

Y Pwyllgor Is-ddeddfwriaeth

SLC(3)-25-08(p2a)

Dyddiad: 11 Tachwedd 2008

Amser : 8.15am

Lleoliad: Ystafell Bwyllgora 3, y Senedd

Paper 2a : Wales Office contribution to Inquiry

Written Evidence From The Secretary Of State For Wales

I shall address in turn each of the issues raised in the Committee's call for evidence

1. Scrutiny of Statutory Instruments on the grounds set out in Standing Order 15.3

The effectiveness of the Welsh Assembly Government's consultation with stakeholders in respect of statutory instruments:

For the Welsh Assembly Government to comment.

How the Welsh Assembly Government works with the UK Government when drafting statutory instruments

For the Welsh Assembly Government to comment. However, UK Departments and the Welsh Assembly Government work closely together where legislation requires drafting of a statutory instrument, to ensure that Welsh interests are properly represented.

How the Committee can undertake effective and timely scrutiny of regulations in respect of their legal importance or policy objectives

This is a matter for the Committee.

What the Committee can learn from the House of Lords Merits Committee, whose reporting remit is similar to that of SO 15.3

This is a matter for the Committee.

2. Additional considerations relating to statutory instruments implementing European Union Directives

The effectiveness and transparency of the Welsh Assembly Government's transposition procedures

For the Welsh Assembly Government to comment.

The extent to which the Welsh Assembly Government can and does tailor the implementing regulations to the needs of Wales in view of the parameters set by European Directives

For the Welsh Assembly Government to comment.

3. Scrutiny of Bills of the UK Parliament which have an impact in Wales

The procedures in place to make transparent the implications of UK Bills on areas of devolved competency and the powers of Welsh Ministers

As Secretary of State for Wales, I have statutory duty (section 33 of GOWA 06) to consult the National Assembly on the UK Government's legislative programme.

The Wales Office plays a significant role in ensuring Welsh interests are reflected in the UK Government's legislative programme.

Following the Queen's Speech I issue a Written Ministerial Statement setting out which Parliamentary Bills are of primary interest to Wales. I also appear before the Welsh Grand Committee in Parliament where I outline the implications for Wales of the Queen's Speech.

Where a Bill contains framework powers, briefing sessions on the relevant clauses are offered to members of both Houses of Parliament. The relevant Welsh Assembly Government Minister and the Wales Office Minister attend these sessions accompanied by officials, to explain the proposals to colleagues and answer any queries.

The Wales Office Annual Report contains a table which highlights the Bills before Parliament that have an impact in Wales. I also appear before the Welsh Affairs Select Committee, where again, I answer questions on Welsh provisions in UK Bills.

The 2008/09 draft legislative programme - Preparing Britain for the Future - was published on 14 May 2008 by the Prime Minister. People from the public, private and third sectors as well as community leaders and the general public were asked to make their voices heard on whether the programme focused on the right issues. A copy of the draft legislative programme is also available on the Wales

Office website for people to comment and feed in their thoughts.

Where it is possible, a table in the explanatory notes setting where there is substantial devolved executive or legislative competence is drawn up.

How decisions are taken with respect to conferring delegated powers on Welsh Ministers, agreeing the applicable procedures or conferring framework powers (powers to make Assembly Measures) within Bills

UK Bills continue to make specific provisions for Wales where appropriate, including framework powers or conferring new functions on the Welsh Ministers. The Wales Office engages with UK Bill teams and the Welsh Assembly Government to ensure that Welsh interests are taken into account and are addressed appropriately in light of the new constitutional arrangements under the Government of Wales Act 2006.

The process starts with a request from the Welsh Assembly Government. The Wales Office will then facilitate discussions between UK Departments and Welsh Assembly Government officials. It is essential that the provisions being sought are within scope of the proposed Bill. For framework powers, the Welsh Assembly Government will produce an Explanatory Memorandum, agreed with the Wales Office, setting out the background of existing executive and legislative provisions, and any relevant context of policy review development. I will seek Cabinet clearance before the provision is introduced in Parliament. If Cabinet agreement has been reached, the Memorandum will be laid in Parliament on introduction of the framework power.

As I have stated earlier, where a Bill contains framework powers, briefing sessions on the relevant clauses will be offered to members of both Houses of Parliament. The relevant Welsh Assembly Government Minister and the Wales Office Minister will attend these sessions accompanied by officials, to explain the proposals to colleagues.

Wales Office Ministers and officials continue to work closely with UK Government colleagues and the Welsh Assembly Government to facilitate discussions and secure Welsh provisions in Parliamentary Bills. It is for Parliament to scrutinise Welsh provisions, including framework powers in Bills, and if necessary bring forward amendments in the same manner as for other provisions in primary legislation.

Liaison between the Welsh Assembly Government and the UK Government in relation to UK Bills

General guidance for UK departments on the handling of Bills which affect the responsibilities of the Welsh Ministers or the National Assembly for Wales is set out in Devolution Guidance Note 9 (DGN9). In discussion with other UK Government Departments and with the Welsh Assembly Government, the Wales Office prepared a revised DGN 9, reflecting the new settlement under the Government of Wales Act 2006. The Welsh Assembly Government has published its own reciprocal guidance.

As set out above, the Welsh Assembly Government and UK Government work very closely together throughout the preparation and passage of UK Bills.

How to ensure effective and timely consideration of UK Bills by the Committee

This is a matter for the Committee. However, as mentioned earlier, the UK Government now publishes, and consults upon, its draft legislative programme. It is an opportunity for everyone to comment. In addition, section 33 of GOWA 2006 places a duty upon me as the Secretary of State for Wales to consult the Assembly on the UK Government's legislative programme.