

Pwyllgor Deddfwriaeth Rhif 5

Legislation Committee No. 5



Cynulliad National  
Cenedlaethol Assembly for  
Cymru Wales

Bae Caerdydd / Cardiff Bay  
Caerdydd / Cardiff CF99 1NA

12 February 2009

Dear Colleague

**Public Consultation (closing date 20 March 2009)**

**The Proposed National Assembly for Wales (Legislative Competence) (Welsh Language) Order 2009**

I am writing to invite you to submit written evidence to the Committee on the proposed *National Assembly for Wales (Legislative Competence) (Welsh Language) Order 2009* ('the proposed Order') by Friday 20 March 2009.

The proposed Order was laid before the Assembly on 2 February 2009, by the Minister for Heritage, Alun Ffred Jones AM and has been referred to the National Assembly for Wales' Legislation Committee No. 5 for detailed consideration. The Committee is due to report its views on the proposed Order during the first half of the summer term.

The Committee's work will focus on considering whether the Assembly should have the power, in principle, to legislate by Measure in the area identified in the proposed Order:

- to promote and facilitate the use of the Welsh language, including imposing duties on certain categories of persons to provide particular services bilingually to the public in Wales; and
- the freedom of persons to communicate in Welsh with each other.

At its first meeting on 10 February 2009, the Committee agreed the scope of its scrutiny of the proposed Order, considering in particular:

- (i) the general principles of the proposed Order and whether legislative competence in the area identified in Matters 20.1 and 20.2 be conferred on the Assembly; and

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(ii) whether the terms of the proposed Order are too broadly or too narrowly defined.

As is the general practice of legislation Committees when considering proposals for Legislative Competence Orders, the Committee will avoid reviewing existing policies in this area, or engaging in detailed discussions on the specific proposals for Measures which could be brought forward as a result of the conferral of legislative competence, for example, views relating to how Measures should be implemented. This will be a matter for scrutiny by the Assembly at a later date.

Further information on the proposed Order, its accompanying Explanatory Memorandum, details of the Committee and Guide to the Legislative Process can be found on the Legislation pages of the Assembly's website (Business / Legislation / LCOs / No.10 - Welsh Language):

<http://www.assemblywales.org/bus-home/bus-legislation/bus-leg-legislative-competence-orders/bus-legislation-lco-2009-no10.htm>

Anyone with an interest in the proposed Order is invited to submit evidence on it, to help inform the Committee's work. In preparing your submission, it would be helpful if you could address the questions posed by the Committee - please see **Annex 1**. Details of how to respond are set out in **Annex 2**.

If you have any queries about the consultation or the work of the Committee, please contact the Clerk, Anna Daniel (tel. 029 2089 8144), or Olga Lewis, the Deputy Clerk (tel. 029 2089 8154).

Mark Isherwood AM  
Chair  
Legislation Committee No.5

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## Legislation Committee No.5, National Assembly for Wales

### Consultation on the Proposed National Assembly for Wales (Legislative Competence) (Welsh Language) Order 2009

The Committee has launched a general consultation focusing on three key questions in relation to the Order. The Committee is also seeking views on more detailed questions in relation to the scope of the proposed Order. Please respond in the way that you feel is most appropriate to your level and area of interest in the proposed Order.

#### General Consultation:

We want to hear your views on whether the National Assembly for Wales should be able to make laws in relation to the Welsh language.

1. Should the National Assembly for Wales be able to make laws on the promotion and use of the Welsh language? [See also questions 4 and 5, 11 below].
2. Should the National Assembly for Wales be able to make laws about which services the public should be able to receive bilingually? [For more detailed consideration of this aspect, see questions 6 - 9, 11 below].
3. Should the National Assembly for Wales be able to make laws on the freedom of persons to use the Welsh language with each other? [See also question 10 below].

#### Detailed consultation:

4. What are your views on the general principle that legislative competence in the area identified in Matters 20.1 and 20.2 be conferred on the Assembly? i.e.

- Matter 20.1: Promoting or facilitating the use of the Welsh language; and the treatment of the Welsh and English languages on the basis of equality
- Matter 20.2: Provision about or in connection with the freedom of persons wishing to use the Welsh language to do so with one another (including any limitations on it).

5. The Explanatory Memorandum states that Matter 20.1 would echo and build on the principles that underpin the Welsh Language Act 1993 and would allow the Assembly to legislate on the range of functions carried out at present, by the Welsh Language

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Board, and to build on these functions. Do you agree that it will allow the Assembly to do this? If not, how should it be amended?

6. What are your views on the scope of the proposed Order with respect to the categories of persons on whom it would allow the Assembly to impose duties to provide particular services bilingually to the public e.g. is it too narrowly or broadly drawn (Matter 20.1 (a) - (i))? Please indicate clearly to which sub-section(s) your comments relate i.e. (a) - (i) and any particular sub-sub-sections under (h).

7. Is the definition used for "public authorities" for this Matter appropriate ("each public authority within the meaning of section 6 of the Human Rights Act 1998")? If not, what definition should be used and why?

8. Matter 20.1 would allow duties to be imposed on "telecommunications services" and "postal services and post offices" (Matter 20.1 sub-section (h)(iii) and (h)(iv)). Are the definitions used for "postal services", "telecommunication services" under the "Interpretation of this field" section in the proposed Order necessary and appropriate? If not, how should they be re-drafted and why?

9. In relation to Matter 20.1 sub-section (e) - persons providing services to the public who receive public money amounting to £200,000 or more in a financial year", and includes "moneys made available directly or indirectly":

(i) Is it necessary to set out the definition of "public money" in the propose Order? If so, is it appropriate (as set out under "Interpretation of this field")?

(ii) Duties would only be imposed on the recipients of more than £200,000. Is £200,000 the right threshold for the assembly to have legislative powers?

10. Is the scope of Matter 20.2 appropriate ("provision about or in connection with the freedom of persons wishing to use the Welsh language to do so with one another (including any limitations on it)")? Will it allow the Assembly to legislate in future to implement the policy proposal as outlined in the Explanatory Memorandum?

11. What are your views on Articles 4 and 5 of the proposed LCO which deals with the application of the proposed LCO to Crown bodies?

12. Are there any other issues which would have implications for the effectiveness of any future Measures, because the proposed LCO is insufficiently broad? If so, can you suggest how the proposed LCO would have to be broadened to address these issues?

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## How to Respond to this Consultation

If you would like to respond to the consultation, please keep the following in mind:

- Your response should be as succinct as possible. Please reference your response using the title applied above.
- Please indicate whether you are responding on behalf of an organisation, or as an individual.
- The National Assembly normally makes responses to public consultation available for public scrutiny, for example through the Assembly's website, and they may also be seen and discussed at Committee meetings. Normally the name and address (or part of the address) of its author are published along with the response. **If you do not want your response or name and address (or part of the address) published it is important that you specify this clearly to us in writing at the end of your submission.**

In order to reduce the amount of paper used in this consultation exercise, please submit a response electronically wherever possible by completing and emailing it to: [legislationoffice@wales.gsi.gov.uk](mailto:legislationoffice@wales.gsi.gov.uk)

Alternatively, you can post your response (on disk or in hard copy) to:  
Legislation Committee No. 5  
Legislation Office  
National Assembly for Wales  
Cardiff Bay  
CF99 1NA

Please entitle your email or submission: *"Consultation LC 5 (Welsh Language LCO)"*.

Submissions should be received by Friday 20 March 2009. It may not be possible to take into account responses received after this date.

The Committee welcomes contributions in English and Welsh. If you are interested in being contacted as part of any future consultation in this area, please indicate this in your response.

If you have any queries, please contact the Clerk, Anna Daniel (tel: 029 2089 8144), or Olga Lewis, the Deputy Clerk (tel.: 029 2089 8154).

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