



Llywodraeth Cynulliad Cymru
Welsh Assembly Government

WRITTEN STATEMENT BY THE WELSH ASSEMBLY GOVERNMENT

Title: Constitutional Reform and Governance Bill

Date: 06 November 2009

By: Andrew Davies, Minister for Finance and Public Service Delivery

The Constitutional Reform and Governance Bill was introduced into the House of Commons on 20th July, and received it's Second Reading on 20 October.

The Assembly Government has taken the opportunity that this Bill presents to seek measure-making powers for governance arrangements of the Auditor General for Wales and the WAO.

This is a wide-ranging Bill covering a number of different policy areas. It contains provisions to:

- complete the process of removing the hereditary principle from the House of Lords
- provide for the disqualification of Peers convicted of a serious criminal offence
- allow Peers to resign
- place the Civil Service Code, recruitment into the Civil Service and the role of the Civil Service Commissioners on a statutory footing
- create a statutory basis for the Parliamentary scrutiny of Treaties, prior to their ratification
- remove the Prime Minister from involvement in all judicial appointments in England and Wales
- create a new corporate structure for the National Audit Office

- standardise accounting procedures for non-departmental public bodies
- repeal legislation that limits protests around Parliament
- standardise the time limit within which legal action can be brought under the Human Rights Act across the UK.

At Commons Committee stage on 4 November, a UK Government amendment to put a Measure power into the Bill was agreed. Subject to the ultimate approval of Parliament, the amendment to the Bill will confer legislative competence on the National Assembly for Wales that will enable it to legislate, by Assembly Measure, on the governance and accountability arrangements for the Auditor General for Wales (AGW) and the Wales Audit Office (WAO). The conferral of such competence will not affect the operational independence of the AGW.

Subject to Parliament's final approval the Bill, as amended, would insert a new Matter (14.1) in the Field of Public Administration in Part 1 of Schedule 5 to the Government of Wales Act 2006 (GOWA 2006). Part 1 sets out the "Matters" in relation to which the Assembly can legislate.

It will also amend Part 2 of the Schedule, which sets out general restrictions on the Assembly's competence that would otherwise prevent the Assembly from amending the existing legislation, such as Schedule 8 to GOWA 2006, that relates to the AGW. In this regard the Bill as amended makes a limited exception to those general restrictions to allow an Assembly Measure to modify GOWA 2006 and certain provisions of GOWA 1998, provided that the purpose of doing so is to put in place the new governance and accountability arrangements provided for in Matter 14.1.

The competence covers, in particular, the AGW's terms of appointment relating to tenure and remuneration, the number of times a person may be appointed AGW, efficiency and effectiveness of the AGW, the other positions that a serving or former AGW may hold, the authorisation of other people to perform the AGW's functions on the AGW's behalf, oversight and supervision of the AGW and the provision of resources for the AGW and the charging of fees or other amounts.

The competence also ensures that the existing protection of the AGW's independence and professional status is maintained. So, the Assembly could not by Measure remove the protection afforded by paragraph 3 of Schedule 8 to GOWA 2006 which provides that the AGW is not subject to direction or control by the Assembly or the Assembly Government.

The competence would also enable the Assembly Audit Committee's functions of considering the estimate and accounts and the report on the accounts of the AGW to be transferred to another Committee of the Assembly.

However, a Measure could only transfer these functions to another Committee that is independent of Welsh Assembly Government membership.

As the Bill provides that certain functions currently carried out by the Comptroller and Auditor General will in future be carried out by the National Audit Office, a further amendment was passed that will prevent an Assembly Measure from modifying the functions of the National Audit Office without the consent of the Secretary of State. The Assembly Government agreed to this amendment as it appeared to be a natural but not significant extension of the general restriction that applies already in respect of functions of the Comptroller and Auditor General.

An Explanatory Memorandum setting out the background and context to the measure-making powers that we are seeking has been laid before the National Assembly for Wales.

The Bill and accompanying explanatory notes can be accessed at:

<http://services.parliament.uk/bills/2008-09/constitutionalreformandgovernance.html>