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10 Gorffennaf 2019

Annwyl Mick

### **Rheolau Sefydlog Drafft ar gyfer gweithdrefn Biliau Cydgrynhoi**

Yn ei gyfarfod yr wythnos hon, bu'r Pwyllgor Busnes yn trafod papur ar sefydlu gweithdrefn ar gyfer Biliau Cydgrynhoi yng Nghymru, ac yn dilyn eich llythyr ar 26 Mawrth, cytunodd y Rheolwyr Busnes i ymgynghori â'r Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol ar y Rheol Sefydlog newydd arfaethedig.

Rwy'n atodi copi o'r papur a drafodwyd gan y Rheolwyr Busnes; mae'r Rheolau Sefydlog drafft i'w hystyried yn Atodiad B. Dylech nodi fod hwn yn bapur preifat ac ni chaniateir ei gyhoeddi na'i rannu'n ehangach ar hyn o bryd. Lluniwyd y weithdrefn arfaethedig ar y cyd gan y Pwyllgor Busnes a swyddogion y Llywodraeth.

Byddwn yn ddiolchgar i glywed barn y Pwyllgor ar y weithdrefn arfaethedig, a hoffwn nodi y bydd fy swyddogion ar gael i'w thrafod â chi cyn i chi ymateb yn ffurfiol pe bai hynny'n ddefnyddiol. Nododd y Trefnydd yng nghyfarfod y Pwyllgor Busnes ei bod hi hefyd yn barod i drefnu bod swyddogion y Llywodraeth ar gael i drafod.

Yn gywir



Elin Jones AC  
Llywydd a Chadeirydd y Pwyllgor Busnes



**To:** Business Committee  
**From:** Business Committee Secretariat  
**Date:** July 2019

## **Amending Standing Orders: Consolidation Bills**

### **Purpose**

1. This paper introduces the draft Standing Orders for Consolidation Bills found in the Annexes and explains the approach taken. A flowchart showing the process is at Annex A, and the draft Standing Orders themselves at Annex B. The main features of the procedure are outlined below.
2. The paper asks Business Managers to consider and agree in principle to the draft new Standing Order in Annex B, and to the draft guidance to be issued under the new Standing Order at Annex C.
3. At their meeting of 2 April 2019, Business Managers considered a letter from the Constitutional and Legislative Affairs committee (CLA), and agreed to their request that the committee should be consulted once Business Committee has agreed a draft Standing Order for Consolidation Bills, and before putting the proposal to the Assembly for agreement.

### **Background**

4. At their meeting of 26 March 2019 Business Managers agreed to an outline procedure for Consolidation Bills and asked the Secretariat to bring forward draft Standing Orders for consideration. The draft Standing Orders are consistent with the outline procedure agreed by the Business Committee, except where stated otherwise in this paper.

5. At that meeting, having discussed two alternative procedures for triggering Detailed Assembly Consideration (DAC) Business Managers asked officials to explore if any potential options were available that could provide a compromise solution. A third way, agreed by both Assembly and Government officials, is now outlined in the draft Standing Orders at Annex B and explained at paragraph 34.

### **Timeline for developing an Assembly procedure for Consolidation Bills**

6. The 4<sup>th</sup> Assembly Business Committee agreed in principle to introduce a procedure for Consolidation Bills following a recommendation of Constitutional and Legislative Affairs Committee. At that time, the Welsh Government had commissioned the Law Commission to carry out an advisory project on 'The Form and Accessibility of the Law Applicable to Wales', which included looking at possible Assembly processes and procedures around Consolidation Bills. Business Managers agreed to await the project's findings before any Assembly procedure was drawn up.
7. In June 2016, the Law Commission reported on its recommendations. The report recommended a programme of 'codification', whereby all aspects of Welsh law within a certain subject area would be brought together in a 'code'. It concluded that there is a 'clear case for codification' as they envisaged it, but also recommended that consolidation alone be pursued in certain circumstances, for example where devolved law competence does not extend to dealing with an area of law sufficiently comprehensively to stand as a self-contained code.
8. On 10 January 2017 Business Managers considered a letter from the then Counsel General regarding his response to the Law Commission

report. He outlined his intention to begin developing consolidation Bills, and the need to develop an appropriate Assembly procedure. In response to that letter Business Managers indicated that they were content for Assembly officials to co-operate with Welsh Government officials on proposals for amending Standing Orders to include a procedure for the consideration of Consolidation Bills. The Government is working with the Law Commission on a planning Consolidation Bill, but this will not be brought forward to the Assembly for some time. The Government is also working on consolidating the law on the historic environment. The work on the procedure has therefore proceeded in anticipation of future consolidation legislation.

### **The Law Commission's report**

9. The Law Commission recommended a flexible streamlined legislative procedure for codification or consolidation Bills, as well as other law reform Bills prepared by the Law Commission where the alterations or reforms are judged by the Assembly not to be controversial. This flexible procedure would enable different parts of a Bill to be subject to different degrees of scrutiny depending on the extent of the changes to the law that they make.
10. The Law Commission's ultimate goal for the Welsh Government and Assembly was the organisation of legislation into a series of codes dealing with particular areas of devolved law, including bringing into statutory form rules derived from judge-made law. The Law Commission recognises the scale of the task and that progress will be achieved in stages and that consolidation can be a necessary first step to codification.
11. The Counsel General has spoken to the Constitutional and Legislative Affairs Committee about the Government's proposals for delivering

Codes of Welsh law as part of the Committee's scrutiny of the Legislation (Wales) Bill, and confirmed that in many cases the first step will be bringing the current law on a subject together in a consolidation exercise. It is expected that a number of Consolidation Bills will form the basis of Codes of Welsh Law.

12. Following their meeting of 17 July 2018 where they first considered the proposed procedure, Business Managers agreed to consult with the Law Commission on the outline procedure. The response, which broadly welcomed the outline procedure, was noted by Business Managers at the meeting of on 26 March at which they agreed the outline procedure.

## **The Nature of Consolidation Bills**

### *Procedures in other Commonwealth Parliaments*

13. At their meeting of 26 March 2019 Business Managers noted the procedures in other Commonwealth Parliaments, as a background to the proposed procedure for Wales. A hallmark of such procedures in other Parliaments is that Consolidation or Revision Bills can go through all stages without being debated by the full legislature. Westminster's Joint Consolidation Committee can refer the Bill for debate on the floor of the House, but this does not normally happen. In Scotland, the motion in Parliament following the Stage 1 committee report is normally without debate, although exceptions are made e.g. if the committee raises doubts over the Bill's scope. Likewise, there is a presumption in favour of committee-only consideration, and in New Zealand there is a presumption against debate during First and Third Readings.

## **Proposals for a Consolidation Bills procedure in Wales**

### *Scope of a Consolidation Bill*

14. The purpose of a consolidation proposal is to improve access to the law, it is not to bring about policy reform. Therefore developing, scrutinising and passing a Consolidation Bill is intended to be a legal, technical process, which focusses on the process of consolidating the law rather than on its substantive content.
15. As set out in the draft Standing Order (SO26C.2) a Consolidation Bill may not contain changes to the existing law that would constitute a policy reform, but may:
  - restate existing legislation with any changes of structure, language or format to improve the presentation of the law and ensure consistency with current drafting practice;
  - clarify the application or effect of existing law;
  - remove or omit provisions which are obsolete, spent or no longer of practical utility or effect;
  - make minor changes for the purpose of achieving a satisfactory consolidation;
  - make other changes which the Law Commission of England and Wales recommends are appropriate;
  - include appropriate transitional and savings provisions and consequential amendments; and
  - repeal existing legislation.
16. Draft Standing Order 26C.3 states that further detailed guidance on the nature and extent of such Bills may be set out in separate guidance issued by the Llywydd. A draft of the proposed guidance, which should be read alongside the Standing Order is at Annex C.
17. Tables showing the derivation and destination of provisions consolidated would accompany the Bill to explain how the law has been re-presented (SO26C.9). These would be accompanied by

drafter's notes explaining the approach that has been taken in producing the Bill. In addition a set of Explanatory Notes to each Consolidation Bill will be prepared, which will be published alongside the Consolidation Act once enacted.

### *Proposed Procedure*

18. The draft Standing Orders are in line with the approach agreed by Business Committee on 26 March, and borrow from the procedures used in other Parliaments, while also seeking to develop a Welsh solution that builds on best practice elsewhere and is, where possible, consistent with the Assembly's existing procedures and the recommendations of the Law Commission.
19. Given the different functions of the various stages of the procedure, the terminology of 'Stages 1 – 4' is to be reserved for law reform bills under SO26. The respective stages in the Consolidation Bill process are to be known as Initial Consideration, Detailed Committee Consideration, Detailed Assembly Consideration and Final Stage.
20. One of the key principles in developing a procedure for Consolidation Bills is that they should be subject to a more streamlined form of scrutiny than other Bills. A greater focus on committee work enables a focus on the technical detail of consolidation, while the Plenary stages protect the Assembly's ultimate responsibility for amending and passing legislation. This is in line with the Law Commission's proposal that a committee should report to the Assembly on which sections of the Bill should be scrutinised by it, by another committee, or by the full Assembly – creating a streamlined procedure as default but allowing the Assembly to trigger fuller debate where appropriate.

### *Introduction*

21. In line with practice elsewhere, a Consolidation Bill must be introduced by being laid by a Member of the government. On its

introduction, a Consolidation Bill must be in its proper form, introduced in both English and Welsh and be accompanied by an Explanatory Memorandum and a statement by the Presiding Officer indicating whether the provisions of the Bill would be within the legislative competence of the Assembly (SO26C.5-7).

22. The Consolidation Bill must also be accompanied by a statement by the Member in Charge, based on the advice of the Counsel General (where the Member in Charge is not the Counsel General) and, where relevant, the Law Commission, endorsing the accuracy of the Explanatory Memorandum and certifying that in the Member in Charge's view the Bill is a Consolidation Bill (SO26C.11). Some Consolidation Bills, but not all, will arise out of Law Commission projects. Where the Law Commission recommends a change in the law, the Explanatory Memorandum will need to reflect this, and the Law Commission's advice taken into account by the Member in Charge when certifying the Bill.

### *Timetabling*

23. The Business Committee must determine the timetable for consideration of Consolidation Bills, as it does for other Bills (SO26C.13).
24. Because of the nature and purpose of Consolidation Bills, it is not recommended that there be provision for Emergency Consolidation Bills. This would not however prevent an Act which had been previously passed under an Emergency Bill procedure being included within a Consolidation Bill.

### *Initial Consideration*

25. Once a Consolidation Bill has been introduced, the Business Committee must refer it to the responsible committee (SO26C.15). Given the unique nature of Consolidation Bill scrutiny, it is proposed



that one responsible committee considers all Consolidation Bills and develops expertise, as opposed to referring such bills to the relevant subject committees. This is consistent with evidence given by the Law Commission to the CLA Committee during scrutiny of the Legislation (Wales) Bill.

26. The question for the responsible committee would differ from public Bills under SO 26, as there will be no consideration of 'general principles'. Instead they would examine the bill and report only on whether it should proceed as a Consolidation Bill. In doing so the responsible committee may consider the following questions and take evidence as needed (SO26C.17):

- (a) whether it is satisfied that the scope of the consolidation is appropriate,
- (b) whether it is satisfied that the relevant enactments have been included within the consolidation;
- (c) whether the Bill correctly consolidates the enactments or changes their substantive legal effect only to the extent allowed under a proposed new procedure;
- (d) whether the Bill consolidates the law clearly and consistently;
- (e) any other matters it considers relevant.

27. Not earlier than five working days after the Committee has reported or after the deadline for reporting has been reached, the Member in Charge may propose that the Assembly agrees that the Bill may proceed as a Consolidation Bill. Should the motion be passed, the Bill is referred back to the responsible committee for Detailed Committee Consideration. Should the motion not be passed, the Bill falls (SO26C.18-20).

*Detailed Committee Consideration*

28. At Detailed Committee Consideration the Committee considers amendments to the Bill (the nature of amendments is dealt with at paragraphs 41–43 below). As with other Bills, amendments may be tabled by any Member (SO26C.26 ) but only moved, withdrawn, and voted on by Members of the committee (SO26C.28).
29. When all amendments selected at Detailed Committee Consideration have been disposed of, any Member of the committee may without notice move that the committee consider further amendments at further Detailed Committee Consideration proceedings. Such a motion may not be debated or amended (SO26C.30).
30. This would be different to the procedure for standard Bills; it is essentially a 'Further Stage 2'. Because a Plenary amending stage is non-automatic under the proposed procedure, there may be a need for the committee at Detailed Committee Consideration to deal with technical amendments that follow from the 'main' Detailed Committee Consideration stage.
31. After the completion of Detailed Committee Consideration the committee reports to the Assembly on the outcomes of its detailed consideration, and whether in its view the Assembly should consider amendments at Detailed Assembly Consideration (SO26C.36).

*Detailed Assembly Consideration*

32. In line with Consolidation procedures in the Scottish, UK and New Zealand Parliaments where shorter, streamlined procedures are the norm for non-contentious Consolidation Bills, it is proposed that the procedure must provide for the option of a Plenary amending stage should one be required, but that it should not be automatic as it is for other Bills. Given the significant constraints on the nature and

extent of a Consolidation Bill, it is considered that relatively few amendments will be required and these would usually be dealt with at the Detailed Committee Consideration Stage. But it is recognised there may occasionally be a need for a second amending Stage, which is provided for in 'Detailed Assembly Consideration'.

33. At their meeting of 26 March Business Managers noted the differing views on how to trigger Detailed Assembly Consideration and asked that officials explore any third options that may be available. A third way, proposed by both Assembly and Government officials, is now outlined in the draft Standing Orders at Annex B (SO26C.39 – 40).
34. This new proposal is twofold and proposes that the recommendation of the responsible committee at Detailed Committee Consideration on whether or not to trigger Detailed Assembly Consideration is upheld, unless the Assembly passes a motion to the contrary. Specifically, SO26C.39 states that if the responsible committee at Detailed Committee Consideration proposes that the Assembly should consider amendments at Detailed Assembly Consideration, that additional stage is triggered unless a motion that the Consolidation Bill proceed directly to Final Stage is agreed by the Assembly. SO26C.40 does the same in reverse, and if the responsible committee at Detailed Committee Consideration proposes that the Consolidation Bill proceed to Final Stage, the Bill proceeds directly to that stage unless a motion is agreed by the Assembly to trigger Detailed Assembly Consideration.
35. The draft Standing Order for Final Stage (SO26C.58) has been amended to accommodate this change. It introduces a two week limit before a motion may be considered in Plenary, to give a protected window for Detailed Assembly Consideration to be triggered should the Assembly wish to do so.

36. If Detailed Assembly Consideration is held, the Assembly would consider amendments to the Bill, tabled by any Member, much as happens at Stage 3 for public Bills.
37. When all amendments selected at Detailed Assembly Consideration have been disposed of, a Member of the government may without notice move that the Assembly consider further amendments at further Detailed Assembly Consideration (further Stage 3 equivalent) (SO26C.52).

### *Final Stage*

38. Final Stage is taken in Plenary and consists of a debate and recorded vote on a motion that the Consolidation Bill be passed (SO26C.64).
39. As for other Bills, before a Final Stage motion is moved the Presiding Officer must state, in accordance with section 111A(3), whether or not in her view any provision of the Consolidation Bill relates to a protected subject matter. If in her view it does, the Bill is only passed if the number voting in favour of it is at least two-thirds of the total number of Assembly seats (SO26C.62-63).

### *Reconsideration of Consolidation Bills*

40. Consolidation Bills are subject to the same reconsideration procedures as other Bills (SO26C.66-80), in the event of the Bill being referred to the Supreme Court and being ruled outside the Assembly's competence.

### *Amendments*

41. It is proposed that the normal procedural rules for amendments under SO26.61 should apply, with appropriate amendment, to Consolidation Bills. An amendment would not be admissible if (SO26C.85):
- it is not in its proper form;
  - it is not relevant to the Consolidation Bill or the provisions of the Consolidation Bill which it would amend; or
  - it is inconsistent with a decision already taken at the Stage at which the amendment is proposed
42. Additionally it is proposed that amendments to Consolidation Bills are not admissible if they would cause the Bill to cease to be a Consolidation Bill by making changes beyond what a Consolidation Bill can do (SO26C.85). In effect this means that amendments can only make provisions that could have been included in the Consolidation Bill at introduction.
43. It is proposed that these rules apply to all amending stages, in line with normal procedure under Standing Order 26, except for Reconsideration Stage. At Reconsideration Stage, amendments for the purpose of resolving the issue which has been deemed outside competence by the Supreme Court would be admissible even if they went beyond what would normally be allowed for a Consolidation Bill.

*Dealing with consequential provisions*

44. Any consolidation exercise is likely to generate a significant number of amendments to existing legislation which does not itself form part of the consolidation. Such amendments in the content of reform Bills under Standing Order 26 are usually dealt with in a Schedule to the reform Bill, or perhaps in a consequential provisions order made under the Act at a later date. Government officials have indicated in

discussions that their preference is that such amendments are dealt with at the time of the consolidation. To avoid lengthy schedules cluttering the Consolidation Act with consequential provisions that are tangential to its purpose, one proposal is that such amendments are brought forward in a separate Bill.

45. This would involve two or more Bills brought introduced as a package – the ‘main’ Consolidation Bill (or Bills) containing the ‘consolidated’ provisions, and a ‘Consequential’ Bill – containing consequential amendments to existing legislation in light of the main Bill. Both Bills would fall within the definition of a Consolidation Bill under the Standing Order, but would each address different aspects of consolidation set out in draft SO26C.2.
46. The package of Bills would progress through the Assembly together (i.e. introduction, scrutiny, amending and voting) and would stand or fall together (by the grouping of the relevant motions) at Initial Consideration and Final Stage, but would become separate Acts if passed by the Assembly.
47. The draft Standing Orders enable this to happen, without specifically providing for it (as in fact would the existing Standing Order 26 for public Bills, though it has never been used in this way). As a result, amending stages for the two Bills would need to happen consecutively, either at the same Assembly or committee meeting, or at separate ones. In either case, the expectation is that the ‘main’ Bill would be taken first.

### **Consequential changes to Standing Orders 26, 26A and 26B**

48. As the purpose of a Consolidation Bill is to consolidate the law in any one area, and the Law Commission’s ultimate goal in their ‘Form and

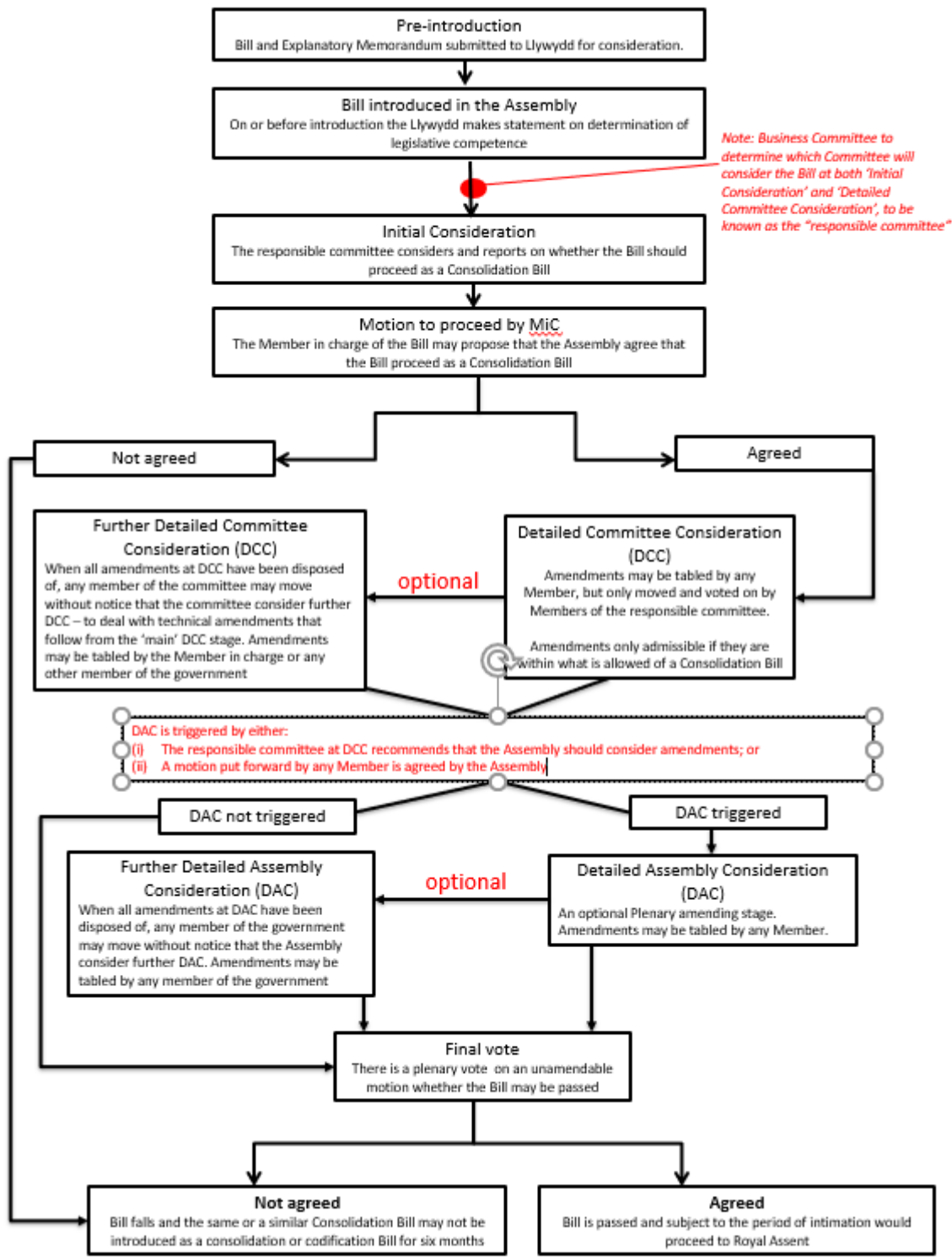
Accessibility of the Law Applicable in Wales' report is the organisation of primary legislation into a series of codes, it is proposed that Business Managers return to the issue of protecting Consolidation Acts once the draft procedure has been tested in practice. Such protection might involve specifying that where a Consolidation Bill has been passed by the Assembly and received Royal Assent, further legislation on that matter should amend the Consolidation Act as opposed to introducing a new stand-alone Act in that policy area. The Counsel General has indicated that he intends to bring forward a position statement on consolidation and codification later this summer (subject to the Legislation (Wales) Bill being passed). This is expected to address maintaining the structure of Codes, amongst other matters.

### **Action for the Committee**

Business Managers are invited to:

- Consider the draft Standing Order;
- Consult with their groups on the draft Standing Order;
- Write to CLA to consult with them on the proposals.

Annex A – Flowchart of proposed procedure





## Annex B – Draft Standing Orders

<b>STANDING ORDER 26C – Consolidation Acts of the Assembly</b>		
<b>STANDING ORDER 26C – Consolidation Acts of the Assembly</b>		<b>Introduce new Standing Order Title</b>
	<b>Form and Introduction of Consolidation Bills</b>	<b>Introduce new sub-heading</b>  Follows format of sub-heading in SO 26.
26C.1	A Consolidation Bill is a Bill introduced by a member of the government for the purpose of consolidating existing primary legislation, secondary legislation, and common law.	<b>Introduce new Standing Order</b>  This SO sets out the definition of a Consolidation Bill, for the purposes of this Standing Order and the procedure set out within it.

26C.2	<p>A Consolidation Bill may:</p> <ul style="list-style-type: none"> <li>i) restate existing legislation with any changes of structure, language or format appropriate for the purpose of improving the presentation of the law and ensuring consistency with current drafting practice;</li> <li>ii) clarify the application or effect of existing law;</li> <li>iii) remove or omit provisions which are obsolete, spent or no longer of practical utility or effect;</li> <li>iv) make minor changes to existing law for the purposes of achieving a satisfactory consolidation;</li> <li>v) make other changes to the law which the Law Commission of England and Wales recommends are appropriate for inclusion within a Consolidation Bill;</li> <li>vi) include appropriate transitional and savings provisions, and consequential amendments and repeals of existing legislation (including amendments to ensure the existing</li> </ul>	<p><b>Introduce new Standing Order</b></p> <p>This SO explains how a Consolidation Bill may restate the law by stating that while a Consolidation Bill may not change the effect of the law, (other than in the circumstances set out in (iii) to (vi)) it may change the way in which that effect is expressed.</p> <p>Further guidance on the nature and extent of Consolidation Bills will be set out in the guidance to be issued by the Llywydd under Standing Order 26C.3.</p>
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	legislation continues to operate correctly in relation to England);	
26C.3	The Presiding Officer, having consulted the Business Committee, may issue written guidance to Members on the interpretation of Standing Orders 26C.1 and 26C.2, and the operation of Standing Order 26C generally.	<b>Introduce new Standing Order</b>  Expands on SO6.17 for the Presiding Officer to issue writing guidance. This is due to the need for transparency of guidance and decision making, and is in keeping with the transparency sought in other parts of the procedure.
26C.4	A Consolidation Bill may be introduced on a working day in a sitting week.	<b>Introduce new Standing Order</b>  Duplicates SO26.1 with appropriate amendment, removing reference to

		Standing Orders relevant only to Member and Committee Bills.
26C.5	A Consolidation Bill must be introduced by being laid.	<b>Introduce new Standing Order</b>  Duplicates SO26.2 with appropriate amendment.
26C.6	A Consolidation Bill must not be laid unless it is in proper form in accordance with any determinations made by the Presiding Officer.	<b>Introduce new Standing Order</b>  Duplicates SO26.3 with appropriate amendment.  The Presiding Officer will need to consider whether the determination for Bills will need to be amended in any way for Consolidation Bills.

26C.7	<p>A Consolidation Bill must on its introduction be accompanied by a statement in English and Welsh by the Presiding Officer which must:</p> <ul style="list-style-type: none"><li>(i) indicate whether or not the provisions of the Consolidation Bill would be, in his or her opinion, within the legislative competence of the Assembly; and</li><li>(ii) indicate any provisions which, in his or her opinion, would not be within the legislative competence of the Assembly and the reasons for that opinion.</li></ul>	<p><b>Introduce new Standing Order</b></p> <p>Duplicates SO26.4 with appropriate amendment</p>
26C.8	<p>A Consolidation Bill must be introduced in both English and Welsh.</p>	<p><b>Introduce new Standing Order</b></p> <p>The government has indicated that it does not anticipate there will be circumstances when a Bill would be introduced in one language only. Therefore, this duplicates SO26.5, but without the provision for single-language Bills.</p>

	<b>Documentation to Accompany a Consolidation Bill</b>	
26C.9	<p>At the same time as the Member in charge introduces a Consolidation Bill, he or she must also lay an Explanatory Memorandum which must:</p> <ul style="list-style-type: none"> <li>(i) state that in his or her view the provisions of the Consolidation Bill would be within the legislative competence of the Assembly;</li> <li>(ii) set out the reasons for introducing the Consolidation Bill;</li> <li>(iii) state that the Consolidation Bill contains no provisions other than those permitted under Standing Order 26C.2;</li> <li>(iv) include tables showing the origins of provisions in the Consolidation Bill, and the destinations in the Consolidation Bill of the existing provisions it consolidates;</li> <li>(v) explain how the Consolidation Bill makes any changes of the kind permitted under Standing Order 26C.2 (ii) to (v)</li> </ul>	<p><b>Introduce new Standing Order</b></p> <p>For Consolidation Bills, the majority of information that is required in an Explanatory Memorandum under SO 26.6 for ordinary Bills is irrelevant, and other information is required that is not relevant for ordinary Bills. The proposed new SOs stipulates those items of information that are, or may be, relevant.</p> <p>It is proposed that this collective information continues to be referred to as an 'Explanatory Memorandum', despite being different to the usual EM under SO26, for ease of reference.</p>

	<ul style="list-style-type: none"><li>(vi) summarise objectively what each of the provisions of the Consolidation Bill is intended to do (to the extent that it requires explanation or comment) and give other information necessary to explain the effect of the Consolidation Bill;</li><li>(vii) confirm that the provisions of the Consolidation Bill give rise to no additional significant expenditure payable out of the Welsh Consolidated Fund, and where it gives rise to additional expenditure, set out the best estimates for this;</li><li>(viii) set out the potential impact (if any) on the justice system in England and Wales of the provisions of the Consolidation Bill (a “justice impact assessment”), in accordance with section 110A of the Act.</li><li>(ix) where the Consolidation Bill contains any provision charging expenditure on the Welsh Consolidated Fund, incorporate a report of the Auditor General setting out his or her views on whether the charge is appropriate.</li></ul>	
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26C.10	<p>The Explanatory Memorandum to the Consolidation Bill must state precisely where each of the requirements of Standing Order 26C.9 can be found within it, by means of an index or otherwise.</p>	<p><b>Introduce new Standing Order</b></p> <p>Duplicates SO26.6A with appropriate amendment.</p>
26C.11	<p>The Consolidation Bill must be accompanied by a statement by the Member in Charge, based on the advice of the Counsel General (where the Member in Charge is not the Counsel General) and, where relevant, the Law Commission, endorsing the accuracy of the Explanatory Memorandum and certifying that in the Member in Charge's view the Bill is a Consolidation Bill within the meaning of Standing Order 26C.1 and 26C.2.</p>	<p><b>Introduce new Standing Order</b></p> <p>It is proposed that such a statement is required to promote trust amongst legislators that a Consolidation Bill is suitable for the more streamlined form of scrutiny under Standing Order 26C.</p> <p>This reflects arrangements at Westminster, where trust in the Law Commission's assurances that the law is not altered further than what is necessary to produce a</p>



		<p>satisfactory consolidation of existing statutes is key; and is broadly in line with Law Commission recommendations for Wales (in <i>Form and Accessibility of the Law Applicable in Wales</i>).</p> <p>The advice of the Law Commission will only be needed where the Bill contains provisions under SO26C.2(v).</p>
	<p><b>Responsible Committee</b></p>	
<p>26C.12</p>	<p>In proposing the remits of committees under Standing Order 16.2 or 16.3, the Business Committee must ensure that there is a committee (referred to within Standing Order 26C as “the responsible committee”) with responsibility for the functions specified in Standing Order 26C.</p>	<p><b>Introduce new Standing Order</b></p> <p>Consolidation Bills should be referred to either CLA or a committee established specifically for that purpose, either of which could then develop the required technical expertise.</p>

	<b>Timetable for Consideration of a Consolidation Bill</b>	
26C.13	The Business Committee must establish and publish a timetable for the consideration of a Consolidation Bill, except for any stage taken in plenary (which must be arranged under the provisions of Standing Order 11.12).	<p><b>Introduce new Standing Order</b></p> <p>Duplicates SO26.7 with appropriate amendment, removing the reference to 11.7(ii) as all Consolidation Bills will be Government business. The timetable agreed by Business Committee will include deadlines for the responsible committee to report on its Initial Consideration, and for completing and reporting on Detailed Committee Consideration</p>
26C.14	The Business Committee may make such subsequent changes to a timetable established under Standing Order 26C.13 as it considers appropriate but must give reasons for such changes.	<p><b>Introduce new Standing Order</b></p> <p>Duplicates SO26.8 with appropriate amendment</p>

	<b>Initial Consideration</b>	<b>Introduce new sub-heading</b>  This differs from SO 26, as for Consolidation Bills there will be no consideration of 'general principles'. The responsible committee examines the Bill and reports only on whether it should proceed as a Consolidation Bill.  To avoid confusion with the procedure for ordinary Bills under SO26, this stage will be called 'Initial Consideration', rather than 'Stage 1'.
26C.15	Once a Consolidation Bill has been introduced, the Business Committee must refer the Consolidation Bill to the responsible committee for initial consideration.	<b>Introduce new Standing Order</b>  This differs from the provision for ordinary Bills in that the Business Committee must refer the Consolidation Bill to the responsible Committee. This is due to the key role the Committee plays in deciding

		whether the Bill may proceed as a Consolidation Bill or not.
26C.16	Once the Business Committee refers the Consolidation Bill to the responsible committee under Standing Order 26C.15, that responsible committee must consider and report on whether the Bill should proceed as a Consolidation Bill.	<b>Introduce new Standing Order</b>  Since the purpose of a Consolidation Bill is to consolidate the law as it already exists, the Committee's role is to report on whether the Bill should proceed as a Consolidation Bill – i.e. whether the Bill falls within the definition of a Consolidation Bill and whether it approves of the law being consolidated in this manner – rather than consider the general principles of the Bill from a policy viewpoint.
26C.17	In considering whether a Bill should proceed as a Consolidation Bill or not, the responsible committee may consider:	<b>Introduce new Standing Order</b>

	<ul style="list-style-type: none"> <li>(i) whether the Committee is satisfied that the scope of the consolidation is appropriate,</li> <li>(ii) whether the Committee is satisfied that the relevant enactments have been included within the consolidation;</li> <li>(iii) whether the Bill correctly consolidates the enactments or changes their substantive legal effect only to the extent allowed by Standing Order 26C.2;</li> <li>(iv) whether the Bill consolidates the law clearly and consistently;</li> <li>(v) any other matters it considers relevant to Standing Order 26C.</li> </ul>	<p>This Standing Order sets out some questions the that the responsible committee may consider in determining whether the Bill should proceed as a Consolidation Bill or not when reporting under Standing Order 26C.16. The list is not designed to be exhaustive, and (v) enables the Committee to consider any matters it considers relevant.</p>
<p>26C.18</p>	<p>Not earlier than five working days after either:</p> <ul style="list-style-type: none"> <li>(i) the responsible committee has reported on whether the Bill should proceed as a Consolidation Bill; or</li> <li>(ii) the deadline by which the responsible committee is required to report has been reached,</li> </ul>	<p><b>Introduce new Standing Order</b></p> <p>This draft new SO mirrors the provisions of SO26.11, except that the nature of the committee report and the Assembly motion will be whether the Bill should proceed as a Consolidation Bill rather than on its general principles.</p>

	the Member in charge of the Bill may propose that the Assembly agree that the Bill proceed as a Consolidation Bill.	
26C.19	If the Assembly agrees that the Bill should proceed as a Consolidation Bill, the Bill proceeds to Detailed Committee Consideration.	<b>Introduce new Standing Order</b>  Duplicates SO26.13 with appropriate amendment.
26C.20	If the Assembly does not agree that the Bill proceed as a Consolidation Bill the Bill falls.	<b>Introduce new Standing Order</b>  Duplicates SO26.14 with appropriate amendment.
26C.21	Initial Consideration is completed when the Assembly agrees that the Bill should proceed as a Consolidation Bill or the Consolidation Bill falls at Initial Consideration.	<b>Introduce new Standing Order</b>  Duplicates SO26.15 with appropriate amendment.

	<b>Detailed Committee Consideration</b>	<b>Introduce new sub-heading</b>  Re-names 'Stage 2' in SO26C to reflect the newly proposed procedure which differs from the Stages 1- 4 in SO26.
26C.22	Detailed Committee Consideration must be undertaken by the responsible committee.	<b>Introduce new Standing Order</b>  Given the role of the committee in reporting only on whether the Bill should proceed as a Consolidation Bill, it is proposed to refer all Consolidation Bills to one committee who will develop expertise, as opposed to referring Bills to the relevant subject committee.
26C.23	Detailed Committee Consideration starts on the first working day after Initial Consideration is completed.	<b>Introduce new Standing Order</b>

		Duplicates SO26.16 with appropriate amendment.
26C.24	At least 15 working days must elapse between the start of Detailed Committee Consideration and the date of the first meeting at which the responsible committee considers amendments to the Consolidation Bill.	<b>Introduce new Standing Order</b>  Duplicates SO26.18 with appropriate amendment.
26C.25	A Consolidation Bill may be amended in Detailed Committee Consideration proceedings.	<b>Introduce new Standing Order</b>  Duplicates SO26.19 with appropriate amendment.
26C.26	Amendments to be considered at Detailed Committee Consideration proceedings may be tabled by any Member, from the first day on which Detailed Committee Consideration starts.	<b>Introduce new Standing Order</b>  Duplicates SO26.20 with appropriate amendment.
26C.27	Amendments are to be disposed of in the order in which the sections and schedules to which they	<b>Introduce new Standing Order</b>



	relate arise in the Consolidation Bill, unless the committee considering Detailed Committee Consideration proceedings has decided otherwise.	Duplicates SO26.21 with appropriate amendment.
26C.28	<p>Only a Member who is a member of the committee considering Detailed Committee Consideration proceedings may participate in those proceedings for the purpose of:</p> <ul style="list-style-type: none"> <li>(i) moving or seeking agreement to withdraw an amendment; or</li> <li>(ii) voting.</li> </ul>	<p><b>Introduce new Standing Order</b></p> <p>Duplicates SO26.22 with appropriate amendment.</p>
26C.29	An amendment tabled by a Member who is not a member of the committee considering Detailed Committee Consideration proceedings, may be moved by a member of the committee.	<p><b>Introduce new Standing Order</b></p> <p>Duplicates SO26.23 with appropriate amendment.</p>
26C.30	When all amendments at Detailed Committee Consideration proceedings have been disposed of, any member of the committee may without notice move that the committee consider further	<b>Introduce new Standing Order</b>

	<p>amendments at further Detailed Committee Consideration proceedings. Such a motion may not be debated or amended.</p>	<p>Duplicates SO26.39, the procedure for further Stage 3, with appropriate amendment.</p> <p>As there may not be a Plenary amending stage for all Consolidation Bills, it is proposed to introduce a 'Further Committee Consideration Stage', to be taken in committee, to deal with technical amendments that follow from the 'main' Detailed Committee Consideration Stage under Standing Orders 26C.22-29.</p>
26C.31	<p>If a motion under Standing Order 26C.30 is agreed to, any member of the government may table amendments to the Consolidation Bill to be moved at the further Detailed Committee Consideration proceedings.</p>	<p><b>Introduce new Standing Order</b></p>

		Duplicates SO26.40, the procedure for further Stage 3, with appropriate amendment.
26C.32	Amendments under Standing Order 26C.31 are only admissible if, in addition to the criteria in Standing Order 26C.85 they are for the purpose of clarifying a provision of a Consolidation Bill (including ensuring consistency between the English and Welsh texts) or giving effect to commitments given at the earlier Detailed Committee Consideration proceedings.	<b>Introduce new Standing Order</b>  Duplicates SO26.41, the procedure for further Stage 3, with appropriate amendment.
26C.33	Where any amendment is tabled to a section of or schedule to the Consolidation Bill, once the final amendment to that section or schedule has been disposed of, that section or schedule as amended, or otherwise, is deemed to be agreed by the committee for the purpose of Detailed Committee Consideration proceedings.	<b>Introduce new Standing Order</b>  Duplicates SO26.24 with appropriate amendment.

26C.34	If no amendment is tabled to a section of or schedule to the Consolidation Bill, then that section or schedule is deemed agreed by the committee for the purpose of Detailed Committee Consideration proceedings.	<b>Introduce new Standing Order</b>  Duplicates SO26.25 with appropriate amendment.
26C.35	Detailed Committee Consideration is completed when the last amendment has been disposed of or the last section or schedule has been deemed agreed, whichever is the later.	<b>Introduce new Standing Order</b>  Duplicates SO26.26 with appropriate amendment.
26C.36	After the completion of Detailed Committee Consideration proceedings, the responsible committee must report on the outcomes of its detailed consideration, and whether in its view the Consolidation Bill should proceed to Detailed Assembly Consideration or to Final Stage.	<b>Introduce new Standing Order</b>  It is proposed that the responsible Committee should report on whether it considers that the whole Assembly should be given the opportunity to consider further amendments, or whether the Bill should proceed to Final Stage.

26C.37	If a Consolidation Bill is amended at Detailed Committee Consideration proceedings, the Member in charge must prepare a revised Explanatory Memorandum, unless the committee considering Detailed Committee Consideration proceedings resolves that no revised Explanatory Memorandum is required.	<b>Introduce new Standing Order</b>  Duplicates SO26.27 with appropriate amendment.
26C.38	Any revised Explanatory Memorandum prepared under Standing Order 26C.37 must be laid at least five working days before the date of Final Stage proceedings or, where relevant, the first Detailed Assembly Consideration proceedings.	<b>Introduce new Standing Order</b>  Duplicates SO26.28 with appropriate amendment.
	<b>Detailed Assembly Consideration</b>	<b>Introduce new sub-heading</b>
26C.39	If the responsible Committee at Detailed Committee Consideration reports that the Assembly should	<b>Introduce new Standing Order</b>

	<p>consider amendments at Detailed Assembly Consideration, the Consolidation Bill proceeds to Detailed Assembly Consideration, unless a motion that the Consolidation Bill proceed directly to Final Stage is agreed by the Assembly.</p>	<p>In such a situation where the responsible Committee considers that some provisions of the Bill are such that that the whole Assembly ought to be given the opportunity to consider amendments, it is proposed that the Bill should proceed directly to Detailed Assembly Consideration Stage unless a motion that the optional amending stage should not be triggered is agreed by the Assembly under SO26C.41.</p>
<p>26C.40</p>	<p>If the responsible committee has reported on the Detailed Committee Consideration of the Consolidation Bill and has recommended that the Consolidation Bill proceed to Final Stage, or if the deadline for the deadline for the committee to report has passed, the Consolidation Bill proceeds to Final Stage, unless a motion that the Assembly</p>	<p><b>Introduce new Standing Order</b></p> <p>The proposed new Standing Order sets out the reverse circumstances of 26C.39 in which a motion for DAC may be proposed, should the committee recommend that the Consolidation Bill proceeds directly to Final Stage. It also provides for a situation where</p>

	<p>consider amendments at Detailed Assembly Consideration is agreed by the Assembly.</p>	<p>the committee hasn't reported by the deadline set by the Business Committee.</p> <p>This replicates similar provisions elsewhere in Standing Orders, and is in line with Consolidation Bill procedures elsewhere.</p> <p>It is proposed that Consideration stage by the whole Assembly, to consider amendments, is not automatic. In the instance that the responsible committee at Detailed Committee Consideration do not recommend it, any Member may propose a motion to trigger this (fuller) procedure by tabling a motion.</p> <p>This proposal is in line with Consolidation procedures in the Scottish, Westminster and</p>
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		New Zealand Parliaments whereby shorter, streamlined procedures are the norm for non-contentious Consolidation Bills.
26C.41	The Assembly must consider a motion tabled under Standing Order 26C.39 or 26C.40. Such a motion may be tabled by any Member, and may be debated but not amended.	<b>Introduce new Standing Order</b>
26C.42	Detailed Assembly Consideration starts either: <ul style="list-style-type: none"> <li>(i) two sitting weeks after the responsible Committee at Detailed Committee Consideration reports that the Assembly should consider amendments at Detailed Assembly Consideration (and no motion under Standing Order 26C.39 that the Consolidation Bill proceed directly to Final Stage is agreed by the Assembly in the meantime); or</li> <li>(ii) the day after a motion under Standing Order 26C.40 that the Assembly consider amendments at Detailed Assembly Consideration is agreed by the Assembly.</li> </ul>	<b>Introduce new Standing Order</b>  Duplicates SO26.29 with appropriate amendment. The draft Standing Order is designed to allow enough time (two sitting weeks) for a member to table a motion proposing that the Consolidation Bill proceed directly to Final Stage, if the committee at Detailed Committee Consideration recommends the



		Consolidation Bill proceed to Detailed Assembly Consideration.
26C.43	At least 15 working days must elapse between the start of Detailed Assembly Consideration and the date of the first meeting of the Assembly that considers Detailed Assembly Consideration proceedings.	<b>Introduce new Standing Order</b>  Duplicates SO26.30 with appropriate amendment.
26C.44	Detailed Assembly Consideration proceedings of a Consolidation Bill must be considered by the Assembly in plenary.	<b>Introduce new Standing Order</b>  Duplicates SO26.31 with appropriate amendment.
26C.45	A Consolidation Bill may be amended in Detailed Assembly Consideration proceedings.	<b>Introduce new Standing Order</b>

		Duplicates SO26.32 with appropriate amendment.
26C.46	Amendments to be considered at Detailed Assembly Consideration proceedings may be tabled by any Member from the first day on which Detailed Assembly Consideration starts.	<b>Introduce new Standing Order</b>  Duplicates SO26.33 with appropriate amendment.
26C.47	The Presiding Officer may select those amendments which are to be taken at Detailed Assembly Consideration proceedings.	<b>Introduce new Standing Order</b>  Duplicates SO26.34 with appropriate amendment.
26C.48	The Presiding Officer may in exceptional circumstances accept an amendment at Detailed Assembly Consideration proceedings of which less notice has been given than is required under Standing Order 26C.83. Such an amendment is referred to as a “late amendment”.	<b>Introduce new Standing Order</b>  Duplicates SO26.35 with appropriate amendment.

26C.49	Amendments are to be disposed of in the order in which the sections and schedules to which they relate arise in the Consolidation Bill, unless the Assembly has decided otherwise on a motion of the Minister with responsibility for government business.	<b>Introduce new Standing Order</b>  Duplicates SO26.36 with appropriate amendment.
26C.50	The Assembly may, on a motion without notice of the Minister with responsibility for government business, agree to one or more time-limits that are to apply to debates on amendments (as they have been grouped by the Presiding Officer).	<b>Introduce new Standing Order</b>  Duplicates SO26.37 with appropriate amendment.
26C.51	If a motion under Standing Order 26C.50 is agreed to, debates on those groups of amendments must be concluded by the time-limits specified in the motion, except to the extent considered necessary by the Presiding Officer:  (i) as a consequence of the non-moving of an amendment leading to a change in the order in which groups are debated; or	<b>Introduce new Standing Order</b>  Duplicates SO26.38.

	<p>(ii) to prevent any debate on a group of amendments that has already begun when a time-limit is reached from being unreasonably curtailed.</p>	
<p>26C.52</p>	<p>When all amendments selected at Detailed Assembly Consideration proceedings have been disposed of, any member of the government may without notice move that the Assembly consider further amendments at further Detailed Assembly Consideration proceedings. Such a motion may not be debated or amended.</p>	<p><b>Introduce new Standing Order</b></p> <p>Duplicates SO26.39 with appropriate amendment.</p> <p>It is proposed to introduce a ‘Further Assembly Consideration Stage’, to be taken in Plenary, to deal with any technical amendments that follow from the ‘main’ Detailed Plenary Consideration Stage under Standing Orders 26C.42-57.</p>
<p>26C.53</p>	<p>If a motion under Standing Order 26C.52 is agreed to, any member of the government may table</p>	<p><b>Introduce new Standing Order</b></p>

	amendments to the Consolidation Bill to be moved at the further Detailed Assembly Consideration proceedings.	Duplicates SO26.40 with appropriate amendment.
26C.54	Amendments under Standing Order 26C.53 are only admissible if, in addition to the criteria in Standing Order 26C.85, they are for the purpose of clarifying a provision of a Consolidation Bill (including ensuring consistency between the English and Welsh texts) or giving effect to commitments given at the earlier Detailed Assembly Consideration proceedings.	<b>Introduce new Standing Order</b>  Duplicates SO26.41 with appropriate amendment.
26C.55	Where any amendment is tabled to a section of or schedule to the Consolidation Bill, once the final amendment to that section or schedule has been disposed of, that section or schedule as amended, or otherwise, is deemed agreed by the Assembly for the purpose of Detailed Assembly Consideration proceedings.	<b>Introduce new Standing Order</b>  Duplicates SO26.42 with appropriate amendment.

26C.56	If no amendment is tabled to a section of or schedule to the Consolidation Bill, then that section or schedule is deemed agreed by the Assembly for the purpose of Detailed Assembly Consideration proceedings.	<p><b>Introduce new Standing Order</b></p> <p>Duplicates SO26.43 with appropriate amendment.</p>
26C.57	Detailed Assembly Consideration is completed when the last amendment has been disposed of or the last section or schedule has been deemed agreed, whichever is the later.	<p><b>Introduce new Standing Order</b></p> <p>Duplicates SO26.44 with appropriate amendment.</p>
	<b>Final Stage</b>	
26C.58	<p>A motion that the Consolidation Bill be passed may be tabled by any Member, but may not be considered until either:</p> <ul style="list-style-type: none"> <li>(i) at least 2 sitting weeks after either: <ul style="list-style-type: none"> <li>(a) the responsible committee has reported on Detailed Committee Consideration of the Consolidation Bill and has recommended that the</li> </ul> </li> </ul>	<p><b>Introduce new Standing Order</b></p> <p>Duplicates SO26.47 with appropriate amendment. The draft Standing Order is designed to allow enough time (two sitting weeks) for a member to table a motion proposing Detailed Assembly Consideration</p>

	<p>Consolidation Bill proceed to Final Stage; or</p> <p>(b) the deadline for the responsible committee to report has passed; (and no motion under Standing Order 26C.40 that the Assembly consider amendments at Detailed Assembly Consideration is agreed by the Assembly in the meantime);</p> <p>(ii) at least 5 working days after either;</p> <p>(a) a motion that the Consolidation Bill proceed directly to Final Stage is agreed by the Assembly under Standing Order 26C.39; or</p> <p>(b) the completion of Detailed Assembly Consideration proceedings, where undertaken.</p>	<p>before a motion to agree the Bill can be considered as a result of the committee at Detailed Committee Consideration recommending the Consolidation Bill proceed to Final Stage, or failing to report at all.</p> <p>This should make a situation where a DAC and Final Stage motion have both been tabled very unlikely; should that happen it would be a matter for the Business Committee to resolve.</p>
<p>26C.59</p>	<p>A motion under Standing Order 26C.58 must be tabled at least one working day before it is debated.</p>	<p><b>Introduce new Standing Order</b></p>

		Duplicates SO26.47A with appropriate amendment.
26C.60	A motion that a Consolidation Bill be passed may not be amended.	<b>Introduce new Standing Order</b>  Duplicates SO26.49 with appropriate amendment.
26C.61	No motion that a Consolidation Bill be passed may be moved unless the text of the Consolidation Bill is available in both English and Welsh.	<b>Introduce new Standing Order</b>  Duplicates SO26.50 with appropriate amendment.
26C.62	No motion that a Consolidation Bill be passed may be moved until the Presiding Officer has stated, in accordance with section 111A(3) of the Act, whether or not in the Presiding Officer's view any provision	<b>Introduce new Standing Order</b>  Duplicates SO26.50A with appropriate amendment.



	of the Consolidation Bill relates to a protected subject matter.	
26C.63	Where the Presiding Officer has made a statement that in the Presiding Officer's view any provision of the Consolidation Bill relates to a protected subject matter, the Bill is only passed if the number voting in favour of it is at least two-thirds of the total number of Assembly seats.	<b>Introduce new Standing Order</b>  Duplicates SO26.50B with appropriate amendment.
26C.64	A recorded vote must be taken on a motion that a Consolidation Bill be passed.	<b>Introduce new Standing Order</b>  Duplicates SO26.50C with appropriate amendment.
26C.65	No motion under Standing Order 12.31(ii) may be moved in any Final Stage proceedings.	<b>Introduce new Standing Order</b>  Duplicates SO26.51 with appropriate amendment.

	<b>Reconsideration of Consolidation Bills Passed</b>	
26C.66	<p>In accordance with section 113 of the Act, any Member may, after the Consolidation Bill is passed, by motion propose that the Assembly reconsider the Consolidation Bill, or any provision of it, if:</p> <ul style="list-style-type: none"> <li>(i) a question has been referred to the Supreme Court under section 112 of the Act; and</li> <li>(ii) a reference for a preliminary European Court ruling (within the meaning of section 113(1)(b) of the Act) has been made by the Supreme Court in connection with that reference; and</li> <li>(iii) neither of those references has been decided or otherwise disposed of.</li> </ul>	<p><b>Introduce new Standing Order</b></p> <p>Duplicates SO26.52 with appropriate amendment.</p>
26C.67	<p>If a motion under Standing Order 26C.66 is agreed to by the Assembly, the Clerk must notify the Counsel General and the Attorney General of that fact.</p>	<p><b>Introduce new Standing Order</b></p> <p>Duplicates SO26.52A with appropriate amendment.</p>

26C.68	If the Assembly agrees to a motion under Standing Order 26C.66, Reconsideration Stage starts on the first working day after the reference made in relation to the Consolidation Bill under section 112 has been withdrawn following a request for withdrawal of the reference under section 113(2)b of the Act.	<b>Introduce new Standing Order</b>  Duplicates SO26.52B with appropriate amendment.
26C.69	Any Member may by motion propose that the Assembly reconsider the Consolidation Bill if:  (i) the Supreme Court decides on a reference made in relation to the Consolidation Bill under section 112 of the Act that the Consolidation Bill or any provision of it would not be within the legislative competence of the Assembly; or  (ii) an order is made in relation to the Consolidation Bill under section 114 of the Act.	<b>Introduce new Standing Order</b>  Duplicates SO26.53 with appropriate amendment.
26C.70	If the Assembly agrees to a motion under Standing Order 26C.69, Reconsideration Stage starts on the	<b>Introduce new Standing Order</b>

	first working day after that motion is agreed to by the Assembly.	Duplicates SO26.53A with appropriate amendment.
26C.71	Standing Orders 26C.43 to 26C.47 and 26C.49 to 26.57 apply to Reconsideration Stage proceedings. References to “Detailed Assembly Consideration” and “further Detailed Assembly Consideration” should be construed as references to “Reconsideration Stage” and “further Reconsideration Stage” accordingly.	<b>Introduce new Standing Order</b>  Duplicates SO26.54 with appropriate amendment.
26C.72	A Consolidation Bill may not be amended at Reconsideration Stage unless in addition to the criteria in Standing Order 26C.85 (i), (ii) and (iv), and in the opinion of the Presiding Officer, the amendments are solely for the purpose of resolving the issue which is the subject of:  (i) the reference for a preliminary ruling; (ii) the decision of the Supreme Court; or (iii) the Order under section 114 of the Act.	<b>Introduce new Standing Order</b>  Duplicates SO26.55 with appropriate amendment. The criterion in SO26C.85(iii) will not apply at reconsideration stage, as resolving the issue identified may require amendments that wouldn’t normally be in order for a Consolidation Bill.

26C.73	After all amendments have been disposed of at Reconsideration Stage proceedings, and subject to Standing Order 26C.74, any Member may without notice move that the Assembly approves a Consolidation Bill amended on reconsideration. Such a motion may not be amended and a recorded vote must be taken on the motion.	<b>Introduce new Standing Order</b>  Duplicates SO26.56 with appropriate amendment.
26C.74	No motion that a reconsidered Consolidation Bill be approved may be moved until the Presiding Officer has stated, in accordance with section 111A(3) of the Act, whether or not in the Presiding Officer's view any provision of the Consolidation Bill relates to a protected subject matter.	<b>Introduce new Standing Order</b>  Duplicates SO26.56A with appropriate amendment.
26C.75	Where the Presiding Officer has made a statement that in the Presiding Officer's view any provision of the Consolidation Bill relates to a protected subject matter, the Consolidation Bill is only passed if the number voting in favour of it is at least two-thirds of the total number of Assembly seats.	<b>Introduce new Standing Order</b>  Duplicates SO26.56B with appropriate amendment.

	<b>Reconsideration of Bills Rejected</b>	
26C.76	Any Member may by motion propose that the Assembly reconsider the Consolidation Bill if the Supreme Court decides on a reference made under section 111B(2)a of the Act in relation to a Consolidation Bill rejected by the Assembly, that no provision of the Consolidation Bill that is subject to the reference relates to a protected subject-matter.	<p><b>Introduce new Standing Order</b></p> <p>Duplicates SO26.56C with appropriate amendment.</p>
26C.77	If the Assembly agrees to a motion under Standing Order 26C.76, Reconsideration Stage starts on the first working day after that motion is agreed to by the Assembly.	<p><b>Introduce new Standing Order</b></p> <p>Duplicates SO26.56D with appropriate amendment.</p>
26C.78	A Consolidation Bill reconsidered in accordance with Standing Order 26C.76 may not be amended.	<p><b>Introduce new Standing Order</b></p> <p>Duplicates SO26.56E with appropriate amendment.</p>

26C.79	At Reconsideration Stage in accordance with Standing Order 26C.76, any Member may table a motion that the Consolidation Bill be approved. Such a motion may not be amended and a recorded vote must be taken on the motion.	<b>Introduce new Standing Order</b>  Duplicates SO26.56F with appropriate amendment.
26C.80	No motion under Standing Order 26C.79 may be moved until the Presiding Officer has stated, in accordance with section 111A(3) of the Act, whether or not in his or her view any provision of the Consolidation Bill relates to a protected subject-matter.	<b>Introduce new Standing Order</b>  Duplicates SO26.56G with appropriate amendment.
	<b>General Provisions in Relation to Amendments to Consolidation Bills</b>	
26C.81	Standing Orders 26C.82 to 26C.90 apply to amendments in Detailed Committee Consideration, Detailed Assembly Consideration proceedings or on Reconsideration, except that Standing Order 26C.85(iii) does not apply to amendments on Reconsideration.	<b>Introduce new Standing Order</b>  Duplicates SO26.57 with appropriate amendment, including exempting 26C.85(iii) from reconsideration so that any

		amendment required to resolve the issue that was the subject of the reference, Order, or decision is admissible.
26C.82	The Presiding Officer must determine the proper form of amendments to a Consolidation Bill.	<b>Introduce new Standing Order</b>  Duplicates SO26.58 with appropriate amendment.
26C.83	No amendment, other than a late amendment, may be considered unless it has been tabled at least five working days before it is considered.	<b>Introduce new Standing Order</b>  Duplicates SO26.59 without amendment.
26C.84	Any Member may add his or her name to an amendment (other than a late amendment) by notifying the Clerk at any time until the end of the working day before the amendment is due to be considered.	<b>Introduce new Standing Order</b>  Duplicates SO26.60 without amendment.
26C.85	An amendment is not admissible if:	<b>Introduce new Standing Order</b>



	<ul style="list-style-type: none"> <li>(i) it is not in its proper form in accordance with Standing Order 26C;</li> <li>(ii) it is not relevant to the Consolidation Bill or the provisions of the Consolidation Bill which it would amend;</li> <li>(iii) it would cause the Bill to cease to be a Consolidation Bill as defined by Standing Orders 26C.1 and 26C.2; or</li> <li>(iv) it is inconsistent with a decision already taken at the Stage at which the amendment is proposed.</li> </ul>	Duplicates SO26.61 with appropriate amendment.
26C.86	An amendment may be tabled to an amendment and, if selected, must be disposed of before the amendment which it would amend and Standing Orders 26C.81 to 26C.90 must apply accordingly.	<p><b>Introduce new Standing Order</b></p> <p>Duplicates SO26.62 with appropriate amendment.</p>
26C.87	Subject to Standing Order 26C.28, an amendment (other than a late amendment) may be withdrawn by the Member who tabled it at any time before the day on which it is considered but only with the	<b>Introduce new Standing Order</b>

	<p>unanimous agreement of any Members who have added their names to the amendment. If such agreement is not obtained, the amendment becomes an amendment in the name of the Member who first added his or her name to the amendment and who does not agree to the amendment being withdrawn.</p>	<p>Duplicates SO26.63 with appropriate amendment.</p>
26C.88	<p>The chair of a committee considering Detailed Committee Consideration proceedings or the Presiding Officer, as the case may be, may group amendments for the purposes of debate as he or she sees fit. An amendment debated as part of a group may not be debated again when it comes to be disposed of.</p>	<p><b>Introduce new Standing Order</b></p> <p>Duplicates SO26.64 with appropriate amendment.</p>
26C.89	<p>If a Member who tabled an amendment does not move the amendment when that amendment comes to be debated, the amendment may be moved:</p>	<p><b>Introduce new Standing Order</b></p> <p>Duplicates SO26.65 with appropriate amendment.</p>

	<ul style="list-style-type: none"> <li>(i) in Detailed Committee Consideration proceedings, by a member of that committee; or</li> <li>(ii) in Detailed Assembly Consideration proceedings or on Reconsideration, by any other Member.</li> </ul>	
26C.90	<p>An amendment which has been moved may be withdrawn by the Member who moved it, but only:</p> <ul style="list-style-type: none"> <li>(i) in a committee considering Detailed Committee Consideration proceedings, if no member of that committee objects; or</li> <li>(ii) in Detailed Assembly Consideration proceedings or on Reconsideration, if no Member objects.</li> </ul>	<p><b>Introduce new Standing Order</b></p> <p>Duplicates SO26.66 with appropriate amendment.</p>
	<b>Her Majesty's and Duke of Cornwall's Consent</b>	
26C.91	<p>If a Consolidation Bill contains any provision, or is amended so as to include any provision, that would, if contained in a Bill for an Act of the United Kingdom Parliament, require the consent of Her Majesty, or the Duke of Cornwall, the Assembly must not debate the question whether the</p>	

	Consolidation Bill be passed (or approved following Reconsideration) unless such consent to such a provision has been signified by a member of the government at a meeting of the Assembly.	
	<b>Notification of Royal Assent to Acts of the Assembly</b>	
26C.92	The Clerk must notify the Assembly of the date of Royal Assent to an Act of the Assembly.	<b>Introduce new Standing Order</b>  Duplicates SO26.75 without amendment.
	<b>Fall, Rejection or Withdrawal of Bills</b>	
26C.93	Subject to Standing Order 26C.76, if a Consolidation Bill falls or is rejected by the Assembly, no further proceedings may be taken on that Consolidation Bill, and another Consolidation Bill which, in the opinion of the Presiding Officer, is in the same or similar terms must not be introduced under this Standing Order in the same Assembly	<b>Introduce new Standing Order</b>  Duplicates SO26.76 with appropriate amendment.

	within the period of 6 months from the date on which the Consolidation Bill fell or was rejected.	
26C.94	A Consolidation Bill falls if it has not been passed or approved by the Assembly before the end of the Assembly in which it was introduced.	<b>Introduce new Standing Order</b>  Duplicates SO26.77 with appropriate amendment.
26C.95	A Consolidation Bill may be withdrawn at any time by the Member in charge but must not be withdrawn after Initial Consideration except with the agreement of the Assembly.	<b>Introduce new Standing Order</b>  Duplicates SO26.79 with appropriate amendment.

## Annex C – Guidance to support the operation of Standing Order 26C on Consolidation Bills

1. The purpose of a Consolidation Bill is to improve access to the law. This is done both by bringing together all or most of the (generally primary) legislation on a specific subject or topic so that it can easily be found, and by modernising the form and drafting of the law to make it easier to understand and apply. Its purpose is not to bring about policy reform and in consequence developing and passing a Consolidation Bill is intended to be a legal, technical process. Scrutiny of Consolidation Bills is also intended to be a technical exercise focussing on the process of consolidating the law rather than on its substantive content.
2. This is not to say, however, that a Consolidation Bill cannot make any substantive changes to the law. Consolidating the law – in particular in the Welsh context – is a complex matter and is likely to reveal inconsistencies and anomalies in existing legislation. Producing a modern and accessible restatement of existing law may also demand, or benefit from, making minor amendments. By necessity, however, such amendments may only be minor and non-controversial – any other change that is necessary or desirable would have to be pursued through a reform Bill to be considered by the National Assembly in the normal way.
3. Preparing a consolidation Bill can result in legislation which looks very different to the original text. This is normal and should be expected. Significant presentational changes designed to modernise the language and make its structure more accessible can be achieved without making changes to the effect of the law. In order to help explain how the law has been re-presented, tables showing the origin and destination of the provisions consolidated will accompany the Bill, together with drafters' notes explaining the approach that has been taken in producing the Bill. In addition a set of Explanatory Notes to each consolidation Bill will be prepared.

4. Standing Order 26C.1 states that a Consolidation Bill *“is a Bill introduced by a member of the government for the purpose of consolidating existing primary legislation, secondary legislation and common law.”* Standing Order 26C.2 goes on to provide that a Consolidation Bill may:
  - a. restate existing legislation with any changes of structure, language or format appropriate for the purpose of improving the presentation of the law and ensuring consistency with current drafting practice;
  - b. clarify the application or effect of existing law;
  - c. remove or omit provisions which are obsolete, spent or no longer of practical utility or effect;
  - d. make minor changes to existing law for the purposes of achieving a satisfactory consolidation;
  - e. make other changes to the law which the Law Commission of England and Wales recommends are appropriate for inclusion within a consolidation Bill;
  - f. include appropriate transitional and savings provisions, and consequential amendments and repeals of existing legislation (including amendments to ensure that existing legislation continues to operate correctly in relation to England).
  
5. In this context, this note provides guidance on the nature of consolidation bills and the extent to which they may revise, update and change existing law.

***A consolidation Bill may restate existing legislation with any changes of structure, language or format that are considered appropriate for the purpose of improving the presentation of the law and ensuring consistency with current drafting practice***

6. This may include:

- a. renumbering and rearranging provisions (for example, dividing or combining existing sections or Parts, or moving material between sections and Schedules);
- b. expressing provisions in a way that reflects their actual legal effect (for example adopting terminology that reflects devolution and other transfers of functions that have taken place since the existing legislation was passed);

Notes:

- in addition to devolution and transfer of functions, the consolidation Bill should reflect all other legal changes that have altered the meaning of the existing legislation. For example, wherever the maximum fine that a magistrates' court could impose for an offence would have been £5,000 before 12 March 2015, it was converted into an unlimited fine by the Legal Aid, Sentencing and Punishment of Offenders Act 2012. So earlier provisions creating liability to a maximum fine of £5,000 would now be restated as creating liability to "a fine";
  - there may have been changes in the law since the existing legislation was enacted, which mean that the words that are required to achieve a particular legal effect are different from those that were required when the existing legislation was drafted. For example, the Legislation (Wales) Bill will reverse the presumption that Assembly Acts do not bind the Crown, so the provision that needs to be made to ensure that a consolidation Bill binds the Crown to the same extent as the original legislation is likely to be different.
- c. changing the language of legislation that exists only in English to facilitate the production of a coherent bilingual Bill;
  - d. adopting gender neutral language and modernising language in any other way (including by omitting redundant wording);
  - e. adding, removing or changing labels and headings;

Examples:



- a consolidation Bill may replace labels used in existing legislation with ones that give a better sense of what is being referred to. For example, planning legislation uses a number of labels that might be regarded as misleading or uninformative, such as “completion notice”, “planning contravention notice” and “appointed person”.
  - existing legislation may use labels and headings that are not needed in a restatement of the law for Wales because their only purpose is to distinguish between “English” and “Welsh” cases. Labels of this kind may be removed or replaced with more suitable terms.
  - legislation may contain labels that are no longer useful because of changes in circumstances. For example, the term “mineral planning authority” in planning legislation is not needed in Wales because the that authority is always the same as the “local planning authority” (whereas those authorities may be different under the two-tier system of local government that still applies to most of England).
- f. adding new tables, formulae or other ways of presenting information;
- g. adding navigational aids such as overviews and signposting provisions (including signposts to legislation not included in the consolidation but relevant to it);
- h. setting out in full provisions of other legislation that are incorporated into the consolidated legislation;

Example:

- if Act A provides that certain provisions of Act B apply to it, it will often be more accessible to repeat those provisions in full in the restatement of Act A (particularly if any modifications are needed to make them work properly in the context of Act A).
- i. adding, removing or changing punctuation or conjunctions;  
and

- j. correcting typographical errors, incorrect cross-references and similar obvious mistakes.
7. Current drafting practice means the legislative drafting practice for the time being used by the Office of the Legislative Counsel.

***A Consolidation Bill may clarify the application or effect of existing law***

8. The application or effect of existing provisions may be unclear because their drafting creates doubt or ambiguity (for example, uncertainty about when a period of time ends or about which bodies are subject to a duty). A Consolidation Bill may clarify the intended meaning, for example by spelling out more clearly when a particular provision or definition applies. Where the existing legislation is bilingual, clarification may include reconciling any ambiguities in either language or both.
9. Clarification may involve filling in gaps in the legislation, for example by including definitions of terms that the existing legislation does not define, or by spelling out that the application of a provision is limited to the particular cases in which it is relevant.

Note: this may include clarifying the effect of transfers of functions “in relation to Wales” by providing a clearer territorial limit in a consolidation Bill (and a corresponding territorial limit in any enactment which forms part of the consolidation but which will continue to apply to England after the consolidation Bill is passed).

10. Clarification of intent may also involve rectifying the position where the wording of existing provisions does not reflect the meaning they are understood to have in practice, or where different enactments

make provision about the same matter which is or may be contradictory.

Example:

- the Co-operative and Community Benefit Societies Act 2014 (a consolidation Act of the UK Parliament) removed a requirement for there to be “special reasons” for registering a society, to reflect how the provisions were applied in practice and were originally intended to be applied. This was not about inconsistency in the legislation itself.

11. Where a Consolidation Bill seeks to clarify the meaning of existing provisions in any of these ways, it should do so in the way that best reflects the meaning that the provisions are understood to have, or that the legislature is believed to have intended.
12. A Consolidation Bill may also incorporate the effect of case law about the meaning of the existing legislation, or rules of common law that are closely related to the statutory provisions, in order to provide a more complete restatement of the existing law.

***A Consolidation Bill may remove or omit provisions which are obsolete, spent or no longer of practical utility or effect;***

13. There is some overlap between the categories of obsolete provisions, spent provisions, and provisions which are no longer of practical utility or no longer of practical effect.
14. An obsolete provision would include a provision which is out-of-date, for example because it is about bodies, persons or things which are no longer in existence or use.

15. A spent provision is one which applies to a situation which can no longer exist, such as a provision conferring a function which cannot be used again (for example, because the original legislation provided for one action to be taken and this has been done, or the conditions for use can no longer be met).
  
16. A consolidation Bill may also omit provisions which are no longer of practical utility or practical effect. This includes provisions which are no longer necessary as legal provision is available elsewhere (either within the consolidation Bill or in other legislation applicable in Wales) which has an equivalent legal effect.

Notes:

- omitting a provision means it may be repealed for Wales and/or not included in the Consolidation Bill;
- a provision is no longer of practical utility if it was never commenced and there is no longer an intention to commence the provision in Wales; or if the provision was commenced but never used and there is no intention to use the provision in Wales; or it was commenced and used, but has not been for a significant period and there is no expectation of future use; the provision may have been superseded by other Acts, provisions or circumstances;
- a provision no longer has practical effect if, in practice, circumstances have rendered the provision irrelevant or unnecessary.

Examples:

- the Town and Country Planning Act 1990 contains various provisions about pre-1948 breaches of planning control that were relevant when the first Town and Country Planning Act

- came into force. Most of these no longer have any practical effect and could be omitted from a consolidation;
- the Housing Act 1985 (a consolidation Act of the UK Parliament) repealed a previous power to amend local Acts, as 15 years had passed without the power being exercised;
  - the Co-operative and Community Benefit Society Act 2014 (a consolidation Act of the UK Parliament) did not replicate provisions of the Industrial and Provident Societies Act 1965 which referred to people who had made a nomination under the Act before 1 January 1914, on the basis that nobody who had made such a nomination would still be alive in 2014;
  - the uncommenced repeal of “or (2)” in section 60(3) of the Industrial and Provident Societies Act 1965 Act was not reproduced in the Co-operative and Community Benefit Society Act 2014 as there is no intention of commencing the repeal (the repeal was contained in a 1992 Act);
  - the Co-operative and Community Benefit Societies Act 2014 removed a specific offence of making a false statutory declaration on the basis that there was already a general offence of making false statutory declarations that covered the same conduct.

***A consolidation Bill may make minor changes to the law for the purposes of achieving a satisfactory consolidation of existing law***

17. This could include:

- a. resolving inconsistencies in the application of the law in different cases, where the reasons for a difference are no longer applicable or cannot be identified;

Examples:

- removing or reconciling inconsistencies in regulation making powers across different provisions;

- ensuring that where a matter is dealt with on the face of one Act, but by subordinate legislation in another Act, both can be dealt with in primary or secondary legislation (as may be appropriate);
  - ensuring like cases are treated in the same way in the consolidation Bill, for example by reconciling any inconsistencies between provisions which have come from different enactments or by extending general provisions or definitions in one of the existing Acts to cover all of the enactments being consolidated;
  - in cases where notice must be given in writing, and some existing legislation states the requirement for writing expressly but some does not, the requirement to give notice in writing can be set out in all of the provisions (or none of them if it is so obvious as to not need stating).
- b. correcting mistakes or anomalies in the legislation;
- c. ensuring the consolidated legislation would be compatible with the Convention rights;

Note:

- this may include incorporating the effect of case law which has rendered the existing provision(s) compatible with Convention rights;
  - it also may include amending or omitting an existing provision or making new provision where it is clear such a change is necessary to ensure that the law is compatible with the Convention.
- d. providing that the consolidated legislation will operate correctly in relation to Wales taking account of any cross-border issues between England and Wales;

Example:

- the consolidation of the National Health Service Act 1977, which applied to England and Wales, reproduced the law separately for England and Wales in the National Health Service Act 2006 and the National Health Service (Wales) Act 2006. Both Acts provided

a territorial limit for the exercise of functions and made provision about certain cross-border issues.

- e. ensuring consistency in and between the English language and Welsh language texts of the Bill;
- f. moving provisions from subordinate legislation to primary legislation (and occasionally from primary to subordinate legislation) or changing the form of subordinate legislation or the procedure that applies to it, to improve the consistency or coherence of the relevant body of legislation;

Notes:

- Where provisions about a particular issue are contained partly in primary legislation and partly in subordinate legislation, it may be appropriate to move provisions from one level to the other, so that everything about that issue is in the same place. For example, if regulations or orders deal with an important issue affecting how the legislation works, material in the regulations or orders might be more appropriately restated in the Bill.
- Where there is a power to use subordinate legislation to modify the operation of primary legislation, and all the necessary modifications have already been made, it may be appropriate to get rid of the power and incorporate the modifications into the restatement of the primary legislation.
- Where forms or other points of detail are set out in primary legislation, it may be appropriate to provide for them to be specified in regulations instead, particularly if they are likely to need regular updating. Or it may be appropriate simply to require people to use forms published by Ministers or other public bodies, rather than including the forms in legislation.
- Powers for Ministers to legislate by order will generally be restated as powers to make regulations. It may also be appropriate to replace powers to make directions of general application (as opposed to directions addressed to specific individuals) with powers to make regulations.

- Where an existing power to make subordinate legislation is not subject to any Assembly procedure, but such a power would nowadays be expected to attract Assembly procedure, a consolidation Bill may restate the power with an appropriate procedure. A consolidation Bill may also remove other inconsistencies and anomalies in procedural provisions.

***A consolidation Bill may make other changes to the law which the Law Commission of England and Wales recommend are appropriate for inclusion within a consolidation Bill***

18. Under Standing Order 26C.2(v) changes to the law which do not fall within the other paragraphs of that Standing Order may be included in a consolidation Bill on the recommendation of the Law Commission. For a change to be made under paragraph (v), the Law Commission must not only recommend that the change is made, but must also identify the change as one that it would be appropriate to make in a consolidation Bill.
19. Paragraph (v) does not mean that consolidation Bills can be used to give effect to all law reform proposals made by the Law Commission. It is only intended to cover changes to the law which it would be convenient to make at the same time as consolidating the existing law, and which do not involve significant new policy or give rise to significant controversy. Examples of this type of change could include amending a set of procedural requirements to ensure that they work better in practice, or simplifying them to remove redundant steps from the procedure.

***A consolidation Bill may include appropriate transitional and saving provisions, and consequential amendments and repeals of existing legislation (including amendments to ensure that existing legislation continue to operate correctly in relation to England)***



20. This includes:

- a. making consequential amendments to legislation that is not incorporated, or is incorporated only in part, in the consolidation Bill;

Note : this includes making sure that the legislation left behind continues to operate satisfactorily without change in legal effect. It may involve making extensive amendments to the legislation to make clear that some or all of its provisions will in future apply only to England.

- b. providing a power to make further consequential amendments;
- c. repeals necessary to deal with consolidation, including repeals of obsolete and spent provisions, and missed revisions and repeals (i.e. ones which should have been included in earlier Acts);
- d. savings and transitional provisions.