modernising the making of byelaws.”

Lord Neuberger went on to find that: “the removal of the Secretary of State’s confirmatory powers by the Bill in relation to the scheduled enactments would be incidental to, and consequential on, this primary purpose.”

The Deputy President of the Supreme Court, Lord Hope, who in the course of the hearing praised the drafting of the Bill added that:

“The making of this reference to the Supreme Court is a significant event in Welsh law. The Local Government Byelaws (Wales) Bill 2012 is the first Bill to have been passed by the Assembly. That in itself is important, as it has provided the Assembly with the first opportunity to put into practice its power to make laws.”

The Welsh Government has already begun to analyse the implications of this judgment. The judgment is unanimous and justifies the Welsh Government’s stance in refusing to accept that the Secretary of State’s consent was needed in this matter.

The Local Government Byelaws (Wales) Bill will shortly be submitted to Her Majesty for Royal Assent.