

## National Assembly for Wales

### The Queen's Speech 2009-10 November 2009

The Queen's speech took place on Wednesday 18 November 2009 and 14 Bills were announced by the UK Government. Two Bills, the Children, Schools and Families Bill and the Constitutional Reform and Governance Bill, confer Measure-making powers on the Assembly (known as "framework powers"). A further three Bills will contain specific provisions for Wales and, confer powers on Welsh Ministers. This paper gives a brief summary of the Bills proposed and any implications for Wales.

The National Assembly for Wales will discuss the Queen's Speech in Plenary on Wednesday 25 November 2009. The Rt. Hon. Peter Hain MP, the Secretary of State for Wales will be in attendance.

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# **National Assembly for Wales**

## **The Queen's Speech 2009-10**

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# The Queen's Speech 2009-10

## 1. Introduction

2009-10 is the third year that the UK Government published its legislative programme in draft (DLP) for consultation in advance of the Queen's Speech.<sup>1</sup> It was published in July 2009 as part of the Government's broader plan for *Building Britain's Future*. The introduction to the DLP states:

The aim of publishing the Draft Legislative Programme is to be transparent about what the Government is planning to achieve through legislation. This provides an opportunity to look across the programme as a whole and take a view as to whether the balance of priorities is right, whether there are important areas that have been missed out or areas of the programme that should be given lower priority. This, in turn, enables views to be fed into the development of the programme before the final programme is announced in the Queen's Speech towards the end of the year.<sup>2</sup>

This session is the final one of this Parliament as a General Election will have to be held on 3 June 2010 at the latest. It is likely to be, at most, around half the length of a normal session and the time available for legislation will therefore be significantly reduced. Three Bills, the *Equality Bill*, the *Child Poverty Bill* and the *Constitutional Reform and Renewal Bill* have already been introduced and will be carried over to the next session. As more information is available about these they are dealt with separately in sections 2,3, and 4.

The introduction to the DLP also states:

It is also of crucial importance that the United Kingdom Government works together with the devolved administrations to ensure that the law not only respects the devolution settlements but also serves the best interests of all the citizens of the UK. To this end, all Government departments work closely with their devolved counterparts when preparing legislation. The Government will continue to work closely with the Welsh Assembly Government, the Scottish Executive and the Northern Ireland Executive to identify if areas of the UK legislative programme require the consent of the devolved legislatures.<sup>3</sup>

Consultation on the DLP closed on 21 September 2009.

The *Queen's Speech* took place on Wednesday 18 November 2009 and 14 Bills were announced by the UK Government.<sup>4</sup> One of those relates exclusively to Northern Ireland and is not included in the scope of this paper.<sup>5</sup> Two Bills, the *Children, Schools and Families Bill* and the *Constitutional Reform and Governance Bill* confer Measure-making powers on the Assembly (known as "framework powers"). A further three Bills will contain specific provisions for Wales and confer powers on Welsh Ministers.

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<sup>1</sup> [Office of the Leader of the House of Commons, Draft Legislative Programme 2009-10](#)

<sup>2</sup> Ibid.

<sup>3</sup> Ibid.

<sup>4</sup> [Government Bills 2009-10, Office of the Leader of the House of Commons](#) [accessed 17 November 2009]

The Wales Office also noted that 'further Welsh provisions may be included as Bills scheduled for later Introduction'.<sup>6</sup>

Section 32 of the *Government of Wales Act 2006* provides for UK Ministers to attend proceedings of the Assembly but not to vote and standing orders state that "the Presiding Officer may call the Secretary of State to speak in any debate in which the Secretary of State is participating".<sup>7</sup> It has been the practice for the Secretary of State for Wales to address a plenary meeting of the Assembly about the implications of the Queen's Speech for Wales. The Rt. Hon. Peter Hain MP is attending the plenary meeting on Wednesday 25 November 2009 for this purpose. The Wales Office press release about the Queen's Speech and Wales can be seen in Annex A.<sup>8</sup>

## 2. Constitutional Reform and Governance Bill<sup>9</sup>

The ***Constitutional Reform and Governance Bill*** was published on 21 July 2009 and received its second reading in the House of Commons on the 20 October 2009. Committee scrutiny commenced with a Committee of the Whole House on 3 and 4 of November 2009 but ran out of time to complete proceedings. The committee stage will be resumed at a date to be confirmed.

A carry-over motion was moved on 20 October for this Bill, which allows for any proceedings not completed to be resumed in the next Session of Parliament.

This is a wide-ranging Bill covering a number of different policy areas. Many of the proposals have their origins in the ***Governance of Britain*** Green Paper published in July 2007. The content of the Bill as introduced varies in some significant ways from its draft version. New chapters have been added to the Bill and the clauses on the Attorney General which were in the draft Bill are not included. The Bill:

- Establishes a statutory basis for management of the civil service;
- Introduces a new parliamentary process for the ratification of treaties;
- Provides for the end of by-elections for hereditary peers;
- Makes provisions to allow for the suspension, resignation and expulsion of Members of the Lords;
- Introduces new rules on protests around Parliament;

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<sup>5</sup> The Northern Ireland Assembly Bill will allow the Northern Ireland Assembly to delegate its powers on Members Pay and Allowances to an independent body.

<sup>6</sup> ***Peter Hain: Queen's Speech for economic recovery, Wales Office News Release, 18 November 2009.***

<sup>7</sup> National Assembly for Wales, Standing Order 8.3 [as at 16 November 2009]

<sup>8</sup> ***Peter Hain: Queen's Speech for economic recovery, Wales Office News Release, 18 November 2009.***

<sup>9</sup> HC Library, ***The Constitutional Reform and Governance Bill, Bill 142 of Session 2008-9***, Research Paper 09/73, 6 October 2009.



- Introduces new rules on time limits for human rights actions against devolved administrations;
- Makes various provisions relating to judicial office holders, including the removal of the Prime Minister's role in the process of appointing Supreme Court judges;
- Establishes a new corporate structure for the National Audit Office and a limit to the term of appointment to the office of Comptroller and Auditor General;
- Introduces measures designed to increase the transparency of financial reporting to Parliament and the National Assembly for Wales.
- This Bill contains both clauses conferring Measure-making powers on the Assembly and Welsh clauses.

## Welsh Clauses

Clause 2, Schedule 1 provides for a minimum of seven members of the Civil Service Commission, one as First Civil Service Commissioner. The Minister for the Civil Service must consult the First Ministers for Scotland and Wales and the two major opposition parties (defined by share of vote at the most recent parliamentary election) on the appointment of the First Commissioner.

Clause 5 requires the Minister for the Civil Service to publish a civil service code (excluding the diplomatic service), which is to be laid before Parliament. Different codes for Scotland and Wales will apply, as currently, and these will be laid before the Scottish Parliament and Welsh Assembly. There is no provision for the various Parliaments and Assemblies to amend or debate the Code.

Clause 7 sets out minimum requirements for the civil service and diplomatic service codes, whether in the UK, Scotland or Wales, including requirements on integrity and objectivity, provisions on special advisers and an appeal system to the Civil Service Commission.

Clause 15 defines special advisers as appointed to 'assist a Minister of the Crown' and makes provision for their appointment. The clause also sets out the definition of special adviser in relation to the administrations in Scotland and Wales. Here, the appointment is made personally by the First Minister and ends when the First Minister resigns. It removes the limits that currently exist on the number of special advisers that can be appointed in the devolved administrations.

Part 5 of the Bill would insert a time limit for actions against the Welsh Ministers under the *Government of Wales Act 2006*, where it is claimed that they have acted incompatibly with rights under the *European Convention on Human Rights*. This is designed to tackle an asymmetry that has resulted from the devolution legislation.

Clause 52 amends part 5 of the *Government of Wales Act 2006*. It contains measures which aim to simplify financial reporting and accountability to the National Assembly for Wales. This would enable the Welsh block budget and the Welsh Government's budget motion to be aligned, thus enabling all resources provided by HM Treasury to be subject to statutory authorisation and a more straightforward form of budget motion, removing the necessity for complex reconciliations.

## Framework Powers

The *Constitutional Reform and Governance Bill* currently before Parliament includes provisions to put new governance systems in place in respect of UK audit. The UK Government has also put down an amendment to the Bill which would grant Measure-making powers to the Assembly in respect of the **Auditor General for Wales**. It includes the power to make Measures regarding "The oversight or supervision of the Auditor General or of the exercise of the Auditor General's functions" which would strengthen the Assembly's ability to legislate for independent supervision of the Auditor General for Wales. The amendment was agreed and the new clause added to the Bill on 4 November 2009.

Introducing the amendment, the Wales Office Minister, Wayne David MP, stated:

The competence conferred by Matter 14.1 would allow the National Assembly to pass legislation, known as an Assembly measure, to put in place new arrangements for the Auditor General for Wales and the Wales Audit Office. These arrangements are comparable to the ones set out in part 7 of the Bill for the Comptroller and Auditor General and the National Audit Office. However, the Assembly may decide on different arrangements within the scope of the competence conferred.

In particular, the competence covers the Auditor General's terms of appointment relating to tenure and remuneration, the number of times that a person may be appointed Auditor General, the efficiency and effectiveness of the Auditor General, the other positions that a serving or former Auditor General may hold, the authorisation of other people to perform the Auditor General's functions on his or her behalf, oversight and supervision of the Auditor General, and the provision of resources for the Auditor General and the charging of fees or other amounts.

It is right that the National Assembly should have the power to decide what arrangements are appropriate in relation to the public auditor for the devolved bodies operating in Wales. The structure of public audit is different in Wales compared with England, and the new clause gives the Assembly power to put in place arrangements for the more effective oversight, supervision and accountability of the Auditor General for Wales. At the same time, it makes sure that the independence of the Auditor General's operational audit work is maintained.<sup>10</sup>

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<sup>10</sup> [HC Deb 4 November 2009 c956-7](#)

### 3. Equality Bill

The *Equality Bill* has now completed its committee stage in the House of Commons. The Bill will be reprinted to incorporate the changes made during committee consideration of the Bill. The Report stage and Third Reading is scheduled for 2 December 2009.

A carry-over motion was moved on 13 May for this Bill, which allows for any proceedings not completed at the end of this Session of Parliament to be resumed in the next Session.

The Bill will harmonise and in some cases extend existing discrimination law covering the 'protected characteristics' of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation. It will address the impact of recent case law which is generally seen as having weakened discrimination protection, and harmonise provisions defining indirect discrimination. The Bill:

- Provides powers to extend age discrimination protection outside the workplace;
- Clarifies protection against discrimination by association, for example in relation to a mother who cares for her disabled child;
- Extends protection from discrimination on the grounds of gender reassignment to school pupils;
- Extends discrimination protection in the terms of membership and benefits for private clubs and associations;
- Creates a unified public sector duty, intended to promote equality in public policy and decision-making, existing provisions being extended to the protected characteristics of sexual orientation, age and religion or belief, and proposes a new public sector duty related to socio-economic inequalities;
- Provides for legislation requiring that employers review gender pay differences within their organisations and publish the results;
- Provides for changes to the way that individual claims are enforced, and gives employment tribunals wider powers to make recommendations for the collective benefit of employees;
- Allows a Minister to amend UK equality legislation to comply with European law without the need for primary legislation;
- Extends the period for which all-women shortlists may be used for parliamentary and other elections until 2030 and allows parties to reserve places on shortlists of candidates for people on the grounds of race or disability.

## Welsh Issues

Clause 1 which is the socio-economic duty:

- requires specified public authorities to consider reducing inequalities associated with socio-economic disadvantage in the planning and monitoring of the services they provide;
- applies only to listed English bodies including the Ministers of the Crown and most Government Departments;
- **does not apply to any Welsh bodies, in particular the Welsh Ministers;**
- is underpinned by a Minister of the Crown issuing guidance on how to fulfil the duty, but there is no parallel provision for Welsh Ministers in Wales
- Although a Minister of the Crown and most Government Departments in England are listed as being subject to socio-economic duty, in Wales the Welsh Ministers are not subject to the socio-economic duty.

The general public sector equality duty (Clause 143) requires public authorities to proactively work to eliminate discrimination and unlawful harassment, promote equality and good relations. This duty:

- applies to the public authorities listed in Schedule 19;
- Part 1 of Schedule 19 lists the public authorities generally, Part 2 of Schedule 19 lists the relevant Welsh Authorities;
- applies to those who are not a public authority but who exercise public functions.

Welsh Ministers are listed in Part 2 of Schedule 19 as being subject to the public sector equality duty.

In addition to the general public sector equality duty, Welsh Ministers are empowered through Regulations to impose specific public sector duties (Clause 147) in Wales on relevant Welsh authorities listed in Part 2 of Schedule 19. Although there are exceptions where the consent of UK Ministers must be sought.

Schedule 19 lists the public authorities that will be subject to:

- the public sector equality duty; and
- the specific duties.

Part 2 of Schedule 19 sets out the relevant Welsh authorities under the headings Welsh Assembly Government, NHS, Local Government, and other educational bodies. Welsh Ministers can amend Part 2 of Schedule 19 by Order but must obtain the consent of a Minister of the Crown before doing so and must consult the Equality and Human Rights Commission.

To better inform any specific public sector equality duties that may be imposed by Welsh Ministers on public authorities in Wales, the Welsh Government has conducted a “listening exercise” which commenced in July 2009 and is due to end soon. The purpose of the exercise is to sound out views to inform a future consultation about the proposed powers of Welsh Ministers under the Equality Bill. After taking the views and opinions, Welsh Ministers will present detailed proposals about what will be included in the duties. These proposals will be published in 2010 and will be subject to public consultation.<sup>11</sup>

In relation to the public sector socio-economic inequalities duty, the list of public authorities is set out on the face of the Bill in clause 1; no Welsh bodies are currently listed. The Welsh Ministers may add, remove, make the duty apply to Welsh authorities by bringing forward Regulations which cannot be made without first obtaining the consent of a Minister of the Crown.

#### 4. The Child Poverty Bill

The *Child Poverty Bill* has completed the Committee stage in the House of Commons and is awaiting a date to report to the House. A carry-over motion was passed so that proceedings can be completed in the new session of Parliament.

The Bill would provide a statutory basis to the commitment made by the UK Government in 1999 to eradicate child poverty by 2020. Its stated purpose is to give new impetus to the Government’s commitment, and to drive action across departments. It also aims to define success in eradicating child poverty and create a framework to monitor progress at a national and local level. The Bill:

- places a duty on the Secretary of State to meet four United Kingdom-wide income poverty targets by the end of the financial year 2020;
- places a duty on the Secretary of State to publish a child poverty strategy evaluating progress towards the four income targets and setting out future action. The strategy, which is to be revised every three years, may make reference to measures that the devolved administrations propose to take to tackle child poverty.

#### Welsh Issues

The Bill does not confer new or additional powers on the Welsh Ministers (in contrast to duties placed on the Scottish Ministers and the relevant Northern Ireland department) but does refer to measures taken by the Welsh Ministers and requires consultation with the Welsh Ministers in preparing UK strategies.

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<sup>11</sup> [\*Welsh Assembly Government, Paper for a "Listening Exercise" on specific duties for Welsh Ministers, 29 July 2009.\*](#)

The Assembly approved a Legislative Consent Motion in respect of the *Child Poverty Bill* on 23 June 2009. The Minister for Social Justice and Local Government, Brian Gibbons AM, explained:

This legislative consent motion is required because some of the Bill's provisions fall within the Assembly's legislative competence in relation to some devolved areas. The consent motion refers to the preparation of a UK child poverty strategy, the establishment of a UK child poverty commission and for the Welsh Assembly Government to appoint a member of that commission. The question of when legislative consent motions are required turns on what can be fairly fine legal arguments. In this case, we are of the view that, on balance, the LCM is required, because the issues identified are such that to do otherwise would amount to a concession about the extent of the Assembly's competence.<sup>12</sup>

The *Children and Families (Wales) Measure* was passed by the Assembly on 10 November 2009 and is awaiting Royal Approval. Part 1 of the Measure is aimed at tackling child poverty and includes provisions which place a duty on Welsh Ministers to prepare and publish a new Child Poverty Strategy for Wales, and publish an assessment report every three years. It also places a duty on specific Welsh public bodies to prepare and publish a strategy to assist in the goal of eradicating child poverty by 2020.

In a letter to the chair of the Legislation Committee commenting on the links between the UK Child Poverty Bill and the Measure, the Minister, Brian Gibbons AM stated:

(..)there is a recognition that the Devolved Administrations are best placed to determine how to tackle child poverty in their own areas in line with their particular circumstances. The legislation at the UK and Wales level has been drafted in way which reflects this.<sup>13</sup>

## 5. Other Bills announced in the Queen's Speech

### 5.1. *Bribery Bill*

General reform of the bribery laws was first proposed in a Law Commission report in 1998. This led to a draft Government Bill in 2003 that failed to win broad support in pre-legislative scrutiny. A UK Government draft Bill informed by a further review by the Law Commission was published in March 2009 and was subject to pre-legislative scrutiny by a Joint Committee of both Houses between May and July. The Joint Committee report published in July was broadly supportive of the Government's proposals. The Government's response to the Joint Committee report was published on 20 November. The Bill received its First Reading in the House of Lords on 19 November 2009.

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<sup>12</sup> [RoP p77-85 23 June 2009](#)

<sup>13</sup> [Letter from Brian Gibbons AM, Minister for Social Justice and Local Government, to Legislative Committee 2, 18 September 2009.](#)

The ***Bribery Bill*** will:

- Replace current fragmented legislation with a consolidated bribery law, based on the recommendations of the Law Commission.
- The offences would cover the offering, promising or giving of a bribe and the requesting, agreeing to receive or accepting of a bribe either at home or abroad, in the public or private sectors.
- Create a discrete offence of bribery of a foreign public official in order to obtain or retain business.
- Create a new offence in relation to commercial organisations which fail to prevent a bribe being paid by those who perform services for or on behalf of the organisation. It will be a defence if the organisation has adequate procedures in place to prevent bribery.
- Support business by ensuring that everyone is clear about their responsibilities to do business in an open and honest way, on a level playing field.

**The Bill currently extends to England and Wales and Northern Ireland.** The subject matter of the Bill, which primarily relates to the criminal law, is (subject to some exceptions) devolved to Scotland. However, following a consultation exercise in Scotland based largely on the proposals contained in the Government's draft Bill, the Scottish Government has signalled that the Scottish Parliament will be asked to consent to the inclusion of provisions to extend the Bill to Scotland.

## 5.2. *Children, Schools and Families Bill*

The key elements of the ***Children, Schools and Families Bill*** , which received its First Reading on 19 November 2009, are:

- Through new pupil and parent guarantees the Government is committing to a series of specific entitlements in respect of education for all and providing a means of redress if expectations are not met.
- Schools will work more in partnership and have greater flexibility in how they spend their budgets. The Bill would also allow for the introduction of School Report Cards.
- The Bill would reform the primary curriculum to provide greater flexibility for schools to tailor teaching to the needs and interests of their children while also focusing on the basics of literacy, numeracy and Information Communications Technology (ICT). The Bill would also put Personal, Social and Health Education (PSHE) on a statutory footing and ensure for the first time that all young people receive at least one year of sex and relationships education.

- The Bill aims to professionalise the workforce and provide teachers the status they deserve through a new licensing system. This would create a new learning culture in every school's teaching staff which puts professional development at the forefront and so improve teaching quality across the board. This will also clearly demonstrate to parents that high-quality teaching standards are being maintained
- The Bill will introduce a new home educators' registration system and take new powers for Secretaries of State to intervene in youth offending teams that are failing and potentially putting young people and their communities at risk.
- Providing a commitment to review the publication of information relating to family proceedings and report to Parliament.

**Most of the Bill extends to England. However, some clauses apply just to Wales, and others cover both England and Wales.** It also extends to a very limited extent to Northern Ireland but only for the purpose of maintaining the current position in Northern Ireland, as the Bill amends provisions for England and Wales which also currently extend to Northern Ireland. The amendments are therefore technical, and not substantive

## **Welsh Issues**

**The Bill will contain a framework power for the Assembly regarding regulation of home education. There are two other provisions for Wales** in relation to an obligation for schools to provide information to Welsh Ministers and, separately, information sharing for children's safeguarding purposes.

The Minister for Children, Education, Lifelong Learning and Skills, Jane Hutt AM, issued a statement on 19 November 2009 in which she stated:

The Assembly Government has taken the opportunity this Bill presents to seek framework powers that will enable us to drive forward the regulation of home education for those of compulsory school age, and to include the inspection of services provided by local authorities to those persons involved in the provision of education to home-educated children. Subject to the approval of Parliament, the Bill will confer framework powers on the National Assembly for Wales that will enable the Assembly Government to consult and if appropriate, bring forward proposals for legislation to protect the rights of children to receive appropriate education suitable for their needs. An Explanatory Memorandum setting out the background and context to the measure-making powers that we are seeking has been laid before the National Assembly for Wales.

She further explained that the Review of home schooling in England ("the Badman Review") addressed many issues which have been of concern to local authorities and policy officials in Wales for some time. Some of the recommendations potentially offer opportunities to help secure a suitable standard of home education and, potentially, in a small number of cases, greater protection for children from abuse. However, the Welsh Government is of the view that it would not be appropriate to legislate in this



area without carrying out a separate review in Wales, and to consult with all relevant bodies and persons in order to develop a distinctive approach in line with Welsh policy. Such a consultation exercise has not yet been carried out in Wales. The framework powers, therefore, will allow the National Assembly for Wales to pass a Measure if deemed appropriate, making detailed provision in connection with home education, once that consultation exercise has been completed.<sup>14</sup>

### 5.3. *Cluster Munitions (Prohibitions) Bill*

The ***Cluster Munitions (Prohibitions) Bill*** sets out a definition of cluster munitions and relevant explosive bomblets. It received its First Reading in the House of Lords on 19 November 2009. The Bill:

- Establishes offences in relation to these prohibited munitions. These offences are based on the prohibitions in Article 1 of the Convention on Cluster Munitions (CCM)<sup>15</sup> to use, produce, develop, acquire, stockpile, retain or transfer to anyone, directly or indirectly, cluster munitions. It is also an offence to assist, encourage or induce anyone to engage in any of these prohibited activities.
- Provides defences for certain necessary purposes. These purposes are allowed under the CCM and include: enabling the prohibited munitions to be destroyed; training in techniques in the detection, clearance or destruction of prohibited cluster munitions; and engaging in certain conduct during the course of military cooperation and operations with States not party to the CCM.
- Includes various, related provisions such as powers to enter and search premises for prohibited munitions; powers to remove, immobilise and destroy prohibited munitions; and for the production and disclosure of information for the purposes of the Bill and the CCM.
- Makes it an offence to use, produce, develop, acquire, stockpile, retain or transfer cluster munitions.

**The Bill applies to the whole UK.**

### 5.4. *Crime and Security Bill*

The main elements of the ***Crime and Security Bill***, which received its First Reading in the House of Commons on 19 November 2009, are:

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<sup>14</sup> Welsh Assembly Government, Jane Hutt (Minister for Children, Education, Lifelong Learning and Skills), *Children, Schools and Families Bill*, Cabinet Written Statement, 19 November 2009.

<sup>15</sup> The Convention on Cluster Munitions was signed by **94 countries** at the **Oslo Signing Conference** in December 2008.

- Making families take responsibility for children’s anti-social behaviour by introducing a mandatory assessment of parenting needs whenever a 10 to 15-year-old is being considered for an ASBO (Anti-Social Behaviour Order), and imposing parenting orders where the young person has breached their ASBO.
- Reducing the amount of information being recorded on lengthy stop and search forms.
- Tackling domestic violence with ‘Go orders’ to allow police to bar a suspected perpetrator from their homes for a fixed period of time even if they are not charged, empowering victims to feel safe in their own homes rather than seeking refuge elsewhere.
- Preventing accidents involving airguns by ensuring these weapons are safely stored and out of the reach of children, by introducing a legal requirement to do so.
- Introducing an additional criminal offence under the *Prison Act 1952* for the possession of a mobile phone device (component part, or article designed or adapted for use with a mobile phone device), within a prison without authorisation.
- Introducing a compulsory licensing scheme for all wheel clamping businesses, limiting the size of penalties imposed, regulating towing practices and putting in place an effective and fair appeals process.
- Ensuring the right people are on our DNA database by indefinitely retaining the DNA records of convicted offenders and holding the DNA of adults who are arrested, but not charged, for six years.
- Protecting the public by allowing police to take DNA samples and fingerprints at any time post conviction for a serious crime, and to take them from serious violent and sexual offenders returning to the UK following conviction overseas.

**The Bill applies to England and Wales.**

### *5.5. Digital Economy Bill*

The ***Digital Economy Bill*** would put in place the necessary legislative measures to deliver the strategic vision set out in the Digital Britain White Paper. It received its First Reading in the House of Lords on 19 November 2009.

The main elements of the Bill are:

- Tackling widespread copyright infringement via a two-stage process. First by making legal action more effective and educating consumers about copyright on-

line. Second through reserve powers, if needed, to introduce technical measures, such as disconnection.

- Support the plurality of independent and high quality news in the Nations, locally and in the regions – giving Ofcom powers to appoint and fund Independently Funded News Consortia.
- Giving Ofcom new duties to promote investment in infrastructure and public service media content, and to carry out an assessment of the UK's communications infrastructure every two years.
- Mobile and wireless broadband: enabling investment in next generation technologies through spectrum modernisation.
- Updating the regulatory framework to make moves to digital switchover for radio possible by 2015.
- Channel 4 Corporation: updating its functions to encompass public service content on all media platforms, online as well as television.
- Protecting children by making age ratings compulsory for all boxed video games designed for those aged 12 or above.

**Applies to the UK.**

## **Wales Issues**

The ***Digital Britain White Paper***, published by the UK Government on 16 June 2009, made a particular case for intervention to prevent a decline in the provision of news in the Nations, locally and in the regions and set out proposals for introducing **Independently Funded News Consortia** (IFNCs) that would provide news across various platforms to address this.

The UK Government published a response<sup>16</sup> to its **consultation on sustainable, independent and impartial news in the Nations, locally and in the regions** on 16 November 2009.

The response highlighted that the UK Government has committed to deliver IFNC pilots in Wales, Scotland and one English region. The IFNC news output will replace the existing regional news programming in the relevant Channel 3 area.

The Department for Culture, Media and Sport will appoint an independent selection panel late in November 2009 who will oversee the tendering and evaluation process. A pre-qualification questionnaire will also be issued around this time inviting bids from Wales and Scotland.

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<sup>16</sup> *Government response to the consultation on sustainable independent and impartial news in the nations, locally and in the regions*

The selection panel is to evaluate the bids and make a recommendation to the Secretary of State on three winning bids in Wales, Scotland and the English region in March 2010.

Details on the timing and process are due to be made available shortly.

Ofcom's *Communications Market 2009: Nations & Regions - Wales* report highlights that, while Wales has near-universal coverage for well-established services such as fixed lines, it has less extensive footprints for more recently launched services including Digital Terrestrial Television (DTT), mobile phone coverage and broadband.

The report also makes some reference to the *Digital Britain White Paper*, including

- **Broadband** - In the Digital Britain report, the UK Government stated its intention to secure a universal service commitment for the provision of broadband services at 2Mbit/s. The report identified sections of rural Wales where broadband provision is unavailable due to line length from the exchange or poor quality connections. Premises in these areas should receive a broadband service in the future following investment secured under this commitment.
- **Digital Radio** - In Wales, local DAB coverage is significantly lower than the UK multiplex services and, taken as a whole, DAB coverage is currently well below that of FM coverage. The Digital Britain report announced the UK government's intention to secure a digital radio upgrade for the UK by 2015, subject to meeting criteria that 50 per cent of listening will be to digital radio, that DAB coverage is comparable to FM and that local DAB coverage reaches 90 per cent.

## 5.6. *Energy Bill*

The main elements of the *Energy Bill*, which received its First Reading in the House of Commons on 19 November 2009, are:

- Providing mandatory social price support, such as in the form of an electricity bill rebate. This builds on the success of the voluntary agreement with energy companies which ends in 2011 and has helped reduce the fuel bills of more than one million vulnerable customer accounts. The level of support to be provided through the new mandated scheme will be greater than the £150m committed by suppliers in the final year of the agreement.
- Making absolutely clear that Ofgem, the energy market regulator, must:
  - include the reduction of carbon emissions and the delivery of secure energy supplies in their assessment of the interests of consumers; and
  - step in proactively to protect consumers as well as considering longer term actions to promote competition.

- Giving Ofgem additional powers to tackle market exploitation where companies take advantage of constraints in the electricity transmission grid.
- Strengthening the deterrent nature of Ofgem's powers by extending the time limit from 12 months to 5 years within which Ofgem can impose financial penalties for breaches of licence conditions.
- The new Carbon Capture and Storage (CCS) Incentive would support the construction of up to four commercial-scale CCS demonstration projects in the UK.
- The CCS Incentive could also provide funding for the retrofit of those demonstration projects to their full capacity, should it be required in future.

**Applies to the UK.**

### *5.7. Financial Services Bill*

This *Financial Services Bill*, introduced in the House of Commons on 19 November 2009, would establish a Council for Financial Stability, chaired by the Chancellor of the Exchequer, and comprising HM Treasury, the Bank of England and the Financial Services Authority (FSA). It would strengthen the FSA to take action on pay of those in financial services, following the recent outcry over bonuses. It promises action, in the UK and internationally, on bankers' pay and makes banks and other financial firms set up "living will" to make them easier to wind down in the event of a crisis. The Bill would ban unsolicited credit card cheques and enables the setting up of national money guidance service. It allows groups of consumers to bring court actions against financial institutions.

**It applies to whole UK.**

### *5.8. Fiscal Responsibility Bill*

The *Fiscal Responsibility Bill* is intended to provide a "firm and binding statutory basis" for the UK Government's promise to halve its budget deficit within four years. It gives Parliament power to approve medium-term fiscal plans and promises that businesses and investors will have "certainty" about the government's fiscal plans.

**It applies to whole UK.**

### *5.9. Flood and Water Management Bill*

Summer 2007 saw the UK devastated by floods, causing £3 billion of damage and flooding 55,000 properties. A review by Sir Michael Pitt in 2007 revealed that flood and coastal erosion legislation and organisational structures are outdated.

A draft Flood and Water Management Bill was published for consultation and pre-legislative scrutiny on April 21 2009, having been announced in the Queen's Speech of 2008.

The ***Flood and Water Management Bill*** received its first reading in the House of Commons on 19 November.

Part One of the Draft Bill which contained provision in relation to flood and costal erosion risk management only applied in England as Welsh Ministers decided to consult further on the options for legislation. Following the conclusion of that consultation, **Part One of the Bill now contains legislative proposals in relation to management of flood and costal erosion risk in England and Wales.**

The main elements of the Bill are:

- Responsibilities for managing all flood risks would be clearly defined. Local authorities would have responsibility for developing local flood and costal erosion risk strategies which would give local authorities responsibility for surface water flooding, for the first time this would be assigned in law.
- Local people would input into shaping local flood risk management strategies.
- The Minister would be required to set national standards for Sustainable Drainage Systems. Any new construction with drainage implications would have to comply with these national standards and an application would have to be made to local authorities for approval before work on construction could begin to help prevent surface run-off overloading the sewer system.
- The Environment Agency, local authorities and internal drainage boards would have the power to designate features such as walls, culverts or sluices that they believe have a significant affect on flood or costal erosion risk. Once a feature is designated the owner of that feature would have to apply for consent before altering, removing or replacing that feature.
- The safety of communities living in close proximity to reservoirs would be improved with modern, risk-based regulation.
- New powers would help water companies to better control non-essential domestic uses of water during periods of water shortage.
- The sustainability duty that applies to the Environment Agency would be extended to other bodies managing flood risk. This would mean they would be required to take environmental considerations into account when managing flood risk, in addition to social and economic considerations.
- The interests of water customers would be further protected through a special administration regime, in keeping with other utility sectors.

- Water companies would be able to operate concessionary schemes relating to surface water drainage charges, thereby safeguarding community groups from unaffordable rises in their bills.

## **The Bill applies to England and Wales.**

### **Welsh Issues**

The Bill contains provisions relating to the powers of Welsh Ministers:

- Provisions about flood and coastal erosion risk management will make Welsh Ministers responsible for preparing a national strategy and approving local flood risk management strategies; Welsh Ministers will also be able to make regulations about procedures relating to the designation of flood and coastal erosion risks. The Environment Agency Wales would have responsibility for implementing the national strategy while local authorities would have responsibility for implementing local strategies and for managing all local causes of floods.
- Provisions about reservoir safety will give Welsh Ministers power to make regulations about the registration of large raised reservoirs and the designation of high-risk reservoirs.
- Welsh Ministers will have power to make regulations about provision of water and sewerage infrastructure, which may require that projects are put out to competitive tender.
- Welsh Ministers will have power to modify circumstances in which water undertakers can impose temporary bans on water use.
- Provisions about sustainable drainage will give Welsh Ministers functions, including issuing national standards and guidance.
- Clause 40 of the Bill will rectify the anomaly relating to the consenting of large infrastructure projects in the water sector so that Welsh Ministers retain responsibility for the consenting of large water infrastructure projects in Wales. This anomaly was identified as a result of the scrutiny of the draft Bill by the Assembly's Sustainability Committee.

In a Cabinet Statement on the Bill, Jane Davidson AM, Minister for the Environment, Sustainability and Housing, stated:

The Bill will strengthen existing flood and water legislation, implementing a number of recommendations from the Pitt Review that followed the devastating floods in England in 2007. The Bill will give effect to a number of commitments in the Welsh Assembly Government's 'Environment Strategy for Wales' and 'Strategic Policy Position Statement on Water'.<sup>17</sup>

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<sup>17</sup> [Welsh Assembly Government, Jane Davidson AM \(Minister for the Environment, Sustainability and Housing\), \*Flood and Water Management Bill\*, Cabinet Statement, 19 November 2009.](#)

## 5.10. *Personal Care at Home Bill*

The main elements of this Bill are to:

- Guarantee free personal care for the 280,000 people with the highest needs, including those with serious dementia or Parkinson's disease.
- Protect the savings of the 166,000 people who currently get free care from future charges.
- Help around 130,000 people who need home care for the first time to regain their independence.
- Where home adaptations or technology can increase a person's independence and reduce care needs, these would be offered.
- Allow £130m to be invested in re-ablement and prevention to help people to maintain their dignity and rebuild their confidence so that they can live at home for longer.
- Put prevention at the heart of the system, improving quality, empowering people, and saving the NHS and social care money.

Health and social care is a devolved matter in Scotland, Wales and Northern Ireland.

**This Bill applies to England and Wales though the intention is the policy of free personal care will apply in England only.**

### **Welsh Issues**

Welsh Ministers will be given the same power to make regulations in this area as the Secretary of State in England.

On 17 November 2009, Gwenda Thomas AM, the Deputy Minister for Social Services made a statement in Plenary on the *Paying for Social Care in Wales Green Paper* which sets out proposals for reforming the current system and initiates a 15-week consultation period.

The Deputy Minister explained that:

The five funding options discussed in chapter 3 of the Green Paper are those developed by the UK Government and published in its Green Paper for England in July. The options cover most of the main models that have been put forward in various reports and fora over the past few years, and we have deliberately made the consultation questions as wide as possible to stimulate an open debate about the advantages and disadvantages of each model. In our discussion of these options we have taken account of the findings of the initial consultation and the recommendations of the Wales stakeholder advisory group.....

Many of the levers that will bring about change in the way we pay for care are operated from Westminster. This is particularly the case in Wales, as the existing legal framework works on an England and Wales basis. However, our approach to service delivery differs in several important respects to that taken in England, and we have to be sure that any new system would fit with the



vision we set out in 'Fulfilled Lives, Supportive Communities'. That is why chapter 2 of the Green Paper deals with our agenda for transforming social services in Wales, and invites comments on the approach we have adopted. It is the background against which each of the funding options has to be judged in Wales.<sup>18</sup>

## 6. Draft Bills

The practice of publishing Draft Bills has become more frequent in recent years. It allows examination and amendments to be made to texts and made more easily - before their formal introduction to Parliament as a Bill proper. Two draft Bills were announced in the Queen's Speech.

### *6.1. House of Lords Reform Bill*

Promises that the Lords will be between 80 per cent and 100 per cent elected. States the government should not hold a majority in the second chamber and its members must be independent. **Applies to whole UK.**

### *6.2. International Development Spending Bill*

Requires that 0.7 per cent of gross national income is spent on development from 2013. **Applies to whole UK.**

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<sup>18</sup> [RoP\\_p24-33 17 November 2009](#)

A. [Annex: Peter Hain: Queen's Speech for economic recovery, Wales Office News Release, 18 November 2009.](#)

The foundations of a National Care Service, abolition of child poverty and help towards energy bills for the frailest, most vulnerable people in our communities are amongst new Government legislation to deliver economic recovery and create a safer, fairer society for all, Secretary of State for Wales Peter Hain said today.

Other key measures for Wales included in today's Queen's Speech will deliver high-speed broadband, improve community flood protections, safeguard regional TV news and tackle inequalities across our society.

Speaking after the Queen's Speech, Mr Hain said: "Our focus is taking Wales, with the rest of the UK, from recession to sustainable economic recovery. But this is also a programme of tough action on other big issues that really matter to people, in line with this Government's core values of fairness and responsibility.

"We are giving the full force of law to our commitment to abolish child poverty and to reduce the national debt. We will introduce free personal and social care in people's own homes, working with Welsh Assembly Ministers on our aim for a National Care Service, and we will be helping the most vulnerable households with their energy bills.

"In addition, we will be safeguarding those communities at risk of flooding and promoting carbon capture technologies to help fight the threat of climate change. The Digital Economy Bill will safeguard the future of regional news on Channel 3 in Wales while also equipping us with high speed universal broadband so we can compete and lead in the global digital economy."

Mr Hain added: "The programme will continue to deliver for the people of Wales in almost every aspect of their day-to-day lives. Of the 14 new Bills, 13 include provisions that will affect Wales, helping to improve lives, deliver economic prosperity and build a fairer society."

Two Bills - the Children, Schools and Families Bill and the Constitutional Reform and Governance Bill - will include framework powers for Wales, which will give the Welsh Assembly Government maximum discretion in bringing legislative proposals before the National Assembly for Wales. A further three Bills will contain specific provisions for Wales.

Mr Hain said: "The UK Government is continuing to work with the Welsh Assembly Government to extend the legislative competence of the National Assembly, whether through framework provisions or Legislative Competence Orders. The process is bringing real results for Wales, allowing the Welsh Assembly Government to make and implement policy decisions tailored to the needs and aspirations of the Welsh people. Made-in-Wales for the people of Wales."

“As a passionate devolutionist, I am proud to have delivered the Government of Wales Act 2006, which put in place this settlement that enables the incremental devolution of powers to the National Assembly, whilst at the same time placing on the statute book for the first time ever, full-law making powers for the Assembly if and when the people of Wales decide they want it.

“Meanwhile, the Bills announced today, and their far-reaching consequences for Wales, highlight why it is absolutely essential that we continue to work hard with a full strength of Welsh MPs to deliver additional powers to Wales, whilst continuing to represent and safeguard Welsh interests in non-devolved matters here at Westminster.”

## **Notes:**

### **Bills with Framework Provisions:**

**Children, Schools and Families Bill:** *Framework Power for the National Assembly for Wales regarding regulation of home education; There are two other mirror provisions for Wales in relation to an obligation for schools to provide information to Welsh Ministers, and, separately, information sharing for children’s safeguarding purposes.*

**Constitutional Reform and Governance Bill: {Carryover}:** *Framework power for the National for Wales to legislate on the governance and organisational structures of the Wales Audit Office;*

*There are three other provisions for Wales that will enable Minister for the Civil Service to issue separate codes of conduct for civil servants and special advisers in the Welsh Assembly Government (after consulting the First Minister); requires First Minister to report annually to the Assembly on special advisers.*

*Introduce a one-year time limit for human rights claims brought against the Welsh Ministers under the Government of Wales Act.*

*Enable Welsh Ministers to designate bodies so that estimates of their expenditure are included in the Assembly’s annual Budget motion.*

Three Bills will contain specific provisions for Wales, which will generally be provisions to confer the same powers on Welsh Ministers, in devolved areas of responsibility, as are being conferred on UK Ministers in those areas in relation to England. These are:

**Equality Bill {Carryover}:** *Welsh Ministers will obtain a power to confer additional specific equalities duties on public bodies carrying out devolved functions and the devolved functions of cross-border bodies.*

**Flood and Water Management Bill:** *Provisions about flood and coastal erosion risk management will make Welsh Ministers responsible for preparing a national strategy and approving local flood risk management strategies; Welsh Ministers will also be able to make regulations about procedures relating to the designation of flood and coastal erosion risks.*

*Provisions about reservoir safety will give Welsh Ministers power to make regulations about the registration of large raised reservoirs and the designation of high-risk reservoirs.*

*Welsh Ministers will have power to make regulations about provision of water and sewerage infrastructure, which may require that projects are put out to tender.*

*Welsh Ministers will have power to modify circumstances in which water undertakers can impose temporary bans on water use.*

*Provisions about sustainable drainage will give Welsh Ministers functions, including issuing national standards and guidance.*

**Personal Care at Home Bill:** *Welsh Ministers will be given the same power to make regulations in this area as the Secretary of State.*

Further Welsh provisions may be included as Bills scheduled for later Introduction continue to be developed.

The Government continues to remain committed to delivering devolution through provisions in Westminster Bills and by using the Legislative Competence Order process.

### **Other Bills applying to Wales**

**Bribery Bill:** The Bill will modernise law on bribery to support the highest ethical standards across business and public life and to equip prosecutors and courts to deal effectively with bribery.

**Child Poverty {Carryover}:** The Bill will support the Government's commitment to set target to eradicate child poverty by 2020. This will mean tackling the underlying causes of poverty rather than just treating the symptoms.

**Cluster Munitions (Prohibitions) Bill:** The Bill will make it an offence to use, produce, acquire or transfer cluster munitions, in order to give effect to prohibitions imposed by the Oslo Convention on Cluster Munitions.

**Crime and Security Bill:** The Bill will increase the protection for communities against a range of threats and financial exploitation, violence and anti-social behaviour.

**Digital Economy Bill:** The Bill secure the United Kingdom's position as one of the world's leading digital knowledge economies and take forward an active industrial policy to maximise the benefits from the digital revolution.

**Energy Bill:** The Bill will provide for financial support mechanism to bring forward commercial-scale carbon capture and storage demonstration projects. It will also strengthen the powers of the regulators to ensure that social tariffs for energy suppliers are set to help those vulnerable to fuel poverty. The Bill also extend the duties of the regulator, OFGEM, to ensure it takes climate change and consumer protection into account.

**Financial Services Bill:** The Bill will strengthen the financial system and will continue to respond to the global financial crisis to lay the basis for the recovery and success of businesses in the United Kingdom

**Fiscal Responsibility Bill:** The Bill will aim to reduce the budget deficit, ensuring that the national debt remains sustainable in the medium term.

**Bill not applying to Wales**

**Northern Ireland Assembly Members Bill:** The Bill will allow the Northern Ireland Assembly to delegate powers relating to the setting of its members salaries and expenses.





