

Explanatory Memorandum – The National Assembly for Wales (Letters Patent) Order 2011

This Explanatory Memorandum has been prepared by the Department of the First Minister and Cabinet and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 24.1.

Minister's declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of The National Assembly for Wales (Letters Patent) Order 2011.

Rt Hon Carwyn Jones AM
First Minister
March 2011

Description

Part 4 of the Government of Wales Act 2006 provides for the power of the Assembly to pass Assembly Acts if there is a 'yes' vote in a referendum in Wales.

Following a yes vote on 3 March 2011 in the referendum on the law-making powers of the National Assembly for Wales, the legislation required for Assembly Acts has been prepared. The National Assembly for Wales (Letters Patent) Order 2011 makes provision as to the form, manner of preparation and publication of Letters Patent that are to be signed by the Queen's own hand under the Welsh Seal to signify Her Assent to a Bill passed by the National Assembly for Wales. This Order is required to enable Royal Assent to be given to Assembly Bills.

Matters of special interest to the Constitutional Affairs Committee

The National Assembly for Wales (Letters Patent) Order 2011 is aimed to be submitted to the March Privy Council and is then subject to annulment in pursuance of a resolution of the Assembly. This Order in Council is to be both laid in the Assembly and submitted to Privy Council bilingually.

Legislative Background

Part 4 Section 116 (3) of the Government of Wales Act 2006 states that Her Majesty may, by Order in Council, make provision as to the form, manner of preparation, and the publication of Letters Patent signed with Her Majesty's own hand signifying Her Assent to a Bill passed by the Assembly. Section 116 (4) states that a statutory instrument containing an Order in Council under subsection (3) is subject to annulment in pursuance of a resolution of the Assembly. Attached is the aforementioned instrument.

Purpose and intended effect of the legislation

This Order in Council together with section 115 of the Government of Wales Act is part of the legislation required for Royal Assent to be given to a Bill passed by the Assembly. The draft commencement order bringing the Assembly Act provisions into force has been laid in the Assembly and if approved it will come into force on 5 May (and therefore bring the Assembly Act provisions into force on that date). The aim is that this National Assembly for Wales (Letters Patent) Order 2011 will also come into force on 5 May, so that the necessary legislation is in place for the Assembly elected in May 2011 to pass Assembly Bills.

The purpose of this legislation is to make provision for the creation of Letters Patent that when signed by Her Majesty's own hand under the Welsh Seal will signify Her Assent to a Bill passed by the National Assembly for Wales. The National Assembly for Wales (Letters Patent) Order 2011 also details their preparation and publication as well as setting out the form, in both English and Welsh, of Letters Patent.

Section 115(4) of the Government of Wales Act 2006 provides that a Bill receives Royal Assent when Letters Patent under the Welsh Seal signed with Her Majesty's own hand signifying Her Assent are notified to the Clerk. It is therefore necessary for the Order in Council which makes provision about the Letters Patent to be made, before any Assembly Bill can receive Royal Assent.

Letters Patent created as a result of this Order may only be applied to Bills for Acts of the National Assembly for Wales.

Consultation

The views of the following were sought in preparing this instrument:

- the Clerk of the National Assembly for Wales;
- The Stationery Office, in relation to publication
- the Crown Office, in relation to the wording for the Letters Patent
- the Wales Office

No regulatory impact assessment has been carried out in respect of this order since no impact on the private or voluntary sectors or local government is envisaged.