



National Assembly for **Wales**  
Cynulliad Cenedlaethol **Cymru**

## **UK Government Legislative Programme 2005-06**

The Queen's Speech was delivered on 17 May 2005. This paper provides an overview of the bills and draft bills which will form the UK Government's legislative programme for the 2005-06 parliamentary session, including those referred to in the Queen's Speech and those announced by the Government alongside the address.

Annex 1 contains details of the Welsh Assembly Government *Cabinet Proposals for Primary Legislation*, endorsed by Plenary on 16 March 2005.

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# UK Government Legislative Programme 2005-06

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Cymru Wales

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## The UK Government Legislative Programme 2005-06

### 1. Introduction

This paper provides an overview of the UK Government's legislative programme for the 2005-06 parliamentary session, including bills referred to in the Queen's Speech<sup>1</sup> and those announced by the Government alongside the address.

Much of the information provided on the expected content of bills is based on that made available by the Office of the Leader of the House of Commons. Additional information, made available by National Assembly for Wales and UK parliamentary sources, is provided on bills which were introduced in similar, or the same form during the 2004-05 UK Government legislative programme but fell when the general election was called in April 2005. Information is included on actions taken by the National Assembly for Wales, such as committee scrutiny and assessments of the implications in terms of devolved powers.

### 2. The UK Government legislative programme

At the beginning of each parliamentary session, the UK Government announces, in the Queen's Speech, the legislation and draft legislation it hopes to introduce during that session. The State Opening of Parliament for the 2005-06 session took place on Tuesday 17 May 2005.

#### 2.1 Assembly Government proposals for primary legislation

Before the end of March each year, the Assembly Government is required to put to Plenary a motion setting out its proposals for primary legislation in the following parliamentary session.<sup>2</sup> The Welsh Assembly Government made the following primary legislative proposals to the UK Government for the 2005-06 parliamentary session in a motion put to Plenary on 16 March 2005<sup>3</sup>:

- ◆ *Commissioner for Older People (Wales) Bill*
- ◆ *Government of Wales Bill*
- ◆ *Housing (Suspension of Right to Buy) (Wales) Bill*
- ◆ *Local Government (Town and Community Councils) (Wales) Bill*
- ◆ *Tourism Accommodation (Registration) (Wales) Bill*
- ◆ *Welsh Language Schemes Regulator (Wales) Bill*

The *Public Services Ombudsman (Wales) Bill* and the *Transport (Wales) Bill* were both before Parliament when the Assembly Government presented its legislative proposals. The Assembly Government indicated that, should either or both not receive Royal Assent before the dissolution of that parliamentary session, it would press for them to be included

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<sup>1</sup> HL 17 May 2005 c 5-8

<sup>2</sup> Standing Order 33.11

<sup>3</sup> The verbatim record of the debate which took place on 16 March 2005 can be found on the National Assembly for Wales' web-site at:

[http://www.wales.gov.uk/servlet/ChamberSession?area\\_code=380313AC00046B17000028C300000000&document\\_code=N00000000000000000000000000000000029718&p\\_arch=post&module=dynamicpages&month\\_year=3|2005#\\_Toc98827114](http://www.wales.gov.uk/servlet/ChamberSession?area_code=380313AC00046B17000028C300000000&document_code=N00000000000000000000000000000000029718&p_arch=post&module=dynamicpages&month_year=3|2005#_Toc98827114)

in the legislative programme for the first session of the new Parliament. The *Public Services Ombudsman (Wales) Bill* received Royal Assent on 7 April 2005 whilst the *Transport (Wales) Bill* was dropped.

The Assembly Government also indicated that, should Julie Morgan MP's Private Member's Bill on smoking in public places fail to become law (as it did), the Assembly Government would take up with the Secretary of State the issue of separate provisions for Wales in any forthcoming England and Wales bill dealing with the matter.

The motion was amended in Plenary to include an *Opencast and Mineral Extraction Bill*.

Annex 1 contains further details of the *Welsh Assembly Government Cabinet Proposals for primary legislation*, as amended and approved by Plenary on 16 March 2005.

## **2.2 Assembly scrutiny of the legislative programme**

Section 31(1) of the *Government of Wales Act 1998*<sup>4</sup> requires, as soon as is reasonably practicable after the beginning of each session of Parliament, the Secretary of State for Wales to consult with the Assembly about the Government's legislative programme. This consultation must include attendance and participation in the proceedings of the Assembly. Accordingly, Standing Order 6.6(iv) requires Plenary time to be found for a debate with the Secretary of State and for the motion for debate to remit bills and proposals for bills of particular importance to Wales to relevant committees for consideration and report.<sup>5</sup> No date has yet been announced for this debate although it is expected to take place in late June or early July 2005.

### *2.2.1 The role of committees*

Committee reports on remitted bills will be laid and may be debated in Plenary and drawn to the attention of relevant Welsh Assembly Government Ministers. In addition, some committees have submitted their reports through parliamentary, as well as governmental, channels in an attempt to secure amendments to bills or to influence parliamentary debate. To do so effectively, committees will need to act swiftly once bills have been remitted as the time available to scrutinise bills, agree reports and to submit these at an appropriate stage in a bill's progress is likely to be extremely limited.

Whether introduced into the House of Commons or Lords, bills are likely to reach their first committee stage (when detailed clause by clause scrutiny is conducted) within a matter of weeks of their being published. The bills remitted to subject committees by Plenary in 2003 typically began their committee stage around 4 sitting weeks after first being published. Amendments can be made at later stages in a bill's progression through both Houses but earlier submission of a report will increase the opportunity for the views of Assembly committees to influence parliamentary debate.

### *2.2.2 Draft bills*

Following recommendations from the Select Committee on the Modernisation of the House of Commons, it is now increasingly common for bills to be published in draft form to allow pre-legislative scrutiny over a period of months. There is less immediate pressure of time and more potential for Assembly committees to give detailed consideration to draft bills whether formally remitted to them by Plenary or not.

<sup>4</sup> *Government of Wales Act 1998* (chapter 38) <http://www.opsi.gov.uk/acts/acts1998/19980038.htm>

<sup>5</sup> Standing Order 6.6(iv). Prior to an amendment made on 23 February 2005, bills were remitted to subject committees only.



### *2.2.3 Joint working with the Welsh Affairs Committee*

Following a change to Standing Orders approved in June 2004, a subject committee of the Assembly may now invite members of the House of Commons Welsh Affairs Committee to attend and participate in its proceedings. In a corresponding change to parliamentary procedure in the last parliamentary session, the Welsh Affairs Committee was also able to invite members of Assembly committees to take part in its proceedings. This system of 'reciprocal enlargement' was used in the last Parliament by the Welsh Affairs Committee and the Assembly's Economic Development and Transport Committee to undertake joint scrutiny of the *Draft Transport (Wales) Bill*; with the Local Government and Public Services Committee to scrutinise the *Public Services Ombudsman (Wales) Bill* and with the Culture, Welsh Language and Sport Committee to take evidence on broadcasting.

The change to House of Commons Standing Orders extended only to the end of the last Parliament. It has yet to be renewed and cannot be so until committees are appointed, probably in June 2005. The corresponding change to Assembly Standing Orders is permanent and so Assembly committees still have the power to invite members of the Welsh Affairs Committee to take part in their proceedings if they wish.

### 3 The UK Government's legislative programme for 2005-06

A list of bills, which the Government has indicated it intends to include in the legislative programme for 2005-06, is presented below.

#### 3.1 Wales specific bills

##### 3.1.1 *Government of Wales (Amendment) Bill*

Further to the publication of the Richard Commission report in March 2004, the National Assembly for Wales passed a resolution in October 2004<sup>6</sup> calling on the First Minister to urge the Secretary of State for Wales to bring forward proposals to amend the *Government of Wales Act 1998* for the following purposes:

- ◆ the separation of the legislative and executive arms of the National Assembly for Wales and the distribution of powers between the two arms;
- ◆ enhanced legislative powers; and
- ◆ the correction of some anomalies in the electoral system for the Assembly.

In the 2005 general election the Welsh Labour Party manifesto stated that:

In a third term we will legislate for a stronger Assembly with enhanced legislative powers. We will improve the accountability of Ministers by ending the confusing corporate status of the Assembly, thereby ensuring that the people of Wales know who is responsible for the decisions taken in their names.

The manifesto also contained a commitment to prevent candidates standing on both the list and in a constituency for elections to the Assembly.<sup>7</sup>

Commenting on the commitment to introduce a *Government of Wales Amendment Bill* in the Queen's Speech, the Secretary of State for Wales, the Rt.Hon. Peter Hain MP stated:

We will introduce a Bill following publication of a White Paper to develop democratic devolution in Wales, with our clear commitment to enhance the Assembly's powers while reforming its structure and electoral system to make a more accountable legislature for the people of Wales.<sup>8</sup>

##### 3.1.2 *Commissioner for Older People (Wales) Bill*

The *Commissioner for Older People (Wales) Bill*<sup>9</sup> was published on 25 May 2005. An equivalent draft Bill was included in the Queen's Speech in November 2004 and published for pre-legislative scrutiny in March 2005. The Bill had formed part of the Assembly

<sup>6</sup> The verbatim record of the debate which took place on 6 October 2004 can be found on the National Assembly for Wales' web-site at:

[http://www.wales.gov.uk/servlet/ChamberSession?area\\_code=380313AC00046B17000028C300000000&document\\_code=N000000000000000000000000024424&p\\_arch=post&module=dynamicpages&month\\_year=10|2004#\\_Toc84909810](http://www.wales.gov.uk/servlet/ChamberSession?area_code=380313AC00046B17000028C300000000&document_code=N000000000000000000000000024424&p_arch=post&module=dynamicpages&month_year=10|2004#_Toc84909810)

<sup>7</sup> The Welsh Labour Manifesto 2005, *Wales: Forward not Back*, pp.108-110

<sup>8</sup> Wales Office Press Release, *New Government 'hits the ground running' with bumper Queen's speech for Wales – Peter Hain*, 17 May 2005: [http://www.walesoffice.gov.uk/pn\\_20050517.html](http://www.walesoffice.gov.uk/pn_20050517.html)

<sup>9</sup> *Commissioner for Older People (Wales) Bill* [HL] 6 2005-06  
<http://www.publications.parliament.uk/pa/ld200506/ldbills/006/2006006.htm>

Government's primary legislative proposals to the UK Government for the 2004-05 parliamentary session.

The draft Bill had a consultation period ending on 14 June 2005. The Bill proper was introduced into the Lords, unchanged from the already published draft, prior to the end of this consultation period, on 25 May 2005. Despite the introduction of the Bill, the Government has indicated that comments may still be made on the draft Bill during its announced period of consultation.

The Assembly's Health and Social Services Committee scrutinised the draft Bill at its meeting on 25 May 2005. The draft Bill has already been subject to scrutiny by the Welsh Affairs Committee which took place on 5 April 2005 where Don Touhig, MP, Parliamentary Under-Secretary of State for Wales gave evidence<sup>10</sup>.

The Bill establishes an office of Commissioner for Older People in Wales that has powers and duties comparable to the Children's Commissioner in Wales. The role of the Commissioner is to safeguard and promote the interests of older people in Wales, in particular to:

- ◆ promote the provision of opportunities for the elimination of discrimination against older people in Wales;
- ◆ encourage good practice in the treatment of older people in Wales;
- ◆ review the effect on older people in Wales of the discharge of or failure to discharge functions by prescribed persons;
- ◆ take on individual cases and support individuals in making a complaint; and
- ◆ undertake research and publish information and guidance.

The cost of setting up the office in Wales is estimated at £500,000 with running costs of £1.5 million in the first full year of operation, funded from the Assembly's budget.<sup>11</sup>

### 3.1.3 Transport (Wales) Bill

A [Transport \(Wales\) Bill](#)<sup>12</sup> formed part of the Assembly Government's primary legislative proposals to the UK Government for the 2004-05 parliamentary session and was included in the Queen's Speech in November 2004. Prior to this, the [Draft Transport \(Wales\) Bill](#)<sup>13</sup> had been the subject of joint scrutiny by the Assembly's Economic Development and Transport Committee and the House of Commons Welsh Affairs Committee. A report on the draft Bill was published on 14 July 2004<sup>14</sup>.

<sup>10</sup> The minutes of the Health and Social Services Committee on 25 May 2005 are available at: [http://www.wales.gov.uk/servlet/HealthAndSocialServicesCommittee?area\\_code=37D6A89F00087B5500001214000000&month\\_year=5|2005&p\\_arch=post&module=dynamicpages](http://www.wales.gov.uk/servlet/HealthAndSocialServicesCommittee?area_code=37D6A89F00087B5500001214000000&month_year=5|2005&p_arch=post&module=dynamicpages) and the Minutes of Evidence of the Welsh Affairs Committee on 5 April 2005 are available at: <http://www.publications.parliament.uk/pa/cm200405/cmselect/cmwelaf/547/5040501.htm>

<sup>11</sup> *Commissioner for Older People (Wales) Bill*, Regulatory Impact Assessment, Paragraph 4.2

<sup>12</sup> *Transport Wales Bill* [HC] 15 2004-05: <http://www.publications.parliament.uk/pa/cm200405/cmbills/015/2005015.htm>

<sup>13</sup> *Draft Transport Wales Bill* Cm 6195: [http://www.walesoffice.gov.uk/transport\\_bill.pdf](http://www.walesoffice.gov.uk/transport_bill.pdf)

<sup>14</sup> Economic Development and Transport Committee report on the *Draft Transport (Wales) Bill*, July 2004, <http://www.wales.gov.uk/keypubasemecondevtran/content/tb-report-e.pdf>

There were changes to the Bill from the earlier draft due to the UK Government's Rail Review and the subsequent *Railways Bill* (now the *Railways Act 2005*). The clauses in the draft Bill that dealt with the Assembly's powers over the railways in Wales were excluded from the *Transport (Wales) Bill*. The Bill received its first reading on 15 December 2004 before being dropped. The Assembly remitted the Bill to the Economic Development and Transport Committee, which considered it on 13 January 2005 and published a report on it on 31 January 2005<sup>15</sup>.

It is expected that the new Bill will not change from the previous version and will therefore give the Assembly the powers it needs to take forward its integrated transport policies, including:

- ◆ a duty on the Assembly to develop and implement policies for the promotion of safe, integrated, efficient, economic and sustainable transport facilities and services;
- ◆ a duty on the Assembly to prepare a Wales Transport Strategy, setting out those policies;
- ◆ measures to ensure that local transport planning is consistent with the Assembly's overall transport strategy;
- ◆ provisions for joint working arrangements and for joint transport authorities in Wales so that Local Authority (LA) transport functions are carried out on a regional basis;
- ◆ powers to enable the Assembly to secure the provision of public passenger transport services where the requirement for such services would not otherwise be met;
- ◆ a specific power for the Assembly to give financial assistance in respect of air services and airport facilities in Wales, where the services or facilities would not otherwise be provided; and
- ◆ a power for the Assembly to establish a new Public Transport Users' Committee for Wales. The Rail Passengers' Council Cymru has been abolished by the *Railways Act 2005*.

#### **3.1.4 Draft Tourism Accommodation (Wales) Bill**

This Bill formed part of the Assembly Government's primary legislative proposals to the UK Government for the 2004-05 parliamentary session but was not included in the Queen's Speech in November 2004. It was proposed again by the Assembly Government for inclusion in the 2005-06 parliamentary programme.

The UK Government has now indicated its intention to publish a draft Bill during the current parliamentary session.

The draft Bill is likely to include the following measures:

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<sup>15</sup> Economic Development and Transport committee report on the *Transport (Wales) Bill*, Laid Document 3434, January 2005:

[http://www.wales.gov.uk/servlet/DocumentsLaid?area\\_code=37B1A026000BF4FD0000436C00000000&document\\_code=N0000000000000000000000000000000027943&month\\_year=1|2005&p\\_arch=post&module=dynamicpages](http://www.wales.gov.uk/servlet/DocumentsLaid?area_code=37B1A026000BF4FD0000436C00000000&document_code=N0000000000000000000000000000000027943&month_year=1|2005&p_arch=post&module=dynamicpages)



- ◆ a requirement for tourist accommodation (with certain exceptions e.g. caravan parks) in Wales to be registered and inspected;
- ◆ the provision of powers to prevent unregistered businesses or registered businesses which fail to meet the required standards from trading;
- ◆ the provision of regulation-making powers for the National Assembly for Wales enabling it to make detailed provision for matters such as: the classification of accommodation; registration and inspection criteria and standards; signs to be displayed by establishments; full or partial exemptions; registration, inspection and appeals fees; procedures for registration, making complaints, inspections, enforcement and appeals; and
- ◆ provision for criminal or civil sanctions where necessary to ensure that enforcement of the registration scheme is effective.

The draft Bill would fall within the portfolio of the Assembly's Economic Development and Transport Committee, although it may also be of interest to the Environment, Planning and Countryside Committee.

The Wales Tourist Board (WTB) submitted its original proposals for a statutory registration scheme for tourist accommodation in Wales in August 2002 and on 12 December 2002 the Assembly's Economic Development Committee (EDC) received a presentation from the WTB on this issue<sup>16</sup>. A paper on the legal position concerning statutory registration was included as an annex to the Minister's Report to EDC on 16 January 2003<sup>17</sup>.

The Minister for Economic Development made a statement to EDC on 6 March 2003<sup>18</sup> concerning statutory registration and on 25 February 2004, the Economic Development and Transport Committee was asked for its views concerning the WTB's report entitled "[Wales Tourist Board Review of Statutory Registration Proposals for Wales – Final Report](#)"<sup>19</sup> which reviewed the WTB's original proposals for statutory registration.

A Plenary debate on the WTB's statutory registration scheme took place on 3 March 2004<sup>20</sup>.

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<sup>16</sup> Economic Development Committee paper, EDC 18-02(p3), 12 December 2002:  
[http://www.wales.gov.uk/servlet/EconomicDevelopmentCommittee?area\\_code=37D6A7190007D619000011ED00000000&document\\_code=N00000000000000000000000000000000004897&p\\_arch=pre&module=dynamicpages&month\\_year=12|2002](http://www.wales.gov.uk/servlet/EconomicDevelopmentCommittee?area_code=37D6A7190007D619000011ED00000000&document_code=N00000000000000000000000000000000004897&p_arch=pre&module=dynamicpages&month_year=12|2002)

<sup>17</sup> Economic Development Committee paper, EDC 03-01(p1), 16 January 2003:  
<http://www.wales.gov.uk/assemblydata/N00000000000000000000000000000000005745.pdf>

<sup>18</sup> Economic Development Committee paper, EDC 04-03(p1b), 6 March 2003:  
[http://www.wales.gov.uk/servlet/EconomicDevelopmentCommittee?area\\_code=37D6A7190007D619000011ED00000000&document\\_code=N00000000000000000000000000000000008086&p\\_arch=pre&module=dynamicpages&month\\_year=3|2003](http://www.wales.gov.uk/servlet/EconomicDevelopmentCommittee?area_code=37D6A7190007D619000011ED00000000&document_code=N00000000000000000000000000000000008086&p_arch=pre&module=dynamicpages&month_year=3|2003)

<sup>19</sup> The Tourism Company (commissioned by the Wales Tourist Board), *Review of the Statutory Registration Proposals for Wales – Final Report*, December 2003

<sup>20</sup> The verbatim record of the debate which took place on 3 March 2004 can be found on the National Assembly for Wales' web-site at:  
[http://www.wales.gov.uk/servlet/ChamberSession?area\\_code=380313AC00046B17000028C300000000&document\\_code=N000000000000000000000000000000000018354&p\\_arch=post&module=dynamicpages&month\\_year=3|2004#\\_Toc66164058](http://www.wales.gov.uk/servlet/ChamberSession?area_code=380313AC00046B17000028C300000000&document_code=N000000000000000000000000000000000018354&p_arch=post&module=dynamicpages&month_year=3|2004#_Toc66164058)

## **3.2 Other bills**

### **3.2.1 Social Justice, Crime and Citizenship**

#### ***Violent Crime Bill***

This Bill did not feature in the UK Government's legislative programme for 2004-05. It is anticipated that key measures in the Bill will:

#### **Guns and Knives**

- ◆ make it illegal to buy imitation firearms below the age of 18;
- ◆ introduce tougher manufacturing standards to ensure imitation firearms cannot be converted to fire live ammunition;
- ◆ introduce a new aggravated offence of using children or otherwise innocent parties to hide or carry guns or knives;
- ◆ tighten the law on indiscriminate and reckless firing of air guns from private property;
- ◆ deal with sale on internet or by mail order;
- ◆ raise the age at which a young person can buy a knife from 16 to 18;
- ◆ give the police power to require certain licensed pubs or clubs to search for knives or guns on entry - as condition of licence; and
- ◆ introduce a power for headteachers to search pupils for knives - to prevent carrying on school premises.

#### **Alcohol-related violence**

- ◆ give councils the power to require the use of safe beer glasses and drinks bottles in all pubs and clubs in areas with high levels of drink-related violence;
- ◆ permit councils to ban drinking on buses and other public transport;
- ◆ permit 24-hour bans on pubs and clubs persistently selling alcohol to underage drinkers;
- ◆ introduce 'three strike' Drink Banning Orders excluding those dealt with three times for alcohol-related disorder from pubs and bars within a specified area; and
- ◆ oblige pubs and clubs which generate most disorder to be required to make contribution towards additional costs of dealing with that disorder.

#### **Football disorder**

- ◆ renew and amend the procedure for banning orders on complaint; and
- ◆ renew and amend police powers during control period.

The policy areas covered in this Bill are generally reserved.

### ***Immigration and Asylum Bill***

This Bill did not feature in the UK Government's legislative programme for 2004-05. The UK Government's five-year strategy for asylum and immigration, [Controlling our borders: making migration work for Britain](#)<sup>21</sup> was published on 7 February 2005.

Key measures in the Bill will include:

- ◆ the removal of rights of appeal against refusal of entry or leave to enter for students and workers;
- ◆ a limiting of rights of appeal for family visitors;
- ◆ the streamlining of after-entry rights of appeal;
- ◆ civil penalties for employers of illegal workers;
- ◆ a new offence of knowingly employing an illegal worker;
- ◆ amendments to the legislative framework for Refugee Integration Loans to reflect change in status;
- ◆ arrangements for authorised third party to collect biometric data;
- ◆ a wider power to enable more widespread fingerprinting, towards global roll-out in 2008;
- ◆ the verification of all biometric documents against a database at ports;
- ◆ the introduction of joint passenger data capture and sharing as part of e-borders;
- ◆ e-borders to include a small passenger charge to recover programme costs; and
- ◆ more general charging for migration routes, to fit with points-based system.

Immigration and asylum are reserved matters.

### ***Management of Offenders Bill***

The Home Office White Paper, [Reducing Crime – Changing Lives](#)<sup>22</sup>, which was published on the same day in January 2004 as Patrick Carter's correctional services review report, [Managing Offenders – Reducing Crime](#)<sup>23</sup>, indicated the Government's intention effectively to merge the Prison and Probation Services into a single National Offender Management Service (NOMS).

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<sup>21</sup> Home Office, *Controlling Our Borders: Making Migration Work for Britain*, February 2005:  
<http://www.official-documents.co.uk/document/cm64/6472/6472.pdf>

<sup>22</sup> Home Office, *Reducing Crime – Changing Lives*, January 2004:  
<http://www.homeoffice.gov.uk/docs2/changinglives.pdf>

<sup>23</sup> Government's Strategy Unit, *Managing Offenders – Reducing Crime*, January 2004:  
<http://www.homeoffice.gov.uk/docs2/managingoffenders.pdf>



- ◆ the reintroduction of a test of financial eligibility (means test); and
- ◆ the targeting of funds on the most worthy and important cases through the best use of legal aid resources.

This is not a devolved matter.

### **Identity Cards Bill**

In November 2003, the Home Secretary announced that the UK Government had decided to introduce a national identity cards scheme.<sup>31</sup> Proposals were initially set out in [Identity Cards: the Next Steps](#) in November 2003.<sup>32</sup>

A [Draft Identity Cards Bill](#)<sup>33</sup> was published by the Home Office on 26 April 2004 and was considered by the Home Affairs Select Committee. The Committee published its report on the Bill on 30 July 2004<sup>34</sup>. An [Identity Cards Bill](#)<sup>35</sup> was presented and received its first reading in November 2004. The Bill passed through the Commons and received its second reading in the Lords in March 2005 before it was dropped. The *current Identity Cards Bill*<sup>36</sup> was introduced on 25 May 2005.

This Bill will include the following measures:

- ◆ a legal framework to enable identity cards to be introduced throughout the United Kingdom and to create a National Identity Register;
- ◆ the introduction of identity Cards aimed at
  - tackling illegal working and immigration abuse
  - the prevention and detection of crime and counter-terrorism
  - the prevention of identity theft and fraud
  - the prevention of fraudulent access to public services
  - easier and more convenient access to services;
- ◆ arrangements for the verification of cards with consent of holder;
- ◆ safeguards on the provision of ID card information without consent;
- ◆ the creation of new offences - fraudulent use of a card, possession of false identity documents, unauthorised disclosure of information by administrators of the scheme; and
- ◆ the establishment of a National Identity Scheme Commissioner to review operation of the scheme with an annual report to the Home Secretary laid before Parliament; and

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<sup>31</sup> HC Deb 11 November 2003 c171:

[http://www.publications.parliament.uk/pa/cm200203/cmhansrd/vo031111/debtext/311114.htm#3111104\\_spm2](http://www.publications.parliament.uk/pa/cm200203/cmhansrd/vo031111/debtext/311114.htm#3111104_spm2)

<sup>32</sup> Home Office, *Identity Cards: The Next Steps* Cm 6020, November 2003:

[http://www.homeoffice.gov.uk/docs2/identity\\_cards\\_nextsteps\\_031111.pdf](http://www.homeoffice.gov.uk/docs2/identity_cards_nextsteps_031111.pdf)

<sup>33</sup> Draft Identity Cards Bill Cm 6178:

[http://www.homeoffice.gov.uk/docs3/draft\\_idbill2604.pdf](http://www.homeoffice.gov.uk/docs3/draft_idbill2604.pdf)

<sup>34</sup> Home Affairs Committee, *Identity Cards*, HC 130-I 2003-04, 30 July 2004:

<http://www.publications.parliament.uk/pa/cm/cmhaff.htm>

<sup>35</sup> *Identity Cards Bill* [HC] 8 2004-05:

<http://www.publications.parliament.uk/pa/cm200405/cmbills/008/2005008.htm>

<sup>36</sup> *Identity Cards Bill* [HC] 9 2005-06:

<http://www.publications.parliament.uk/pa/cm200506/cmbills/009/2006009.htm>

The introduction of an identity card scheme is not a devolved matter. However, in giving evidence to the Home Affairs Committee, the First Minister said that:

We will consider the implications for Wales of the Home Secretary's proposals for identity cards as these proposals are firmed up. But, as the Home Secretary has announced, decisions on the use of these cards to access services for which the Welsh Assembly Government is responsible will be a matter for this administration. I used the opportunity of an Assembly Question to provide reassurance to people in Wales that their access to public services will not, in the foreseeable future, be dependent on the possession of an identity card.<sup>37</sup>

The current Bill allows devolved administrations in Wales and Northern Ireland to make regulations making the production of an ID card a condition of providing a public service for which these administrations are responsible.

### ***Protecting Vulnerable Groups Bill***

A Bill of this nature did not feature in the UK Government's legislative programme for 2004-05. It is a response to the [independent inquiry](#) arising from the Soham murders which was chaired by Sir Michael Bichard.

The Bill will include the following measures:

- ◆ provisions for a new vetting / barring scheme to prevent those who are deemed to be unsuitable from gaining access to children or vulnerable adults through employment (both paid and unpaid);
- ◆ arrangements to ensure that those working with children or vulnerable adults who subsequently become unsuitable are detected at the earliest possible stage and prevented from continuing in this work;
- ◆ the abolition of the three existing barring lists (one for education, one for children and one for vulnerable adults) and the creation of two new lists: one for children and one for vulnerable adults;
- ◆ changes to the role of the Criminal Records Bureau (CRB) so that it can act as an effective information conduit for the new vetting / barring scheme;
- ◆ mandatory checks for some employees; and
- ◆ new powers and duties on the Police, Social Services, regulatory bodies and others to share information with, and receive information from, the new vetting/barring scheme.

These matters are not devolved.

### ***Charities Bill***

A [Draft Charities Bill](#)<sup>38</sup> was published by the Home Office on 27 May 2004 and was considered by a Joint Committee, which published its first report on 30 September 2004.<sup>39</sup>

<sup>37</sup> Home Affairs Committee, *Identity Cards*, HC 130-I 2003-04, 30 July 2004, paragraph 110

<sup>38</sup> *Draft Charities Bill* Cm 6199 [http://www.homeoffice.gov.uk/docs3/charitiesbill\\_foreward040527.pdf](http://www.homeoffice.gov.uk/docs3/charitiesbill_foreward040527.pdf)

<sup>39</sup> *Joint Committee on the Draft Charities Bill – First Report*, September 2004:  
<http://www.publications.parliament.uk/pa/jt200304/jtselect/jtchar/167/16702.htm>



The Bill includes provision for the National Assembly for Wales to give financial assistance to charitable, benevolent or philanthropic institutions.

### ***Incitement to Religious Hatred Bill***

Measures to address incitement to racial hatred were dropped from the [Serious and Organised Crime and Police Bill](#)<sup>44</sup> which received Royal Assent in April 2005.

Commentators expect this Bill to extend the current offence of incitement to racial hatred to include stirring up hatred based on people's religious belief, and bring all religions under the same level of protection although no UK Government information on the content of the Bill is currently available.

This is not a devolved matter.

### ***Equality Bill***

An [Equality Bill](#)<sup>45</sup> received its first reading in March 2005 and its second reading in April 2005 before being dropped. The Bill was remitted by the National Assembly for Wales to the Social Justice and Regeneration Committee, and subsequently, to the Equality of Opportunity Committee following an amendment to Standing Order 6.6 to allow for bills to be remitted to standing committees. No formal consideration was given to it due to its late publication within the session.

The current [Equality Bill](#)<sup>46</sup> was introduced into the House of Lords on 18 May 2005 and is due to receive its second reading on 15 June 2005. The Bill implements measures outlined in the White Paper [Fairness for All: A New Commission for Equality and Human Rights](#)<sup>47</sup>. It provides for the establishment of the Commission for Equality and Human Rights (CEHR), a single integrated body to underpin legislation on race, gender, disability, religion or belief, sexual orientation, the proposed legislation on age and human rights. The new Commission will:

- ◆ champion equality and human rights;
- ◆ be established as a non-departmental public body and will subsume the three existing equality commissions (Commission for Race Equality, Equal Opportunities Commission and the Disability Rights Commission);
- ◆ have core duties to promote: good practice in equality and diversity; equal opportunities within the protected equality strands; human rights; social cohesion; and to eliminate discrimination and review legislation; and
- ◆ have power to conduct inquiries and investigations.

<sup>44</sup> *Serious and Organised Crime Bill* [HC] 5 2004-05:  
<http://www.publications.parliament.uk/pa/cm200405/cmbills/005/2005005.htm>

<sup>45</sup> *Equality Bill* [HC] 72 2004-05:  
<http://www.publications.parliament.uk/pa/cm200405/cmbills/072/2005072.htm>

<sup>46</sup> *Equality Bill* [HL] 2 2005-06:  
<http://www.publications.parliament.uk/pa/ld200506/ldbills/002/2006002.htm>

<sup>47</sup> Department for Trade and Industry, *Fairness for All: A New Commission for Equality and Human Rights*, May 2004:  
<http://164.36.38.98/equality/project/project.htm>

The CEHR will be established in October 2007 for all areas except those for which the Commission for Racial Equality (CRE) is responsible. These areas will remain with the CRE until April 2009, when the CRE's responsibilities will transfer to the CEHR.

The Bill will also:

- ◆ extend protection against discrimination on the grounds of religion or belief to the provision of goods, facilities, services, premises, education and public services;
- ◆ extend the prohibition of sex discrimination to cover all public functions; and
- ◆ introduce a duty on public authorities to promote equality of opportunity between women and men.

The Bill extends to Great Britain.

### ***Fraud Bill***

Based on the [Law Commission's report on fraud of 2002](#) and the UK Government consultation paper [Fraud Law reform Consultation on Proposals for Legislation](#)<sup>48</sup>, published in May 2004, the key measures in this Bill include:

- ◆ a definition of a general offence of fraud, with a maximum penalty of 10 years' imprisonment, as consisting of:
  - fraud by false representation
  - fraud by failing to disclose information
  - fraud by abuse of position;
- ◆ a revised offence of obtaining services dishonestly (to fill a legal loophole, since a machine cannot be 'deceived') with a maximum penalty of five years' imprisonment;
- ◆ all the deception offences under the Theft Acts 1968-1996 to be abolished; and
- ◆ replacement of the existing 'going equipped' offence so far as it relates to fraud, to criminalise the act of possessing or making material for use in frauds. The Bill will also extend the scope of the existing offence of fraudulent trading.

### ***3.2.2 Health, Social Care and Welfare Reform***

#### ***Child Contact and Inter-country Adoption Bill***

A draft *Child Contact and Inter-country Adoption Bill*<sup>49</sup> was published in the 2004-05 parliamentary session and subject to pre-legislative scrutiny by the Joint Committee on the *Draft Children (Contact) and Adoption Bill*, which published its report in April 2005.<sup>50</sup>

The contact provisions in the Bill are intended to implement a number of the recommendations originally made by the Children Act Sub-Committee of the Lord Chancellor's advisory board on family law in their report *Making Contact Work*. Proposals

<sup>48</sup> Home Office, *Fraud Law reform Consultation on Proposals for Legislation*, May 2004:

[http://www.homeoffice.gov.uk/docs3/fraud\\_law\\_reform.pdf](http://www.homeoffice.gov.uk/docs3/fraud_law_reform.pdf)

<sup>49</sup> *Draft Children (Contact) and Adoption Bill* Cm 6462 2004-05:

<http://www.parliament.uk/documents/upload/CCABill.pdf>

<sup>50</sup> The pre-legislative scrutiny Joint Committee's report can be found at :

[http://www.parliament.uk/parliamentary\\_committees/jcdccab.cfm](http://www.parliament.uk/parliamentary_committees/jcdccab.cfm)

to put these recommendations into effect, and provide new powers to the courts, were contained within the UK Government Green Paper *Parental Separation: Children's Needs and Parents' Responsibilities*, published in July 2004. Following consultation on the Green Paper, the Government published *Parental Separation: Children's Needs and Parents' Responsibilities - Next Steps* in January 2005.<sup>51</sup>

Key measures within the Bill are expected to include:

- ◆ the provision of additional powers to the courts to facilitate contact or enforce contact orders, including: power to direct parties to attend information sessions, meetings with a counsellor, parenting programmes/classes, etc.
- ◆ the provision of power for courts to impose community-based enforcement orders for unpaid work or curfew, or award financial compensation from one party to another when a contact order is breached;
- ◆ the reform of Family Assistance Orders to extend their flexibility and make them more effective; and
- ◆ measures relating to intercountry adoption, including the provision of a statutory framework for the suspension of inter-country adoptions from specified countries where there are public policy concerns about the process in that country, such as concerns about child trafficking.

The provisions relating to contact with children extend to England and Wales only. The UK Government has indicated that there are currently discussions taking place about the extent of the inter-country adoption provisions between officials in England and the devolved administrations.

### ***Mental Health Bill***

The Department of Health published the [Draft Mental Health Bill](#)<sup>52</sup> in the 2003-04 parliamentary session.<sup>53</sup>

The Bill will introduce a new legal framework for the treatment of people with mental disorders without their consent, when this is necessary to protect them or others from harm, and will:

- ◆ set out the conditions which have to be met for someone to be treated without their consent;
- ◆ set out procedures for the use of compulsion (compulsion will be permissible in the community as well as in hospital, although there will be no forcible treatment in the community);
- ◆ contain safeguards, including a Tribunal, for the authorisation of compulsion to protect patients;

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<sup>51</sup> Both documents are available at:

[www.dfes.gov.uk/childrensneeds](http://www.dfes.gov.uk/childrensneeds)

<sup>52</sup> *Draft Mental Health Bill* Cm 6305-1 2004-05

<sup>53</sup> The pre-legislative scrutiny Joint Committee's report can be found at :  
[http://www.parliament.uk/parliamentary\\_committees/jcdmhb.cfm](http://www.parliament.uk/parliamentary_committees/jcdmhb.cfm)

- ◆ provide for the management and treatment of mentally disordered patients concerned in criminal proceedings;
- ◆ provide special safeguards for certain types of treatment, such as psychosurgery or electroconvulsive therapy (ECT);
- ◆ provide for patient representation through nominated persons and mental health advocates;
- ◆ provide for rights of appeal against the Mental Health Tribunal;
- ◆ provide for the Commission for Healthcare Audit and Inspection to have investigation functions.

The Bill applies to England and Wales.

The draft Bill was subject to pre-legislative scrutiny by the Joint Committee on *the Draft Mental Health Bill* in September 2004. The Committee published its [Report](#) on 23 March 2005. The Committee received more than 450 written submissions and heard oral evidence from 124 witnesses before recommending that the Government should proceed with the Bill, but only with significant amendments.

The Assembly's Health and Social Services Committee also scrutinised the draft Bill at its meeting on 14 October 2004. Significant concerns about the Bill were raised by those giving evidence, including Mind Cymru, Royal College of Psychiatrists, Royal College of Nursing, Hafal and the Association of Directors of Social Work.<sup>54</sup>

### **Child Care Bill**

The Bill aims to contribute to the implementation of the UK Government's Ten Year Strategy for early years and childcare, *Choice for parents, the Best Start for Children*, which was published alongside the Pre-Budget Report on 2 December 2004.<sup>55</sup> The Bill did not feature in the UK Government's legislative programme for 2004-05.

Paragraph 1.16 of the Strategy makes clear that:

This ten-year strategy covers both reserved issues (for example tax credits and maternity leave) and devolved issues (for example the quality of childcare places). Responsibility for the delivery of the strategy in Scotland and Wales, and in Northern Ireland when devolution is restored, is therefore shared between the UK Government and the devolved administrations. The Government will involve all four countries of the UK in discussing its implementation.<sup>56</sup>

The Bill will place a new duty on local authorities to secure sufficient childcare and early childhood services (including information to parents). This will apply in England and Wales. Provisions for a new regulatory and inspection framework for childcare and early education will apply in England only.

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<sup>54</sup> Further details of the discussion are available in the minutes of the Health and Social Services Committee on 14 October 2004:

<http://www.wales.gov.uk/assemblydata/N0000000000000000000000000024988.htm>

<sup>55</sup> *Choice for Parents – the Best Start for Children 2004*:

[http://www.hm-treasury.gov.uk/pre\\_budget\\_report/prebud\\_pbr04/assoc\\_docs/prebud\\_pbr04\\_adchildcare.cfm](http://www.hm-treasury.gov.uk/pre_budget_report/prebud_pbr04/assoc_docs/prebud_pbr04_adchildcare.cfm)

<sup>56</sup> *Ibid.* p. 4

### ***Health and Improvement Protection Bill***

The Bill, which did not feature in the UK Government's legislative programme for 2004-05, will aim to implement proposals set out in the Department of Health Public Health White Paper, *Choosing Health* (November 2004).<sup>57</sup>

One of the key proposals in the Bill is to ban smoking in public places, apart from specifically exempt licensed premises. The Bill's territorial extent has yet to be confirmed, although it is expected to have specific Welsh provisions which will allow the Assembly to implement its own policy on banning smoking in public places<sup>58</sup>.

Key measures will include:

- ◆ powers to designate the vast majority of enclosed public places and workplaces smoke-free;
- ◆ the introduction of a code of practice aimed at reducing healthcare associated infection and measures to bring about compliance;
- ◆ the abolition of two Non Departmental Public Bodies and streamlining the auditing of other arms length bodies;
- ◆ in responding to the recommendations of the Shipman Inquiry:
  - an action programme for safer management of controlled drugs;
  - the creation of a right of entry for Primary Care Trust<sup>59</sup> officers to healthcare premises;
  - an obligation of co-operation between healthcare organisations and other local organisations (e.g. police and local authorities).
- ◆ changes to pharmacy and ophthalmic services including making best use of the pharmacist workforce and enabling fully qualified technicians to supply drugs safely without the pharmacist needing to be present.

Further details of the Bill are currently unclear. However, if the UK Government intends to use this Bill to implement the recommendations of the public health white paper, it is likely there will be clauses included to tackle obesity, as well as improving sexual health amongst young people.

With regard to smoking in public places, the National Assembly for Wales approved a motion for a complete ban on smoking in public places in January 2003, but does not, at present, have powers to bring forward the necessary legislation. A number of Private Members Bills have been introduced to give greater devolved powers to the Assembly in order that regulations could be made to implement a ban on smoking in enclosed public places in Wales. None has been successful.

The Assembly's Smoking in Public Places Committee reported in May 2005. The report's main recommendation was that the National Assembly for Wales should press the UK Government for the powers that would enable it to introduce a ban on smoking in

<sup>57</sup>Department of Health, *Choosing Health: making healthier choices easier*, November 2004: [http://www.dh.gov.uk/PublicationsAndStatistics/Publications/PublicationsPolicyAndGuidance/PublicationsPolicyAndGuidanceArticle/fs/en?CONTENT\\_ID=4094550&chk=aN5Co](http://www.dh.gov.uk/PublicationsAndStatistics/Publications/PublicationsPolicyAndGuidance/PublicationsPolicyAndGuidanceArticle/fs/en?CONTENT_ID=4094550&chk=aN5Co)

<sup>58</sup>Wales Office press release 17 May 2005 [http://www.walesoffice.gov.uk/pn\\_20050517.html](http://www.walesoffice.gov.uk/pn_20050517.html)

<sup>59</sup>The UK Government has not indicated whether this will also apply to Local Health Board officers in Wales.

enclosed workplaces and enclosed public places (with specified exceptions) within a timescale of two to three years. An Assembly motion to note the Committee report was approved in plenary on 25 May 2005.

### ***NHS Redress Bill***

This Bill, which did not feature in the UK Government's legislative programme for 2004-05, builds on a commitment made in the 2001 Labour Party manifesto to reform the current clinical negligence system and the proposals set out in the Chief Medical Officer's report, [\*Making Amends\*](#)<sup>60</sup>, published in June 2003.

The Bill will introduce an NHS Redress Scheme intended to provide a speedy and appropriate response when something goes wrong and compensation where appropriate. *Making Amends* proposed a specific NHS Redress Scheme for 'Severely Neurologically Impaired Babies'. However, this issue will be addressed through separate proposals for improving services for all disabled children.

Health policy is generally a devolved area in Wales. It is not yet clear if the provisions will be extended to Wales.

### ***Housing Benefit Bill***

This Bill, which did not feature in the UK Government's legislative programme for 2004-05, will continue the housing benefit reform programme set out in consultation papers, [\*Quality and Choice: A Decent Home for All\*](#),<sup>61</sup> and [\*Building Choice and Responsibility: A Radical Agenda for Housing Benefit\*](#).<sup>62</sup>

Key measures include:

- ◆ the introduction of a flat rate of housing support paid to tenants rather than landlords - the Local Housing Allowance - building on the work of the pilot local authorities already testing out this approach;
- ◆ powers for local authorities to investigate and prosecute fraud against Department for Work and Pensions administered benefits alongside benefits they administer;
- ◆ arrangements for the enhancement of joined up working and the removal of certain barriers to claiming benefits; and
- ◆ arrangements to make it easier for people to move into work, help speed up local authority administration of Housing Benefit, promote greater choice and responsibility for tenants, promote financial inclusion and help the fight against benefit fraud.

Although housing policy is a generally devolved matter in Wales, housing benefit policy is not. However, Conwy is one of 9 Department for Work and Pensions Local Housing Allowance Pathfinder sites<sup>63</sup>. Officials in the Assembly Government have liaised with

<sup>60</sup> Chief Medical Officer, *Making Amends*, July 2003:  
[http://www.dh.gov.uk/PublicationsAndStatistics/Publications/PublicationsPolicyAndGuidance/PublicationsPolicyAndGuidanceArticle/fs/en?CONTENT\\_ID=4010641&chk=oLC1W%2B](http://www.dh.gov.uk/PublicationsAndStatistics/Publications/PublicationsPolicyAndGuidance/PublicationsPolicyAndGuidanceArticle/fs/en?CONTENT_ID=4010641&chk=oLC1W%2B)

<sup>61</sup> Office of the Deputy Prime Minister, *Quality and Choice: A Decent Home for All*, April 2000  
[http://www.odpm.gov.uk/stellent/groups/odpm\\_housing/documents/divisionhomepage/035230.hcsp](http://www.odpm.gov.uk/stellent/groups/odpm_housing/documents/divisionhomepage/035230.hcsp)

<sup>62</sup> Department for Work and Pensions, *Building Choice and Responsibility: A Radical Agenda for Housing Benefit*, October 2002:  
[http://www.dwp.gov.uk/housingbenefit/publications/2002/building\\_choice/prospectus.pdf](http://www.dwp.gov.uk/housingbenefit/publications/2002/building_choice/prospectus.pdf)

<sup>63</sup> Further information about Local Housing Allowance is available on the Department for Work and Pensions web-site:

colleagues within the Department for Work and Pensions on the evaluation of the pathfinder project and the proposed Bill.

### ***Incapacity Benefit Bill***

This Bill, which did not feature in the UK Government's legislative programme for 2004-05, relates to proposals which were outlined in the Office of the Deputy Prime Minister's [Five Year Strategy](#).<sup>64</sup> This Strategy builds upon the Green Paper [Pathways to Work: Helping People into Employment](#),<sup>65</sup> published in November 2002.

The UK Government has indicated its intention to publish details of further reform measures in July 2005.

Key measures likely to be included in the Bill include:

- ◆ extended employment advice and support for individuals with health conditions to enable them to return to work;
- ◆ the simplification of the existing benefits system for those whose health affects their capacity for work;
- ◆ increased support to employers and employees in securing a safe working environment and managing absence and return to work;
- ◆ increased support to health professionals to enable them to provide holistic treatment plans which recognise the benefits of work to rehabilitation and long-term health; and
- ◆ the ongoing development of disability rights to provide a level playing field for those with disabilities.

Benefit policy is not a devolved matter. However, the UK Government has acknowledged that the provision of support to those with health conditions will require close working with health colleagues in Wales.

### **3.2.3 Education**

#### ***Education Bill***

The Bill, which did not feature in the UK Government's legislative programme for 2004-05, will implement measures in the [14-19 Education and Skills White Paper](#)<sup>66</sup>, published in February 2005.

Key measures will include:

- ◆ greater independence for school governing bodies;

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<http://www.dwp.gov.uk/housingbenefit/lha/index.asp>

<sup>64</sup> Office of the Deputy Prime Minister, *Five Year Strategy*, February 2005:

[http://www.odpm.gov.uk/stellent/groups/odpm\\_about/documents/divisionhomepage/033927.hcsp](http://www.odpm.gov.uk/stellent/groups/odpm_about/documents/divisionhomepage/033927.hcsp)

<sup>65</sup> Department for Work and Pensions, *Pathways to Work: Helping people into employment*, November 2002

<http://www.dwp.gov.uk/consultations/consult/2002/pathways/pathways.pdf>

<sup>66</sup> Department for Education and Skills, *14-19 Education and Skills White Paper*, February 2005

<http://www.dfes.gov.uk/publications/14-19educationandskills/>

- ◆ allowing primary schools, like secondary schools, to become foundation schools by a simple vote of their governing body;
- ◆ measures to encourage new providers into the state system;
- ◆ new powers and flexibilities for Ofsted and for local authorities in tackling school failure and underperformance; and
- ◆ clauses that repeat the last parliamentary session's fallen *School Transport Bill*.

The Bill will extend to England and Wales. It is uncertain whether there will be England and Wales only provisions and to what extent the National Assembly for Wales will be able to decide when and how such an Act would be implemented. The previous [School Transport Bill](#)<sup>67</sup> included powers for the Assembly to make some regulations and orders relating to Wales. The Assembly's Education and Lifelong Learning Committee considered and reported on the Bill in draft form [in April 2004](#)<sup>68</sup> and have undertaken an inquiry into school transport<sup>69</sup>.

### 3.2.4 Constitutional Affairs

#### *Regulatory Reform Bill*

The main provision of the current *Regulatory Reform Act 2001* is to allow the reform of primary legislation by Regulatory Reform Order (RRO). It also gives Ministers (and the National Assembly for Wales, where appropriate) a reserve power to set out a code of good enforcement practice.<sup>70</sup> The Cabinet Office describes RROs as:

a powerful tool which enable the reform of primary legislation. RROs can iron out inconsistencies and amend problems in already-enacted legislation without the need for a bill slot.<sup>71</sup>

RROs are subject to public consultation followed by detailed two-stage scrutiny by the scrutiny committees, currently the Deregulation and Regulatory Reform Committee in the House of Commons and the Delegated Powers and Regulatory Reform Committee in the House of Lords.

In January 2005, the House of Commons Select Committee on Deregulation and Regulatory Reform published its First Special Report on the Working of the *Regulatory Reform Act 2001*. In addition to reporting on the number of RROs made in the period to December 2004, the Committee reported on the suggestions made by the Cabinet Office for amending the 2001 Act. The Report stated:

In correspondence and oral evidence to us the Government has outlined a number of suggestions for improving the working of the Regulatory Reform Act. These suggestions, which were not based on a formal review of the

<sup>67</sup> *School Transport Bill* [HC] 14 2004-05:

<http://www.publications.parliament.uk/pa/ld200405/ldbills/014/2005014.htm>

<sup>68</sup> Education and Lifelong Learning Committee report on the *Draft School Transport Bill*, LD2942, 28 April 2004:

[http://www.wales.gov.uk/servlet/EducationAndLifelongLearningCommittee?area\\_code=39EEFDE30004A6480000713800000000&document\\_code=N000000000000000000000000020866&p\\_arch=post&module=dynamicpages&month\\_year=4|2004](http://www.wales.gov.uk/servlet/EducationAndLifelongLearningCommittee?area_code=39EEFDE30004A6480000713800000000&document_code=N000000000000000000000000020866&p_arch=post&module=dynamicpages&month_year=4|2004)

<sup>69</sup> The Committee's report is available from the Members' Research Service and will soon be published on the Internet.

<http://www.wales.gov.uk/keypubassembledlifelearn/content/trnsprt-e.htm>

<sup>70</sup> Cabinet Office web-site: [http://www.cabinetoffice.gov.uk/regulation/regulatory\\_reform/act/index.asp](http://www.cabinetoffice.gov.uk/regulation/regulatory_reform/act/index.asp)

<sup>71</sup> Cabinet office web-site: [http://www.cabinetoffice.gov.uk/regulation/regulatory\\_reform/act/reform\\_orders.asp](http://www.cabinetoffice.gov.uk/regulation/regulatory_reform/act/reform_orders.asp)

working of the Act, arose during informal contacts between the Cabinet Office and Departments. The suggestions seek to remove perceived obstacles to the successful working of the Act. The Government divided its suggestions into those related to improving the administrative handling of RROs and more substantive points related to the working of the Act.<sup>72</sup>

In March 2005, the Committee published a Second Special Report which included the UK Government's response to the First Report as an appendix. The response, a letter from the then Cabinet Office Minister, David Miliband MP, stated:

The Committee's report notes that the Prime Minister has publicly expressed his support (in his speech to the CBI on 18 October 2004) for amendment to the Regulatory Reform Act to make it easier to remove redundant legislation. Ruth Kelly's letter to you. in September on the workings of the Act, and the subsequent evidence session presented our initial thoughts on areas in need of reform. These suggestions were based on direct evidence from departments with experience working on RROs to date.

I share the Committee's view that we now need to embark upon a full review of the Act, and I very much welcome the preliminary comments the Committee has made on our suggestions so far. I particularly note the Committee's view that removal of redundant regulation should be "at the heart of" any proposed reforms, and their concern at the constitutionally significant nature of some of the proposed areas for reform.

These comments form a helpful starting point for the full review. I can assure the Committee that the Government fully recognises the constitutional significance of the RRA and will not undertake any reforms lightly. With this in mind, our current thinking is that the review of the Act should incorporate a full public consultation, later this year.<sup>73</sup>

The UK Government has indicated that it intends to publish a review of the functioning of the current legislation ([Regulatory Reform Act 2001](#)<sup>74</sup>) and a consultation document in the summer.

The Bill will aim to enable a greater number of reforms to be delivered by RRO, by removing some of the restrictions and constraints in the *Regulatory Reform Act 2001*. Proposals for achieving this include:

- ◆ removing the current restriction on using an RRO to amend legislation less than 2 years' old, or provisions which have been amended in the previous 2 years;
- ◆ providing a power to sub-delegate, ie provide for rule-making powers in an RRO;
- ◆ enabling an RRO to be used to remove or reduce burdens on a Minister or government department to facilitate public sector reform and modernisation;
- ◆ extending the definition of "burden"; and

<sup>72</sup> HoFC Select Committee on Regulatory Reform, First Special Report, January 2005.

<http://www.publications.parliament.uk/pa/cm200405/cmselect/cmdereg/273/27306.htm>

<sup>73</sup> HoFC Select Committee on Regulatory Reform, Second Special Report, 11 March 2005.

<http://www.publications.parliament.uk/pa/cm200405/cmselect/cmdereg/431/43102.htm>

<sup>74</sup> *Regulatory Reform Act 2001* (Ch. 6): <http://www.opsi.gov.uk/acts/acts2001/20010006.htm>

- ◆ allowing the reform of common law.

The Bill also aims to:

- ◆ extend the scope of RRO powers to deliver non-controversial proposals for simplification and modernisation;
- ◆ enable the implementation of uncontroversial law reform proposals; and
- ◆ implement or enable the implementation of some of the Hampton proposals to merge private sector regulators.

The Act applies to the whole of the UK but makes different provisions for the various parts of the UK to reflect devolution settlements. The UK Government has indicated that any amendments to the Act will maintain this position and the devolved administrations will be fully consulted.

With regard to Wales, Section 9 of the 2001 Act gives power to the Assembly to make codes of practice for enforcement action relating to functions of the National Assembly for Wales. Section 11 lays a duty on the Assembly to consult on any draft code proposed to be made under Section 9 before bringing the code into force under its own statutory instrument and gives the power to establish the procedure appropriate for laying an order giving effect to a code of practice proposed by the National Assembly. These functions are exercisable solely by the Assembly in relation to Wales. Other functions are exercisable solely by the Assembly in relation to Wales or by the Assembly concurrently with a Minister of the Crown if the UK Minister empowers the Assembly.<sup>75</sup>

### ***Electoral Administration Bill***

Since its establishment in 2000, the Electoral Commission has made a series of recommendations for improving the voting system in the UK to which the Government has responded.<sup>76</sup>

In particular, the removal of restrictions to postal voting and the all postal voting pilots held in parts of England for recent local elections and the 2004 European elections has raised concerns about the security of voting, especially following some high profile prosecutions for electoral fraud after the 2004 local elections. The Electoral Commission has found that these concerns have centred on the scope for coercion or undue influence during the completion of ballot papers. Most allegations received by Returning Officers and police related either to voters being coerced to vote a certain way, or to voters being coerced into handing over their uncompleted ballot paper for completion by someone else. There is also concern over the integrity of the electoral register.<sup>77</sup>

The Commission brought out its own recommendations on 20 May 2005 in a report, 'Securing the Vote'.<sup>78</sup> The UK Government has undertaken to consider the Electoral Commission's recommendations and it is anticipated that the Bill will address many of

<sup>75</sup> Further information is available on the Legislation Wales web-site at:

<http://www.wales-legislation.org.uk/scripts/act.php?id=669&lang=E>

<sup>76</sup> Department of Constitutional Affairs, Elections Publications web-page:

<http://www.dca.gov.uk/elections/pubs.htm>

<sup>77</sup> Electoral Commission, *Delivering Democracy*, August, 2004:

[http://www.electoralcommission.gov.uk/files/dms/DeliveringDemocracyfinalcomplete\\_16306-10935\\_E\\_N\\_S\\_W\\_.pdf](http://www.electoralcommission.gov.uk/files/dms/DeliveringDemocracyfinalcomplete_16306-10935_E_N_S_W_.pdf)

<sup>78</sup> Electoral Commission, *Securing the Vote*, May 2005.

[http://www.electoralcommission.org.uk/files/dms/Securingthevote\\_17643-12944\\_E\\_N\\_S\\_W\\_.pdf](http://www.electoralcommission.org.uk/files/dms/Securingthevote_17643-12944_E_N_S_W_.pdf)

them. However, the Government and the Electoral Commission appear to disagree on the issue of individual registration which the Commission wishes to see introduced.<sup>79</sup>

It is anticipated that the *Electoral Administration Bill*:

- ◆ establishes new offences around electoral fraud (including fraudulent application for a postal vote) and extending the offence for personation;
- ◆ simplifies and improve security of postal voting by introducing marked registers of postal votes received and statutory secrecy warnings to prevent people influencing others' voting intentions;
- ◆ enables people to register to vote until nearer to the election date;
- ◆ introduces anonymous registration for vulnerable people;
- ◆ enables Returning Officers to provide guidance to voters in a variety of languages and formats;
- ◆ introduces a framework for the Co-ordinated Online Register of Electors (CORE) to enable national access and ensure registers are securely and accurately maintained;
- ◆ allows access for observers at polling stations and at other stages of the electoral process, such as the count;
- ◆ introduces clearer rules for candidates and political parties and sets a regulatory time period for measuring and controlling candidates' expenses, in line with current party spending controls;
- ◆ reduces bureaucracy for smaller parties and independent candidates, promoting multi-party participation in elections;
- ◆ reduces candidacy age to 18;
- ◆ allows children into polling stations with parents;
- ◆ establishes more flexible and accountable funding arrangements and introduces performance standards for elections in order to tackle current inequalities in the provision of electoral services; and
- ◆ gives new powers to the Electoral Commission, enabling it to fulfil its statutory duties to monitor and advise on electoral law and processes.

The scope of the Bill will be UK-wide as the Department for Constitutional Affairs (DCA) has responsibility for co-ordination on UK-wide election matters and UK-wide electoral law.

Responsibility for the conduct of council elections, both at county and community level, rests with the Office of the Deputy Prime Minister . The Assembly has limited powers with regard to timing of local elections.

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<sup>79</sup> 10 Downing Street website, Prime Minister's Spokesperson's Briefing, 20 May 2005:  
<http://www.downingstreetsays.org/archives/001602.html>



This included the UK Government's plans to introduce further road safety legislation. A [Road Safety Bill](#)<sup>84</sup> was introduced in the last session and completed all stages in the Commons before it fell due to the general election.

The Bill will:

- ◆ relate the punishment of certain offences by fixed penalty to the severity of the crime e.g. speeding and roadworthiness offences (variable penalties);
- ◆ ensure non-GB drivers do not escape punishment;
- ◆ detect and target uninsured driving through use of data & technology;
- ◆ attempt to combat fatigue-related accidents by providing trunk road picnic areas;
- ◆ extend regulation of driving instructors to ensure quality standards and value for money;
- ◆ provide more extensive use of driver re-training to reduce recidivism and improve driving standards; and
- ◆ enable the Secretary of State (for England) or the National Assembly for Wales (for Wales) to make payments to local authorities, as well as other authorities and bodies, for meeting the whole or part of the capital or running costs of any measure for promoting road safety.

These measures are intended to improve road safety and to achieve the targets set in the UK Government's ten-year road safety strategy, *Tomorrow's roads – safer for everyone*.<sup>85</sup>

In Wales, the Assembly Government produced a consultation document *Safe Roads, Safe Communities* in 2001 and a final *Road Safety Strategy for Wales* in January 2003.<sup>86</sup> This strategy includes the UK targets for casualty reduction.

### **Civil Aviation Bill**

The *Civil Aviation Bill* will aim to help promote sustainable aviation and provide greater protection of passenger interests.

### **Key Measures**

- ◆ measures to deal with aircraft noise;
- ◆ explicit powers for airport charges to be linked to local emissions from aircraft;
- ◆ replenish the Air Travel Trust Fund (ATTF);
- ◆ relax vires constraints on local authority airport companies;

<sup>84</sup> *Road Safety Bill* [HC] 10 2004-05: <http://www.publications.parliament.uk/pa/cm200405/cmbills/010/2005010.htm>

<sup>85</sup> Department for Transport, *Tomorrow's roads – safer for everyone*. March 2004: [http://www.dft.gov.uk/stellent/groups/dft\\_rdsafety/documents/page/dft\\_rdsafety\\_504644.hcsp](http://www.dft.gov.uk/stellent/groups/dft_rdsafety/documents/page/dft_rdsafety_504644.hcsp)

<sup>86</sup> Welsh Assembly Government, *Road Safety Strategy for Wales*, January 2003: <http://www.wales.gov.uk/subitransport/content/road-safety-e.htm>

- ◆ enable the Civil Aviation Authority to finance the operation of the Aviation Health Unit from the charges it levies on the aviation industry; and
- ◆ revoke the role of the Secretary of State as the appeal body in cases dealing with aviation route licence cases.

The first three items are commitments from the 2003 White Paper, *Future of Air Transport*<sup>87</sup>. Item 4 will fulfil a commitment to legislate given in Parliament by Lord Rooker in June 2003. Item 5 fulfils a commitment given by the Department for Transport to legislate in March 2003<sup>88</sup>.

The Bill is largely UK-wide, but some elements do not include Northern Ireland and the provisions relating to the vires of local authority airport companies apply only to England and Wales.

The Assembly's [Environment, Planning and Transport Committee](#) considered the Future of Air Transport consultation document at a meeting in November 2002<sup>89</sup>.

### **3.2.6 Economic Development, Finance and Employment**

#### **Regulation of Financial Services (Land Transactions) Bill**

The Bill did not form part of the Government's 2004-05 legislative programme although a similar 10 minute rule Bill was introduced by David Stewart MP in January 2005.

The proposed Bill follows a process of consultation beginning with a Pensions' Green Paper<sup>90</sup> in 2002, 'looking at options to create a level playing field for the regulation of equity release and home reversion plans to protect consumers and make the market work better.' Further Treasury consultation documents, *Regulating Home Reversion Plans*<sup>91</sup> in 2003 and *Defining Home Reversions*<sup>92</sup> in 2004, consulted on the content of the definition, including whether Ijara products and flexible tenure products should be included.

Key measures in the Bill are likely to be:

- ◆ extension of existing order-making power on the scope of the Financial Services Authority to ensure better protection for consumers who take out:
  - home reversion schemes (where a homeowner sells a stake in their property in return for a cash lump sum).
  - Ijara products (mortgage-like arrangements compatible with Shari'a law to enable Muslims to buy a house).

<sup>87</sup> Department for Transport, *Future of Air Transport*, December 2003:

[http://www.dft.gov.uk/stellent/groups/dft\\_aviation/documents/divisionhomepage/029650.hcsp](http://www.dft.gov.uk/stellent/groups/dft_aviation/documents/divisionhomepage/029650.hcsp)

<sup>88</sup> Department for Transport News Release, *New Unit to Deal with Aviation Health Issues Established*, 06 March 2003:

[http://www.dft.gov.uk/pns/displaypn.cgi?pn\\_id=2003\\_0027](http://www.dft.gov.uk/pns/displaypn.cgi?pn_id=2003_0027)

<sup>89</sup> The minutes of the Environment, Planning and Transport Committee on 20 November 2002 are available at:

[http://assembly/committees/1999-2003/environment\\_planning\\_&\\_transport/2002/autumn%202002/ept-16-02%20\(20%20november\)/ept-16-02-p3.html](http://assembly/committees/1999-2003/environment_planning_&_transport/2002/autumn%202002/ept-16-02%20(20%20november)/ept-16-02-p3.html)

<sup>90</sup> Department for Work and Pensions, *Simplicity, Security and Choice: Working and Saving for Retirement*, December 2002:

<http://www.dwp.gov.uk/consultations/consult/2002/pensions/#summary>

<sup>91</sup> HM Treasury, *Regulating Home Reversion Plans*, November 2003:

[http://www.hm-treasury.gov.uk/consultations\\_and\\_legislation/regulating\\_home\\_reversionplans/con\\_reg\\_home\\_rev.cfm](http://www.hm-treasury.gov.uk/consultations_and_legislation/regulating_home_reversionplans/con_reg_home_rev.cfm)

<sup>92</sup> HM Treasury, *Defining Home Reversions*, December 2004:

[http://www.hm-treasury.gov.uk/consultations\\_and\\_legislation/home\\_reversions/consult\\_homereversions\\_index.cfm](http://www.hm-treasury.gov.uk/consultations_and_legislation/home_reversions/consult_homereversions_index.cfm)

- Flexible tenure products (where a provider may buy back shares of a property if the owners find themselves in financial difficulty - offered by some registered social landlords).

The Bill extends to the whole of the UK. The regulation of banking and other financial services is not a devolved matter.

### **Consumer Credit Bill**

The *Consumer Credit Bill* will update legislation relating to the licensing of consumer credit businesses and provide regulators with more proportionate enforcement powers; update controls on extortionate credit bargains with consumers being given better access to dispute resolution; and remove the financial limit below which regulation currently applies so that all consumer credit is regulated on the same level.

The existing Consumer Credit Act dates from 1974.

The Bill is the final stage in the reform package set out in the 2003 White Paper, [Fair, clear and competitive: the consumer credit market in the 21<sup>st</sup> century](#)<sup>93</sup>. The Bill was included in the legislative programme during the last session of Parliament but fell prior to the 2005 general election.

The current [Consumer Credit Bill](#)<sup>94</sup> was reintroduced on 18 May 2005.

The Bill aims to protect vulnerable consumers and create a fairer and more competitive credit market by:

- ◆ enhancing consumer rights and redress by empowering consumers to challenge unfair lending and through providing more effective options for resolving disputes;
- ◆ improving the regulation of consumer credit businesses by ensuring fair practices and through targeted action to drive out rogues; and
- ◆ focussing regulation and protection on the agreements and borrowers where it is most needed and to create a fairer regime for business.

The Bill applies across the UK.

During a presentation to the [Social Justice and Regeneration Committee](#) on 27 April 2005, Citizens Advice Cymru supported the aims of the Bill.<sup>95</sup>

### **Company Law Reform Bill**

This Bill is intended to keep the regulatory burden on business to a minimum, particularly small and medium sized enterprises.

<sup>93</sup> Department of Trade and Industry *Fair, clear and competitive: the consumer credit market in the 21st century* Cm6040, December 2003:

<http://www.dti.gov.uk/ccp/topics1/pdf1/creditwp.pdf>

<sup>94</sup> *Consumer Credit Bill* [HC] 2 2004-05:

<http://www.publications.parliament.uk/pa/cm200506/cmbills/002/2006002.htm>

<sup>95</sup> The verbatim record of the meeting of the Social Justice and Regeneration Committee on 27 April 2005 is available at: <http://assembly.rop/rop/committees/sjr/sjr050427fv7.html>



The Department of Trade and Industry set up the Company Law Review (CLR), an independent group of experts, practitioners and business people in 1998. Their aim was to review the law and advise on how company law could be brought up to date.

The CLR presented their Final Report on 26 July 2001<sup>96</sup>. The Government published its response to the CLR's major recommendations in an initial White Paper [Modernising Company Law](#)<sup>97</sup> published on 16 July 2002. The Bill will implement most of the CLR's recommendations, as set out in the Government's White Paper [Company Law Reform](#)<sup>98</sup> of 17 March 2005, which included draft clauses on some (but not all) of the proposed measures. Consultation closes on 10 June 2005.

### Key Measures

- ◆ reform of company law based around:
  - better regulation and a "Think Small First" approach
  - encouraging shareholder engagement and a long-term investment culture
  - making it easier to set up a company
  - providing flexibility for the future;
- ◆ new power to reform or restate company law in future by means of a super-affirmative procedure;
- ◆ provides clarity and makes it easier to do business by means of electronic communications;
- ◆ provides clarity on the duties of company directors by bringing them into statute law for the first time;
- ◆ streamlining decision-making requirements for small companies (eg. opt in to AGMs rather than opt out);
- ◆ measures to maintain UK as major centre for incorporation of companies; and
- ◆ implementation of the EU Takeovers directive, putting the current regime within a statutory framework for the first time.

The Bill will generally cover Great Britain.

### **Parental Rights Bill**

The provisions in this Bill will be dependent on the outcome of the consultation which is currently being undertaken by the Department of Trade and Industry on measures announced in the 2004 Pre-Budget Report. The consultation document is entitled "*Work and Families: Choice and Flexibility*". There is also an accompanying document, "*Choice for Parents, the Best Start for Children: A Ten Year Childcare Strategy*"<sup>99</sup>.

This Bill is expected to include:

<sup>96</sup> Company Law Review, *Modern Company Law for a Competitive Economy: Final Report*, 26 July 2001: [http://www.dti.gov.uk/cld/final\\_report/index.htm](http://www.dti.gov.uk/cld/final_report/index.htm)

<sup>97</sup> Department of Trade and Industry, *Modernising Company Law Cm 5553*, July 2002: <http://www.dti.gov.uk/companiesbill/whitepaper.htm>

<sup>98</sup> Department of Trade and Industry, *Company Law Reform*, March 2005: <http://www.dti.gov.uk/cld/WhitePaper.htm>

<sup>99</sup> Links to the consultation document and the accompanying document are available at: <http://www.dti.gov.uk/er/workandfamilies.htm>

- ◆ powers to extend the period of Statutory Maternity Pay, Maternity Allowance and Statutory Adoption Pay;
- ◆ a new right for the mother to transfer some of her maternity leave and pay to the father; and
- ◆ powers to extend the right to request flexible working to other groups with caring responsibilities.

The proposals would extend to the whole of Great Britain.

### ***Compensation Bill***

The UK Government has indicated its intention to tackle 'the compensation culture' by resisting invalid claims but improving the compensation system for those who have a valid claim and to introduce whatever legislation may prove to be necessary to address these issues. This may, for example, include clarification of the existing common law on negligence to make clear that there is no liability in negligence for untoward incidents that could not be avoided by taking reasonable care or exercising reasonable skill. It is also investigating whether it could also include the regulation of claims farmers. The Bill will apply to England and Wales.

### ***Judicial Pensions Bill***

This Bill did not form part of the UK Government's legislative programme during the previous parliamentary session.

The Bill will aim to:

- ◆ maintain current level of judges' pension package in light of new pensions tax arrangements, at no overall additional cost to the public purse;
- ◆ ensure fairness to serving judges offering a remuneration package sufficient to continue to attract the highest possible calibre of candidates for the judiciary; and
- ◆ put in place an enabling power to allow the Government to modify judicial pension legislation by order in light of future pensions tax changes, whilst continuing to safeguard judicial independence.

The Bill will apply to the UK.

## ***3.2.7 Environment and Animal Welfare***

### ***Natural Environment and Rural Communities Bill***

The Bill was published on 19 May 2005 and is scheduled to receive its second reading on 6 June<sup>100</sup>.

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<sup>100</sup> *Natural Environment and Rural Communities Bill* [HC] 3 2005-06::  
<http://www.publications.parliament.uk/pa/cm200506/cmbills/003/2006003.htm>  
Additional information about the Bill is available from the Defra web-site at:  
<http://www.defra.gov.uk/rural/ruraldelivery/bill/>

The provisions of the Bill are split into 10 Parts. Part 1 relates to England and concerns the creation of Natural England (integrating English Nature, the bulk of the Countryside Agency and the Rural Development Service) and the Commission for Rural Communities.

Parts 2 to 10 apply to Wales and include the following measures (which in the main amend existing legislation):

- ◆ changes to the competence, remit and constitution of the Joint Nature Conservation Committee (JNCC) to extend the remit of this GB body to the UK and to improve its governance arrangements;
- ◆ provisions to improve wildlife protection;
- ◆ provisions to address a small number of gaps and uncertainties which have been identified for Sites of Special Scientific Interest (SSSIs);
- ◆ improving the governance arrangements for National Parks;
- ◆ reconstitution of the Inland Waterways Amenity Advisory Council as an independent body supported by Defra and the Scottish Executive, with a statutory remit to advise on the inland waterways generally;
- ◆ provisions to clarify the use of mechanically propelled vehicles on public rights of way;
- ◆ extending an existing duty to ensure public bodies and statutory undertakers pay due regard to the conservation of biodiversity;
- ◆ provisions to amend the flood defence byelaw-making powers of the Environment Agency, local authorities and internal drainage boards to allow them to take nature conservation into account when determining consent for flood defence works; and
- ◆ provisions for establishing new bodies for agricultural and related industries, and dissolving existing levy bodies<sup>101</sup> and those created by the new provisions.

The Bill makes consequential amendments to the role of the Countryside Council for Wales (for example, to preserve its functions in light of the abolition of English Nature and the Countryside Agency, and to require it to have regard to the desirability of contributing to sustainable development).

A *Draft Natural Environment and Rural Communities Bill* was published on 10 February 2005<sup>102</sup> and subject to pre-legislative scrutiny by the Environment Food and Rural Affairs Committee. Their report was published on 26 March 2005<sup>103</sup>.

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<sup>101</sup> An independent rent review of the rationale for, and role, organisation, funding and functions of the GB and UK statutory agriculture and horticulture levy bodies (the British Potato Council, the Horticultural Development Council, the Home Grown Cereals Authority, the Meat and Livestock Commission and the Milk Development Council) is currently underway

<sup>102</sup> *Draft Natural Environment and Rural Communities Bill, Cm 6460*  
<http://www.official-documents.co.uk/document/cm64/6460/6460.pdf>

<sup>103</sup> Environment, Food and Rural Affairs Committee, *The Government's Rural Strategy and the draft Natural Environment and Rural Communities Bill, Fifth Report*, HC 408, 26 March 2005  
<http://www.publications.parliament.uk/pa/cm200405/cmselect/cmenvfru/408/408i.pdf>

### ***Common Land Bill***

A *Commons Bill* featured in the UK Government's legislative programme for 2004-05 but was not introduced.

The *Common Land Bill* will build on many of the proposals in the *Common Land Policy Statement 2002*<sup>104</sup>, which was published jointly by the Department for Environment, Food and Rural Affairs (Defra) and the Assembly Government.

Key measures will include:

- ◆ enabling the establishment of statutory commons associations with powers to sustainably manage commons by majority decision making;
- ◆ preventing severance of common rights from the land to which they are attached;
- ◆ changes to the registration of common land and common rights - including allowing "missed" commons to be properly recognised, and correcting wrongly registered land; and
- ◆ reinforcing the existing protections against abuse, encroachment and unauthorised development.

The Bill extends to England and Wales.

### ***Animal Welfare Bill***

An *Animal Welfare Bill* formed part of the UK Government's legislative programme for 2004-05 but was not introduced, although a draft Bill was subject to pre-legislative scrutiny by the House of Commons Environment, Food and Rural Affairs Select Committee and the National Assembly's Environment Planning and Countryside Committee.

The *Animal Welfare Bill* will aim to bring together and modernise most legislation concerning the welfare of animals under the control of man.

The Bill will aim to:

- ◆ reduce animal suffering by enabling preventive action to be taken before suffering occurs;
- ◆ improve animal welfare by introducing a duty on those responsible for animals to do all that is reasonable to ensure the welfare of their animals (for the first time for non-farmed animals);
- ◆ extend the use of welfare codes to companion animals, a mechanism currently used to underpin the welfare of farmed animals;
- ◆ simplify animal welfare legislation for enforcers and animal keepers by consolidating more than 20 pieces of legislation into one;

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<sup>104</sup> This statement is available at: <http://www.defra.gov.uk/wildlife-countryside/issues/common/legislation/clps.htm>

- ◆ extend the power to make secondary legislation to non-farmed animals (replicating existing powers for farmed animals) and bring current licensing powers into one place; and
- ◆ deter persistent offenders by strengthening penalties and eliminating loopholes in the current system.

The Bill will extend to England and Wales. All regulation-making powers contained in the Bill will be conferred on the National Assembly for Wales.

A draft *Animal Welfare Bill* was published by Defra in July 2004<sup>105</sup> and took forward the principles contained in the *Animal Health and Welfare Strategy for Great Britain*, published in June 2004<sup>106</sup>.

The draft Bill was scrutinised by the Environment Planning and Countryside Committee on 12 January<sup>107</sup> and 2 February 2005<sup>108</sup>. The Committee agreed to undertake detailed scrutiny of the Bill once published in its final form<sup>109</sup>.

The House of Commons EFRA Select Committee conducted a pre-legislative scrutiny of the draft Bill and issued its report on 8 December 2004<sup>110</sup>.

### 3.2.8 Defence and Foreign Affairs

#### *Armed Forces Bill*

The *Armed Forces Bill* aims to replace all three Service Discipline Acts with a single service law system. The Bill will bring in a unified court martial system and establish a joint service prosecuting authority. A modernised grievance procedure will be included in the Bill, as will a modernised system of service statutory inquiries, along with provisions to continue the application of service law to civilians accompanying the armed forces overseas.

The *Armed Forces Bill* will apply to all of the UK. Its provisions also apply to those who are subject to the Service Discipline Acts, wherever they are in the world; and to Service courts whether or not they are in the UK.

<sup>105</sup> *Draft Animal Welfare Bill*, Cm 6252:

<http://www.official-documents.co.uk/document/cm62/6252/6252.pdf>

<sup>106</sup> This strategy can be found at

<http://www.defra.gov.uk/animalh/ahws/default.htm>

<sup>107</sup> Environment, Planning and Countryside Committee, EPC (2) 01-05 (p1), 12 January 2005:

[http://www.wales.gov.uk/servlet/EnvironmentPlanningAndCountrysideCommittee?area\\_code=N00000000000000000000000000000009&month\\_year=1|2005&p\\_arch=post&module=dynamicpages](http://www.wales.gov.uk/servlet/EnvironmentPlanningAndCountrysideCommittee?area_code=N00000000000000000000000000000009&month_year=1|2005&p_arch=post&module=dynamicpages)

<sup>108</sup> Environment, Planning and Countryside Committee EPC (2) 02-05(p1), 2 February 2005:

[http://www.wales.gov.uk/servlet/EnvironmentPlanningAndCountrysideCommittee?area\\_code=N00000000000000000000000000000009&document\\_code=N000000000000000000000000027854&p\\_arch=post&module=dynamicpages&month\\_year=2|2005](http://www.wales.gov.uk/servlet/EnvironmentPlanningAndCountrysideCommittee?area_code=N00000000000000000000000000000009&document_code=N000000000000000000000000027854&p_arch=post&module=dynamicpages&month_year=2|2005)

<sup>109</sup> The minutes of the Environment, Planning and Countryside Committee on 2 February 2005 are available at:

[http://www.wales.gov.uk/servlet/EnvironmentPlanningAndCountrysideCommittee?area\\_code=N00000000000000000000000000000009&document\\_code=N000000000000000000000000028374&p\\_arch=post&module=dynamicpages&month\\_year=2|2005](http://www.wales.gov.uk/servlet/EnvironmentPlanningAndCountrysideCommittee?area_code=N00000000000000000000000000000009&document_code=N000000000000000000000000028374&p_arch=post&module=dynamicpages&month_year=2|2005)

<sup>110</sup> Environment, Food and Rural Affairs Committee, *The Draft Animal Welfare Bill, First Report of Session 2004–2005* HC100, 8 December 2004:

<http://www.publications.parliament.uk/pa/cm200405/cmselect/cmenvfru/52/52i.pdf>

### 3.2.9 Other Bills

#### **Olympics Bill**

On 6 July, the International Olympic Committee will vote to decide the host city for the 2012 Summer Games. London is one of the candidate cities. If London wins, the *Olympics Bill* will be introduced to meet the commitments given in its bid.

If introduced, the Bill will:

- ◆ set up the Olympic Delivery Authority and give it a specific remit and powers; and
- ◆ meet the requirements of the International Olympic Committee to effectively reduce ambush marketing, eliminate street vending and control advertising during Games time.

The Bill will extend to the whole of the UK.

#### **Merchant Shipping Bill**

The [\*Merchant Shipping \(Pollution\) Bill\*](#)<sup>111</sup> was introduced on 25 May 2005. This Bill will complement the UK's existing maritime legislation aimed at reducing pollution. It will:

- ◆ implement the Supplementary Fund Protocol to ensure full and speedy compensation to those affected by oil spill, eg. hoteliers, fishermen, and for clear-up operations. This will shift the financial burden from Government onto those who cause risk;
- ◆ enable the UK to join any future regime governing oil pollution compensation if the current system is revised; and
- ◆ reduce air pollution from ships by implementing measures to control emissions

The Bill applies to the whole of the UK.

#### **Crossrail Bill**

A Crossrail hybrid Bill was introduced during the previous parliamentary session in February 2005. The current [\*Crossrail Bill\*](#)<sup>112</sup> was introduced on 18 May 2005. The Bill will enable the construction, maintenance and operation of Crossrail, a new east-west rail link in central London, and applies to affected areas of England only.

#### **National Lottery Bill**

The *National Lottery Bill* received its first reading during the last parliamentary session in November 2004 before being dropped. The National Assembly for Wales remitted the Bill to the Culture, Welsh Language and Sport Committee which considered it at its meeting on [26 January 2005](#).

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<sup>111</sup> *Merchant Shipping (Pollution) Bill* [HL] 8 2005-06  
<http://www.publications.parliament.uk/pa/ld200506/ldbills/008/2006008.htm>

<sup>112</sup> *Crossrail Bill* [HC] 1 2005-06:  
<http://www.publications.parliament.uk/pa/cm200506/cmbills/001/2006001.htm>

The Committee is likely to consider the Bill further once it has been re-introduced to Parliament.

The Bill will:

- ◆ make the distribution of Lottery money more strategic;
- ◆ formalise the merger of the Community Fund and New Opportunities Fund and the residual responsibilities of the Millennium Commission into the Big Lottery Fund;
- ◆ set up the Big Lottery Fund as a single body with a new good cause and single set of simpler rules, to make it easier for potential applicants to access Lottery money;
- ◆ allow increased public involvement in the Lottery by giving distributors powers to consult and take account of public views in making distribution decisions; and
- ◆ ensure the licensing and regulation of the Lottery maximises the returns for good causes.

The Bill will extend to the whole of the UK. It provides that the devolved administrations will have the sole power to give directions in relation to Welsh, Scottish and Northern Ireland devolved expenditure (following consultation with the Big Lottery Fund and consent from the Secretary of State). The Bill requires the Big Lottery Fund to establish separate committees for England, Scotland, Wales and Northern Ireland, to be chaired by the relevant member of the Fund. The committees will be responsible for exercising the Fund's functions in relation to devolved expenditure in each country. Further details of the content of the *National Lottery Bill* of the previous parliamentary session were provided in a Members' Research Service Paper (05/06).<sup>113</sup>

#### **4. Other draft bills**

##### ***Draft Counter-Terrorism Bill***

During the passage of the [Prevention of Terrorism Act 2005](#) the Government undertook to bring forward further counter terrorism legislation for pre-legislative scrutiny in the late autumn, followed by introduction in the Spring of 2006. In February 2005, the Home Secretary stated that:

We are considering the scope for new offences including that of "being concerned in the commission, instigation or preparation of terrorist acts" and other measures with a view to helping the police and the prosecuting authorities bring more cases to court<sup>114</sup>

##### ***Draft Pensions Bill***

The *draft Pensions Bill* will contain the UK Government's proposals for the modernisation of the UK pensions system, in line with the wider aim of providing 'a modern and sustainable welfare system'.

<sup>113</sup>The National Lottery Bill research paper is available from the Members' Library or from the Members' Research Service web-pages at: <http://assembly.presidingoffic/mrs/briefings/culture-welsh-language-sport-e.htm>

<sup>114</sup> Prevention of terrorism statement, 22 February 2004, col 151-155:  
[http://www.homeoffice.gov.uk/docs4/220205hs\\_terrorismbill.html](http://www.homeoffice.gov.uk/docs4/220205hs_terrorismbill.html)



- ◆ the establishment of a new, single, independent complaints body, the Office for Legal Complaints (OLC). It would be subject to oversight by the LSB;
- ◆ measures to facilitate law practices that would allow lawyers from different front-line bodies, for example solicitors and barristers, to work together on an equal footing. Non-lawyers would be allowed to work as managers of legal practices, and also to participate in such practices as owners and investors.

This is not a devolved area.

### ***Draft Marine Bill***

The *Draft Marine Bill* was not referred to directly in the Queen's speech, but the UK Government intends to introduce legislation that will provide a new framework for the seas, based on marine spatial planning<sup>117</sup>.

Key aims will include:

- ◆ introducing a streamlined system for planning and managing activities and consenting to developments in coastal and marine waters (out to 12 nautical miles);
- ◆ extending the scope for protecting and restoring marine species and habitats;
- ◆ updating existing piecemeal marine environmental legislation;
- ◆ protecting and enhancing the existing marine environment, whilst at the same time deriving sustainable economic and social benefit;
- ◆ improving capacity to plan and handle the growth in offshore developments across a range of sectors;
- ◆ simplifying the fragmented and inconsistent regimes governing development in coastal and marine waters, and incorporating the principles of sustainable development; and
- ◆ providing appropriate powers to protect important marine areas, species and habitats.

The territorial extent of the Bill has yet to be confirmed, although it is expected to apply to Wales.

### ***Draft Corporate Manslaughter Bill***

A [\*Draft Corporate Manslaughter Bill\*](#)<sup>118</sup>, was published on 25 March 2004 and open to public consultation until 17 June 2005.

The aims of this Bill will be to:

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<sup>117</sup> The Labour Party manifesto 2005, *Britain forward not back* and Office of the Leader of the House of Commons <http://www.commonleader.gov.uk/output/page966.asp>

<sup>118</sup> *Draft Corporate Manslaughter Bill* Cm 6497: [http://www.homeoffice.gov.uk/docs4/tso\\_manslaughter.pdf](http://www.homeoffice.gov.uk/docs4/tso_manslaughter.pdf)



- ◆ create a new offence of corporate manslaughter, providing a more effective sanction for holding companies and other organisations to account when gross negligence in their senior management has had fatal consequences;
- ◆ improve the effectiveness of the law by enabling a wider range of senior management conduct to be taken into account when prosecuting an organisation for manslaughter; and
- ◆ target corporate liability, as opposed to the responsibility of individual directors or others. Individual prosecutions will continue to be possible for existing offences.

The Bill would apply to Government departments and other Crown bodies, as well as industry, where both are engaged in similar activities. It would not apply to certain core public functions or decisions relating to matters of public policy, that are subject to existing lines of public accountability.

This is not a devolved matter.

### ***Annex 1: Assembly Cabinet's proposals for primary legislation, 2005-06***

Debate on Primary Legislation proposals  
NDM 2366 Jane Hutt (Vale of Glamorgan)

To propose that the National Assembly, acting under Standing Orders 33.9 and 33.11:

1. Endorses the Cabinet's proposals for Bills in the next Parliamentary session as set out in the document laid in the Table Office and circulated to Assembly Members on 9 March 2005;
2. Requests the Cabinet to pursue these proposals with the UK Government and press for primary legislation which reflects the particular needs of Wales and respects the role of the Assembly.

### **Cabinet's proposals for primary legislation, 2005-06**

#### **1 Statement to Plenary**

1. Standing Order 33.11 requires the Cabinet annually to put to plenary its proposals for Westminster primary legislation. The proposals will be debated on 16 March.

#### **Proposals**

##### **1.1 Commissioner for Older People (Wales) Bill**

2. The Bill would establish a new Commissioner, who would safeguard and promote the best interests of older people in Wales. The Commissioner would be enabled to assist older people to enforce their rights, empowering them to reach their full potential as active citizens. The Assembly would be able to refer matters to the Commissioner for his/her consideration, but could not require the Commissioner to act on such referrals or limit his/her ability to act in relation to such referrals. The Commissioner would have a range of functions including to promote awareness of matters relating to the best interests of older people; to take such steps as he/she considered appropriate with a view to encouraging good practice in the treatment of older people; and to keep under review the adequacy and effectiveness of law and practice relating to the welfare of older people and the adequacy and effectiveness of services provided for older people by the relevant authorities. The Commissioner would be able to take on individual cases, and could support individuals in taking court action in certain circumstances. General powers would include discretion to undertake research, to issue and publish information and guidance, to conduct investigations and to make representations concerning the best interests of older people.

The Bill would enable the Assembly to fund the Commissioner and the Commissioner's office. There would be likely to be an initial one-off cost of £0.5m to set up the office, and thereafter annual running costs of the order of £1.5m each year.

##### **1.2 Government of Wales Bill**

3. Further to the Assembly's resolution of 6 October 2004, the Bill would abolish the "corporate body" status of the Assembly and establish a constitutional structure for Wales on traditional Whitehall/Westminster lines, creating a Welsh executive distinct from the

Assembly but accountable to it; implement changes to the Additional Member System of election to the Assembly to deal with unsatisfactory features of the present arrangements; and provide for enhanced legislative powers for the Assembly.

There could be some limited financial implications for the Assembly arising from this Bill, these flowing both from splitting the Assembly into its executive and legislative components and from possible additional staffing requirements relating to the exercise of enhanced legislative powers.

### **1.3 Housing (Suspension of Right to Buy) (Wales) Bill**

4. The Bill would enable the National Assembly to designate areas of housing pressure where the Right to Buy (RTB) could be suspended. The Housing Act 1985 permits landlords disposing of properties in rural areas to impose a covenant limiting the freedom of the purchaser (and his successors in title) to re-sell the property. In 2003 the Assembly made an Order extending the list of rural areas where covenants on re-sale may be imposed. The Assembly has also used other secondary legislation powers to reduce the maximum discount allowed under the RTB to £16,000 in all parts of Wales. However, there is no provision in the Act allowing the RTB to be suspended in areas of 'housing pressure'. Primary legislation is therefore required to introduce a power of this nature.

There would be no significant financial implications for the Assembly in this proposal. Where the RTB was suspended, landlords (mainly local authorities but also some registered social landlords) would not receive any sale receipts, but would continue to receive rents. Hence the financial outcome for them should be broadly neutral.

### **1.4 Local Government (Town and Community Councils) (Wales) Bill**

5. The Bill would implement those recommendations of the Aberystwyth research study on the role and functions of community and town councils which require amendments to legislation. The purpose of the Bill would be to enable local councils in Wales to deliver a wider range of services and actions locally, increase the effectiveness of their representational role and ability to work in partnership with other bodies, and enable the Welsh Assembly Government directly to fund local councils' activities. The Bill would among other things repeal the provision in the Local Government Act in 1972 enabling community councils to be disbanded; provide a power enabling the Assembly to introduce an accreditation procedure for individual or groups of local councils (local councils would be required to meet certain minimum standards before taking on additional functions); provide powers to amend the list of functions on which local councils have a statutory right to be consulted; require principal authorities to review their community areas every 4 years and submit a report to the Assembly and to the Local Government Boundary Commission; and give local councils a new power to enable them to promote or improve the economic, social and environmental well-being of their areas.

There would be some limited financial implications for the Assembly from this Bill, the most significant of which would be the provision by the Assembly of direct grant assistance to councils. Local councils' increased service responsibilities would be undertaken with the agreement of, and funding from, their county or county borough councils. The increased localisation of service provision should result in an increase in the range and quality of local services.

### 1.5 Tourism Accommodation (Registration) (Wales) Bill

6. The Bill would, by amending or repealing part or all of Section 17 of the Development of Tourism Act 1969, create a new enabling power for the Assembly to establish a tourist accommodation registration scheme in Wales. It would also include the power to make subordinate legislation setting out the basis upon which accommodation is to be registered. Accommodation registered under the scheme would be subject to periodic inspection. The registration and inspection arrangements would be designed to ensure that minimum standards in the provision of tourist accommodation are met and maintained. The Minister for Economic Development and Transport presented the detailed proposals for this Bill to the Economic Development and Transport Committee on 25 February 2004 and the matter was debated on plenary on 3 March 2004. The motion was carried.

The scheme can be designed to be self-financing, but there may be start up costs. Detailed decisions on these issues will be for consideration by the Assembly Government in drawing up subordinate legislation once the primary legislation is in place.

### 1.6 Welsh Language Schemes Regulator (Wales) Bill

7. The Bill would establish a Dyfarnydd or regulator to take over certain functions relating to the regulation of Welsh Language Schemes under the Welsh Language Act 1993. Regulatory and adjudicatory functions under the Act are currently split between the Welsh Language Board and the National Assembly for Wales (delegated to the Welsh Assembly Government).

The Assembly Government has announced its intention to merge the Welsh Language Board with the Assembly Government by 1 April 2007. This will mean that regulatory and adjudicatory functions contained in the Welsh Language Act 1993 will rest with the same body – the Assembly Government. In order to provide a balance and to maintain a voice which is independent of Government, the Assembly Government wishes, following the merger, to establish an independent office of Dyfarnydd. Work is in hand to define the precise role of the Dyfarnydd, and the office's interaction with the Assembly Government.

It is likely that the Bill would place a duty on the Assembly to fund the Dyfarnydd and the office of the Dyfarnydd. As the exact role of the Dyfarnydd is yet to be defined, it is too early to be able to provide estimates of costs. However, it is expected that the Dyfarnydd will have a small office to provide administrative support, and costs are likely to be modest.

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#### **Notes:**

The Public Services Ombudsman (Wales) Bill and the Transport (Wales) Bill are both currently before Parliament. Should either or both not proceed to Royal Assent before the current Parliament is dissolved, the Cabinet will wish to press for them to be included in the legislative programme for the first session of the new Parliament<sup>119</sup>.

<sup>119</sup> The Public Services Ombudsman (Wales) Bill did achieve Royal Assent on 07/04/05. The Transport (Wales) Bill failed to achieve Royal Assent before Parliament was dissolved ahead of the General Election 2005, but is included in the new legislative programme for 2005-06.

