

National Assembly for Wales Education, Lifelong Learning & Skills Committee

Secondary Legislation: 17 January 2006

Background

1. The Committee considered the following item of subordinate legislation, to be made under Standing Order 26, on Wednesday 17 January 2007. A verbatim record was taken and can be viewed on the Committee's WebPage.

Government of Wales Act 2006—Proposed National Assembly for Wales (Conversion of Framework Power) (Legislative Competence) Order 2007 [ELLS-42-06]

2. The Minister for Education, Lifelong Learning and Skills provided an explanatory background paper. She also provided a copy of the draft Order and an Explanatory Memorandum from the Minister for Assembly Business.
3. There was no public consultation on the draft Order, as it gives effect to the policy underlying the Government of Wales Act 2006 (GoWA 2006). The Act gives effect to the proposals contained in the White Paper "Better Governance for Wales", published in June 2005, which was the subject of a full public consultation.
4. The proposed Order in Council will amend Schedule 5 of GoWA 2006 in order to enable the third Assembly to pass Assembly Measures about any of the policy areas covered by the framework powers in sections 178 & 179 of the Education and Inspections Act 2006 (and section 17 of the NHS Redress Act 2006).
5. This will be achieved by specifying these policy areas as 'Matters' under the 'education and training' field in Part 1 of Schedule 5 of the GoWA 2006 (and in the 'health and health services' field in relation to the NHS Redress Act) and repealing the framework powers.

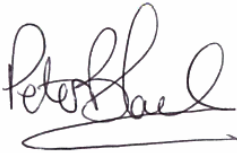
Discussion

6. In discussion, clarification was sought on the following issues:
 - Why there was a need for a conversion Order in respect of these particular framework powers;
 - Whether the timetable for the Order allowed sufficient time for it to come into force in time for the powers to be available to the third Assembly; and
 - The scope of the proposed powers.
5. In response, the Minister and officials provided the following information:

- Powers in earlier Acts were not in a form that allowed them to be converted into Measure making powers. However, the framework powers in the two Acts that this Order was concerned with had been drafted in the light of White Paper proposals that the Assembly should get very wide subordinate-legislation-making powers. Both Acts had received Royal Assent before GoWA 2006 but with the intention that they should be converted to Measure-making powers in due course. Without the Order, the framework powers in the two Acts concerned would rest with Welsh Ministers rather than the Assembly itself.
- On timing, there were opportunities for the Privy Council to consider the Order at the beginning of March and, if necessary, at the beginning of April which would mean that it could be in force in time for the powers to be used by the third Assembly in May; and
- It was difficult to be precise about the scope of the powers because they were widely drawn. How they were used would be as much a matter of policy development as legal powers.

Committee Decision

7. No amendments were proposed and the Committee recommended approval of the draft Order.

A handwritten signature in black ink, appearing to read 'Peter Black', with a horizontal line underneath.

Peter Black AM
Committee Chair