



House of Commons  
Welsh Affairs Committee

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**Government White  
Paper: Better  
Governance for Wales:  
Government Response  
to the Committee's  
First Report of Session  
2005–06**

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**Third Special Report of Session 2005-  
06**

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## The Welsh Affairs Committee

The Welsh Affairs Committee is appointed by the House of Commons to examine the expenditure, administration, and policy of the Office of the Secretary of State for Wales (including relations with the National Assembly for Wales.)

### Current membership

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Mr Stephen Crabb MP (*Conservative, Preseli Pembrokeshire*)  
David T. C. Davies MP (*Conservative, Monmouth*)  
Nia Griffith MP (*Labour, Llanelli*)  
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Mr David Jones MP (*Conservative, Clwyd West*)  
Mr Martyn Jones MP (*Labour, Clwyd South*)  
Mrs Madeleine Moon MP (*Labour Bridgend*)  
Jessica Morden MP (*Labour, Newport East*)  
Hywel Williams MP (*Plaid Cymru, Caernarfon*)  
Mark Williams MP (*Liberal Democrat, Ceredigion*)

### Powers

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### Publications

The Reports and evidence of the Committee are published by The Stationery Office by Order of the House. All publications of the Committee (including press notices) are on the Internet at [www.parliament.uk/parliamentary\\_committees/welsh\\_affairs\\_committee.cfm](http://www.parliament.uk/parliamentary_committees/welsh_affairs_committee.cfm).

### Committee staff

The current staff of the Committee are James Davies (Clerk), Dr Rebecca Davies (Committee Specialist), Jane Trew (Committee Assistant), Sarah Colebrook (Secretary) and Jim Lawford (Senior Office Clerk).

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# Third Special Report

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The Committee published its First Report of Session 2005–06, Government White Paper: Better Governance for Wales, on Tuesday 13 December 2005. The response from the Wales Office was received on 18 January 2006 and is published as the Appendix to this Report.

## Appendix

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### Government Response to the First Report of Session 2005–06 on the Government White Paper: Better Governance for Wales

#### Government White Paper

**1. The reconstitution of our Committee and the Parliamentary timetable meant that our inquiry concluded outside of the consultation period set out for the White Paper. However, we trust that the Government and Members of the House will wish to draw upon our Report and its findings during the Second Reading debate and the debate in Committee on the Bill during its passage through Parliament. (Paragraph 16)**

The Government welcomes the Committee's report which it believes will make a contribution to the Bill's passage in Parliament.

**2. We welcome the intention of the Wales Office to introduce a coherent and freestanding Bill and hope that it will bring a greater level of clarity to the devolution settlement for Wales. (Paragraph 23)**

The Government is glad that the Committee shares its view that a new, unified Government of Wales Act is the most effective way to proceed.

**3. Whilst we welcome the publication of the White Paper, it is short on the detail necessary for proper pre-legislative scrutiny. A draft Bill would have been more appropriate. We are not convinced that the deadline of the 2007 National Assembly elections would have debarred the Government from publishing a draft Bill and still completing the Parliamentary process for the Bill in this very long session. Given that it is a constitutional Bill, we are disappointed that the Government have shied away from its commitment to publish draft legislation on this occasion. (Paragraph 29)**

The Government notes the Committee's view that it would have been preferable had the Government of Wales Bill been presented in draft. However it does not accept the suggestion that it 'shied' away from this approach. Rather, reflecting the Government's commitment to enhancing the legislative competence of the National Assembly for Wales and its wish to modify electoral arrangements for the Assembly (issues clearly expounded in the Government's White Paper) the issue turned on the simple point of timing and the Government's firm wish that Assembly elections in 2007 should be conducted on the basis of these changes.

The Bill presented to Parliament in December 2005 represented a considerable drafting and policy preparation exercise in Government aimed at early introduction with a view to securing Royal Assent as soon as possible in 2006. This was all the more necessary in view of the need to have the statutory authority for a new Elections Order and Disqualifications Order – both essential for the 2007 election.

## Welsh Statute Book

**4. We agree that a “Welsh statute book” would be highly beneficial and reiterate our predecessor’s view that a clear and comprehensive register of Welsh legislation should be a requirement of the devolution settlement. Furthermore, we add our voice to that of the National Assembly Committee in recommending that the Governments in both London and Cardiff agree on the means by which a “Welsh statute book” can best be made available. (Paragraph 30)**

The Government understands the desirability of a “clear and comprehensive register of Welsh legislation”. In this respect it welcomes the Welsh Assembly Government and the Assembly Parliamentary Service’s support to give practical effect to achieving this through their joint financial support for the "Wales Legislation On-Line" web-site maintained by Cardiff Law School.

The Bill has been drafted in such a way that enhanced legislative competence will be conferred on the Assembly by amendment to Schedule 5. The current extent of that competence will always be as set in the current text of that Schedule. This will make the extent of the Assembly’s legislative powers at any given time as easy to understand as possible.

Discussions have taken place between Welsh Assembly Government officials and the Stationery Office with a view to ensuring that Assembly Measures will be published in a series separate from Statutory Instruments. This will enable this important new class of legislation relating to Wales to be as identifiable and accessible as possible.

## Separation of the Legislature and the Executive

**5. We welcome the proposals to make formal the separation of the Legislature and the Executive of the National Assembly for Wales. (Paragraph 35)**

The Government welcomes the Committee’s support for this proposal.

## Assembly Ministers

**6. We conclude that the approval of Ministers by Plenary of the National Assembly is an attractive proposition and therefore we recommend that provisions to that effect be included in the Bill. (Paragraph 36)**

While the Assembly will nominate the person to be recommended to Her Majesty for appointment as the First Minister, the Government does not agree that the appointment of Ministers should be approved by the Assembly. Under the Bill’s provisions, Welsh Ministers will be appointed by the First Minister with the Queen’s approval. This follows

the convention of the UK Government, where the Prime Minister appoints Ministers. The Government sees no reason to depart from this convention.

## **Dissolution of the National Assembly**

**7. We conclude that a mechanism to dissolve the National Assembly in the event of a stalemate between the political parties is a sensible and pragmatic suggestion. Therefore we recommend that the Bill include provision for the National Assembly to dissolve itself in the event of being unable to appoint a Welsh Assembly Government. (Paragraph 40)**

The Government welcomes the Committee's support for its proposals. The Bill provides for the Secretary of State to propose a day for an extraordinary general election if two thirds of all Assembly Members resolve that the Assembly should be dissolved, or if the Assembly fails to nominate a First Minister under Clause 47 of the Bill within the prescribed timescale. If the Secretary of State proposes a day for the holding of an extraordinary election, Her Majesty may by Order in Council dissolve the Assembly and require an extraordinary general election to be held.

## **Deputy Ministers**

**8. We agree with the proposal to put Deputy Ministers on a statutory footing. That statutory footing will need to include a clear definition of the roles and responsibilities of the Deputy Ministers. The Government must be alive to the fact an increase in the payroll vote of the National Assembly will have an impact on the size of the backbench body and the potential to cause strains on the scrutiny functions. (Paragraph 41)**

## **Numbers of Ministers and Deputy Ministers**

**9. We believe that a statutory upper limit for the number of Ministers including Deputy Ministers is a sensible approach to the composition of the National Assembly, and we welcome the decision of the Wales Office to include provisions to that effect on the face of the Bill. (Paragraph 42)**

Conclusions 8 and 9 have been grouped for response.

The Bill makes clear that the role of Deputy Ministers is to assist the First Minister, Welsh Ministers or the Counsel General in the exercise of their functions. The Government readily understands the Committee's concern that the Assembly must retain an appropriate number of AMs to effectively fulfil a scrutinising role. The Bill sets an upper limit of 12 on the total number of Welsh Ministers and Deputies (not including the First Minister and Counsel General).

## **Title of the Welsh Assembly Government**

**10. Concerns remain that the current title of the Welsh Assembly Government may have the potential to continue the confusion over the status of the Executive and the Legislature. In respect of the Bill, we believe that Welsh Executive would be a more appropriate term to use in Statute. (Paragraph 49)**

The Government is glad that the Committee agrees that there should be clarity between the roles of the executive and legislative roles in the Assembly. However it does not believe the use of the nomenclature ‘Welsh Assembly Government’ will lead to confusion. This title has been in place for four years and has become widely recognised and accepted.

## Size of the National Assembly

**11. The Government has taken a strong line against the possibility of increasing the number of Assembly Members from 60 to 80. However, a 60 Member Assembly may not prove sufficient to carry out its scrutiny and legislative roles. In that event, the National Assembly for Wales and Parliament may at some date in the future wish to reassess the size of the National Assembly, at which time the electoral process will also need to be considered. (Paragraph 57)**

The Government’s position on the membership of the Assembly is largely informed by the Assembly itself, where there is no call for an increase. Rather as suggested to the Committee by the First Minister, scope is seen to modify its working practices to cope with an increased workload.

**12. With respect to Committees, we reiterate the concerns raised with us that the 60 member limit on the National Assembly and the size of the National Assembly payroll vote has the potential to place serious strains on the National Assembly Committees’ ability to carry out its scrutiny of the new Welsh Executive. The Government will need to be alive to this potential danger when it introduces its Bill. (Paragraph 60)**

As noted earlier, the Government is mindful of the need for a strong body of backbench contribution to ensure an effective scrutinising role in the Assembly.

## Committees of the National Assembly

**13. The structure of the Committee System in a reformed National Assembly will be a matter for that institution to decide. However, as Members of Parliament for Welsh constituencies, we recognise the important role that the regional committees have played in taking the National Assembly out of Cardiff to other parts of Wales. We recommend that this important part of the Regional Committees’ work is retained in any new Committee structure. We further recommend the retention of the statutory provision for a North Wales Regional Committee. (Paragraph 62)**

The Government is glad the Committee supports its view that the structure of Committees is a matter for the Assembly. The Government applauds the Welsh Assembly Government’s view that it is important that the Assembly is present outside Cardiff and endorses its aim to continue this. As to the Committee’s view that a North Wales Regional Committee is important, the Government believes this must be a matter for the Assembly.

**14. We agree with the Government’s proposals to remove Ministers from being members of scrutiny Committees of the National Assembly. However, we note the recommendation of the National Assembly Committee that flexibility on this issue is necessary with respect to legislation and other specific Committees. We look to the**

**Government to ensure that the necessary flexibility is contained within the Bill. (Paragraph 66)**

The Government agrees that the issue of Ministerial contribution to the work of Committees requires flexibility. It is for this reason, that the Bill simply removes the requirement under the Government of Wales Act 1998 for Ministers to be members of Committees, so that it is possible to constitute Committees without them. However, the Bill does not prevent Ministers from being members of Committees, so they could be included as members of Committees where appropriate (subject to the requirements of clause 29, which makes provision relating to the representation on committees of members of different political groups). The exception to this provision is the Audit Committee, where clearly it is not appropriate for a member of the Welsh Assembly Government to be a member of the Committee.

**15. We recommend that provisions equivalent to Sections 23 to 26 of the Scotland Act be enacted in respect of the powers of Committees of the National Assembly for Wales. (Paragraph 68)**

The Government agrees that a ‘power to call’ and related arrangements are important provisions for an Assembly with enhanced powers and appropriate powers are proposed in the Bill.

**16. We agree with the National Assembly Committee that the Welsh Assembly Government should send either a Minister or an official when a National Assembly committee insists on attendance by Government witnesses. (Paragraph 70)**

The Government agrees that the Assembly Government should be required to send a Minister or an official where a Committee requests such a contribution to its deliberations. Accordingly, the Bill recognises that it is Ministers who are accountable to the Assembly and that they and/or a nominated official should attend.

**17. The use of co-opted members is a matter for the National Assembly. However, we agree that, should the National Assembly wish to continue with that practice, the protection of those Members needs to be made explicit. We look to the Government to ensure that co-opted Members of National Assembly Committees are protected from defamation to the same level as Members of the National Assembly, when serving on Committees. (Paragraph 73)**

The Government agrees with the Committee’s view that the issue of protection is important. The Bill provides that Assembly proceedings shall be protected against proceedings for defamation. The Bill would not prevent the Assembly from continuing the arrangements it has made, for example, with regard to regular attendance by the directors of representative organisations at meetings of the Equal Opportunities Committee.

## **Standing Orders of the National Assembly**

**18. We understand the legal requirement for the Secretary of State for Wales to give statutory effect to the Standing Orders for the National Assembly for Wales. We are less convinced with the need for that Office to be the final arbiter of any disagreement over those Orders. We believe that the Presiding Officer of the National Assembly, not**

**a Government Minister of another institution, is a more appropriate location for that role. Therefore we recommend that the Government include in the Bill, provisions to ensure that the Presiding Officer, subject to the approval of the Secretary of State for Wales, be the arbiter on Standing Orders for the National Assembly. (Paragraph 81)**

The Government does not believe that it would be appropriate for the Presiding Officer of the Assembly to be arbiter of the content of the initial Standing Orders, to be prepared before the 2007 elections – subject to the approval of the Secretary of State as suggested by the Committee. Rather, the Government believes that Standing Orders should be a matter for the Assembly. The current Assembly will, therefore, be required to prepare Standing Orders for the new, 2007, Assembly and the Secretary of State's role will be to endorse these where they have been agreed by a two-thirds majority or to resolve any outstanding Standing Order matters.

## **Human Resources**

**19. It would be undesirable to include in the Bill provisions for specific increases in staff for the National Assembly as they have yet to be identified in detail. Furthermore, future demand will best dictate the level of necessary resources. However, it is clear, that in moving from the Corporate Body model to a “free-standing” legislature, enhancements will be necessary to support Assembly Members in their new tasks. We look to the Government to provide those resources where they are clearly necessary. (Paragraph 85)**

The Government agrees the working of the Assembly as a legislative and examining body, needs to be underpinned with an appropriate level of human resources. For this reason, the Bill makes provision relating to the status of staff of the Assembly, including setting up an Assembly Commission which will employ the staff who will support the Assembly. The Government itself, however, would not make specific provision for increases in number of staff or other resources, rather the Government believes the allocation of resources to the Assembly Commission for the employment of staff, or provision of services to Assembly Members, should be a matter for the Assembly's budget procedures.

**20. In its Report the National Assembly Committee welcomed the separation of Government and National Assembly staff but recommended that the Bill include “a statutory ‘broadly in line’ provision” with respect to the salaries of National Assembly staff. We agree with the recommendation of the National Assembly Committee. (Paragraph 87)**

The Government agrees with the Committee. For this reason, then, the Bill provides that, in recruiting staff, the Commission must ensure that its recruitment and selection procedures, and the terms and conditions of employment it offers, are broadly in line with those of staff of the Welsh Assembly Government, who will remain members of the Home Civil Service.

## **National Assembly Committee Recommendations**

**21. We note the recommendations of the National Assembly Committee in relation to the statutory duties of the National Assembly, the special provision for the Welsh**

**language and the examination of the Resource Budget. We look forward to hearing the response of the Government on those recommendations. (Paragraph 93)**

The Government will not be responding directly to the recommendations of the National Assembly Committee, although the Welsh Assembly Government has given a commentary.

However, the following briefly addresses the National Assembly Committee's recommendations that were noted by the Welsh Affairs Select Committee.

### **Statutory duties of the National Assembly for Wales**

The Bill places separate equality of opportunity and sustainable development duties on the Government and the Assembly Commission, and requires both to lay a report annually (clauses 77 and 78 and Schedule 2, paragraphs 8 and 9). It also requires the Assembly itself to have regard to equality of opportunity in the conduct of its proceedings (Clause 35 (2)).

The Bill replicates the existing requirement in terms of consulting business, applying this to the Welsh Ministers (Clause 75). There is no comparable duty applying to the UK Government, Scottish Executive or Northern Ireland Ministers.

### **Special provision for the Welsh language**

The Bill includes the Welsh Language as a field; this means that the Assembly can acquire legislative competence over matters relating to the Welsh language. It would ultimately be for the Assembly and both Houses of Parliament to agree the scope of any Order(s) in Council defining those matters.

### **Resource Budget**

The Bill provides that the annual budget of the new Assembly shall be prepared on a resource basis, which will enable outturn to be compared against approved expenditure in the budget.

## **Legislative Proposals: Stage 1**

**22. Should Wales-only Bills continue to be introduced to Parliament, we would expect the Government to maintain its policy of publishing them first in draft form so that they could be subjected to pre-legislative scrutiny by this Committee in conjunction with the appropriate Committee of the National Assembly. (Paragraph 96)**

Since the establishment of the Assembly, the Government has noted and welcomed the close interest which the Welsh Affairs Committee has taken in legislation as it affects Wales. The model adopted by the Committee of working with Assembly Committees has produced significant improvements in draft bills which have facilitated consideration in Parliament. Where this is employed in the future, the Government agrees the publication of bills in draft would be good practice.

**23. We look to the Wales Office to play an active and visible role in the education of Government Departments in this respect. We recommend that the Wales Office, in its response to this Report, set out clearly, the precise procedures that are in place to ensure that those roles are carried out effectively. (Paragraph 100)**

**24. We recommend that the Wales Office supply the Committee with quarterly memoranda setting out those Bills which contain significant Welsh clauses. (Paragraph 101)**

**25. We recommend that the Wales Office include under the heading Territorial Extent in the Explanatory Notes to Bills, a statement listing the clauses in Bills that relate to Wales; and explaining how the Government's new commitment to more permissive legislation for Wales has been enacted in relation to those clauses. (Paragraph 103)**

Questions 23, 24 and 25 have been grouped for response.

Reflecting the changes which are set out in the Bill which remodel the ways in which legislation will be promoted for Wales, the Government agrees that the Wales Office and the Department for Constitutional Affairs should work closely with Whitehall Departments to promote clarity and understanding. This has already been set in place with the revision of devolution guidance to Government departments on the issue of framework provisions. Reflecting the Committee's interest in Welsh legislation, the Government agrees that the Wales Office should alert the Committee to those Bills which contain significant Welsh provisions. The Government would expect the Explanatory Notes to Bills to explain where clauses relating to Wales are of a framework nature, and the Explanatory Note to clause 17 of the current NHS Redress Bill does this, as well as referring to the principles set out in the Better Governance for Wales White Paper.

## **Legislative Proposals: Stage 2**

**26. We recommend that when submitting a proposal for a draft Order in Council for pre-legislative scrutiny the Wales Office also provide a detailed explanatory note which would make clear the scope of the proposal, the practical effects of the proposal on Wales, and the legislative authority that would pass to the National Assembly. (Paragraph 108)**

The Government agrees that where Parliament is asked to consider an Order in Council, it will be necessary for it to understand the policy direction and practical effect which could be achieved through Assembly legislation as a result of such an order. The Government envisages that when a preliminary draft of an Order in Council is brought forward for pre-legislative scrutiny, it should be accompanied by an explanatory memorandum giving information about the context of the draft Order. Such an explanatory memorandum could provide contextual information on points such as:

- the intended scope of the legislative competence to be conferred;
- confirmation that the requirements of the Act in relation to bringing forward Orders in Council have been complied with (e.g. confirmation that the Welsh Ministers already have executive functions in the field in which it is proposed to grant competence); and

- an explanation of why new legislation or amendment to existing legislation has been identified as necessary, and can be achieved by Assembly Measure if the Assembly were to have legislative competence in relation to the matter specified in the draft Order in Council.

**27. We recommend that any proposal for a draft Order in Council be laid before the Parliament. Once it is laid, we recommend that it must lie before Parliament for a period of 60 days, not including any time during which parliament is dissolved or prorogued, or either House is adjourned for more than four days. We recommend that a draft Order consequent on the proposal may not be laid before Parliament until the end of that period. (Paragraph 110)**

The Government understands the Committee's desire that there should be sufficient time in Parliament for effective scrutiny. However, the Government believes the fixed 60-day period may be overly restrictive. Rather, the Government believes that there should be flexibility in the system to deal with these Orders on a case by case basis: some may be short and straightforward, others more complex. The Government agrees that it is important that the Welsh Affairs Committee and any interested MPs have the opportunity to consider preliminary drafts and explanatory memorandums, but if scrutiny is completed in a shorter timescale to the satisfaction of Parliament there should be no bar on the Order in Council proceeding.

**28. Therefore we recommend that provisions similar to those for the Scottish Grand Committee under Standing Order 115 should be made for the Welsh Grand Committee. (Paragraph 118)**

**29. We believe that, in principle, all draft Orders in Council should be debated on the floor of the House. Therefore we recommend that Standing Orders be amended to disapply Standing Order No.118 in respect of draft Orders in Council made under the proposed new Act. Should there be a general agreement that a draft Order be referred to the Welsh Grand Committee the Minister could, on such an occasion, table a motion to refer it to that Committee. (Paragraph 120)**

Questions 28 and 29 have been grouped for response.

In respect of the issue of where Orders in Council might be debated and in particular, the Committee's recommendations in respect of the Welsh Grand Committee, the Government believes that these must be matters for the Business managers operating through the usual channels to resolve. As these new legislative models are employed, the Government can readily understand the Committee's desire that effective Parliamentary examination be employed. The Government believes business managers may wish to consider on a case-by-case basis the right mechanism to be employed for scrutiny in each case.

**30. The Secretary of State has an important role to play in facilitating the progress and passage of Orders in Council. In particular, he will provide advice and support to ensure that Orders in Council are drafted correctly, and conform to Parliamentary rules. We are not convinced that it is necessary for him to act as a filter, and use those powers to refuse to lay an Order in Council based on its policy aspirations. A request from the National Assembly, if it is in order, should be submitted for the approval of**

**Parliament, not for the approval of the Secretary of State. Therefore we recommend that the Secretary of State's powers be limited to refusing Orders in Council on the basis of procedure, and not on the merits of the policy aspiration. (Paragraph 131)**

The Government is glad the Committee agrees that the Secretary of State will have a key role in presenting and facilitating the passage of Orders in Council. However, the Government does not agree that the Secretary of State should simply refer an Order to Parliament without any consideration of his/her own. The Government believes that just as Parliament will want to take a view on the appropriateness of a particular request – (whether it is within the vires granted by the Bill, and whether the need for legislative competence has been clearly shown) so will the UK Government want to consider whether the scope of the Order is clearly defined and understood. The Secretary of State has to have discretion on that, rather than laying what he or she might consider a defective, unworkable or premature proposal before Parliament.

**31. Orders in Council may be instigated not only by the Welsh Assembly Government, but also by individual Assembly Members or National Assembly Committees. Should a Welsh Assembly Government request be refused we can see some logic in the Secretary of State responding to the First Minister. However, that logic does not apply to Orders in Council that have been instigated through the non-Government route. The procedure for a refusal needs to be consistent. In light of the fact that the National Assembly, as the legislature, will approve all Orders in Council, we consider it more appropriate for the response be sent to the Presiding Officer and not the First Minister. (Paragraph 132)**

The Government does not agree that it would be appropriate for the Secretary of State to respond to the Presiding Officer in these circumstances. In providing for the response to be sent by the Secretary of State to the First Minister in all instances, the Bill follows the convention of communications being on a Government to Government basis. Orders in Council are only laid before Parliament by a Minister of the Crown, so it is appropriate for requests for an Order in Council to be sent to the Secretary of State. The appropriate person to communicate with the Secretary of State is the First Minister, and if the Secretary of State refuses a request, it is appropriate for him to communicate that refusal to the First Minister. The Bill provides for the First Minister to lay the Secretary of State's response before the Assembly.

### **Legislative Proposals: Stage 3**

**32. We note the proposal for a post-legislative referendum, and its approval by Parliament using the Order in Council procedure. That approach would avoid the need for further primary legislation, and the inevitable delays that such a route would cause. However, the Order in Council mechanism would not allow the question to be put in the referendum to be amended, nor would it allow for the possibility of a number of questions to be put. Therefore, the new Bill that will be presented to Parliament will represent the only opportunity for all Members of Parliament to consider that wording in detail. The wording of that question should be straight forward and therefore one that should survive any length of time between the enactment of the Bill and a possible future referendum. Therefore we recommend that the wording of the question for the referendum be included on the face of the Bill. (Paragraph 136)**

The Government does not agree that the referendum wording should be presented on the face of the Bill, rather that it should reflect the circumstances and timing in which the question would be put. The Bill sets out the issue on which the electorate would be asked to give their view in a referendum, namely whether the primary powers part of the Bill, giving the Assembly the power to make Assembly Acts, should come into force. The Bill will require the Secretary of State to consult the Electoral Commission on the referendum question in the draft Order in Council and lay the Commission's Report (on the intelligibility of the question and any preceding statement) with the Order in Council. This is the procedure established by Section 104 of the Political Parties, Elections and Referendums Act 2000.

**33. In the event of a referendum returning a majority “No” vote, we agree that a long period of reflection would be necessary. It would be wrong for a series of referenda to be held solely to attempt to force a particular decision. The Bill will need to contain explicit provision to stop repeated referenda in the event of a “No” vote. The period between a “No” vote and a second referendum is open to debate, but we consider two National Assembly terms as an appropriate time-gap before a referendum is called for a second time. (Paragraph 137)**

The Government agrees that there should not be a cycle of essentially redundant or capricious referendums – not least reflecting voter confidence and the significant cost involved. However, the Government does not consider that explicit provision is needed to bar repeated referendums. The provisions within the Bill to ensure consensus, i.e., approval of any referendum Order in Council by both Houses of Parliament and by a two thirds majority of all Assembly Members, together with the role of the Secretary of State, should prevent this.

**34. We note the Government's preference for the 1978 model for the definition of any future transfer of primary legislative powers for the National Assembly. (Paragraph 142)**

The Government welcomes the Committee's recognition of the approach taken on this matter. The approach taken in Schedule 7 to the Bill is essentially that of specifying what would be within the Assembly's legislative competence, as did the Scotland Act 1978 in relation to the competence then proposed for a Scottish Parliament. However Schedule 7 refers to subjects and keeps references to specific enactments to a minimum. This is more intelligible to the lay reader and will withstand the test of time more easily.

**35. A two-thirds majority in the National Assembly in favour of a referendum would represent a clear broad consensus that there was general support for a referendum. In the absence of any further opinion poll “evidence”, it would rightly be the basis for submitting an Order in Council to trigger that referendum. Therefore, we remain unconvinced that the Secretary of State could draw upon any other demonstration of support or otherwise that would give him a clearer insight into whether the trigger should be pulled or not. For that reason we do not consider it appropriate for that Office to have the power to refuse a request for a referendum. Rather it would be for Parliament to decide on the fate of that request. We recommend that the power of refusal by the Secretary of State be excluded from the Bill. (Paragraph 145)**

The Government does not agree that the question of request for a referendum should bypass the government of the day. A move to full legislative competency would represent a significant constitutional development, which the Government would be entitled to test and satisfy itself that the question should be put to the people of Wales.

## **Electoral Reform**

**36. Taking into consideration evidence to the Committee, informal feedback from the public and written evidence submitted to the Committee, we support the proposals for electoral reform as laid down in the White Paper. (Paragraph 156)**

The Government is glad to have the Committee's support for its proposals on electoral reform. These, it believes, are essential to establish an equitable basis for Assembly elections and significantly to underpin electoral confidence.