

Constitutional and Legislative Affairs Committee

Meeting Venue:
Committee Room 2 – Senedd

Meeting date:
13 July 2015

Meeting time:
14.30

Cynulliad
Cenedlaethol
Cymru

National
Assembly for
Wales



For further information please contact:

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Agenda

1 Introduction, apologies, substitutions and declarations of interest

2 Instruments that raise no reporting issues under Standing Order 21.2 or 21.3 (Page 1)

CLA(4)–20–15 – Paper 1 – Statutory Instruments with clear reports

Negative Resolution Instruments

CLA557 – The Merthyr Tydfil College Limited (Designated Institution in Further Education) Order 2015

Negative procedure; Date made: 1 July 2015; Date laid: 6 July 2015; Coming into force date: 31 July 2015

3 Papers to note (Pages 2 – 57)

CLA(4)–20–15 – Paper 2 – Letter from the Chair of the Health and Social Care Committee to the Minister for Health and Social Services in relation to the Care and Support (Eligibility) (Wales) Regulations 2015

CLA(4)–20–15 – Paper 3 – UK Government Proposals for English Votes for English Laws

CLA(4)–20–15 – Paper 3– Background Briefing

CLA(4)–20–15 – Paper 4 – Letter from the Presiding Officer in relation to the Renting Homes (Wales) Bill

4 Motion under Standing Order 17.42 to resolve to exclude the public from the meeting for the following business:

(vi) the committee is deliberating on the content, conclusions or recommendations of a report it proposes to publish ; or is preparing itself to take evidence from any person;

UK Government's Proposals for Further Devolution to Wales Draft Report (Pages 58 – 69)

CLA(4)–20–15 – Paper 5 – Final Report

Inquiry into Making Laws in the Fourth Assembly: Draft Report (Pages 70 – 226)

CLA(4)–20–15 – Paper 6 – Covering Paper

CLA(4)–20–15 – Paper 6 Annexe 1 – Responses from Expert Panel

CLA(4)–20–15 – Paper 6 Annexe 2 – Survey Results

CLA(4)–20–15 – Paper 6 Annexe 3 – Draft Report

CLA(4)–20–15 – Paper 6 Annexe 4 – Report from Charles Mynors

5 Forward Work Programme (Pages 227 – 236)

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CLA(4)–20–15 – Paper 7 Annexe 2 – Future Work

CLA(4)–20–15 – Paper 7 Annexe 3 – Scoping Paper on European Issues

Agenda Item 2

Constitutional and Legislative Affairs Committee
Statutory Instruments with Clear Reports
13 July 2015

CLA557 - The Merthyr Tydfil College Limited (Designated Institution in Further Education) Order 2015

Procedure: Negative

This Order designates the Merthyr Tydfil College Limited, a college conducted by a registered company limited by guarantee, for the purposes of section 28 of the Further and Higher Education Act 1992.

The designation of the Merthyr Tydfil College Limited means that it is to be treated as an institution within the further education sector for the purposes of the Education Acts (within the meaning given by sections 91(1) and 91(3) of the Further and Higher Education Act 1992 and section 578 of the Education Act 1996).

Agenda Item 3

Mark Drakeford AM,
Minister for Health and Social Services
Welsh Government

7 July 2015

Dear Mark,

Care and Support (Eligibility) (Wales) Regulations 2015

The Health and Social Care Committee has undertaken scrutiny of the [Care and Support \(Eligibility\) \(Wales\) Regulations 2015](#) and the associated [code of practice](#) to consider whether they will achieve the aim of the [Social Services and Well-being \(Wales\) Act 2014](#). To assist us in forming our views, we issued a call for [written evidence](#) and heard [oral evidence](#) from a range of stakeholders at our meeting on 11 June.

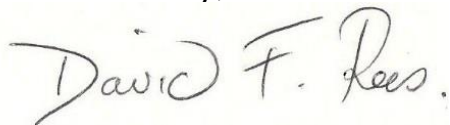
The purpose of this work was to inform Assembly Members' preparation for their consideration of the regulations in [Plenary on 14 July](#). Whilst the evidence presented to us did not suggest that the Assembly should reject the regulations, concerns were raised with regards to a number of issues. We believe that these concerns should be addressed by making changes to the code of practice on eligibility. Further information on these issues is detailed in the annex to this letter.

Croesewir gohebiaeth yn Gymraeg neu Saesneg | We welcome correspondence in Welsh or English



A copy of this letter will be shared with the Constitutional and Legislative Affairs Committee.

Yours sincerely,

A handwritten signature in black ink that reads "David F. Rees." The signature is written in a cursive style with a large 'D' and 'R'.

David Rees AM

Chair, Health and Social Care Committee

cc: David Melding AM, Chair of the Constitutional and Legislative Affairs Committee



Annex A – Issues raised in evidence on the Care and Support (Eligibility) (Wales) Regulations 2015

Community resources

The [Explanatory Memorandum](#) accompanying the regulations states that this new approach to eligibility will reduce the number of people who require formal care and support services (and a care and support plan) by introducing access to preventative services without the need for a formal plan. Stakeholders raised concerns about this intention, and questioned the adequacy and availability of such services.

Stakeholders also commented that the lack of a definition of preventative services could result in inconsistencies in different parts of Wales if left to local authorities' own interpretation of services.¹ Keith Bowen, representing the Wales Carers Alliance, summed up these concerns by saying:

“We don't particularly feel that, at the moment, there is that framework or network of infrastructure of community services out there to really fulfil the aims of the Act [...] Will there actually be the community preventative services across the whole of Wales for local authorities to be able to refer on to?”

Age Alliance Wales also raised concerns regarding the long term availability of community services, particularly during times of austerity. The Committee heard that people may rely on existing services to help them live independently, and there is no guarantee that such services will continue to be available in forthcoming years if the public funding on which they depend is cut.

The Wales Carers Alliance noted that local authorities only have a general duty to plan for and provide community preventative services whereas these regulations deal with decisions relating to individual legal rights and entitlements. It believes there is a potential area for major dispute where local authorities may consider

¹ Although preventative services are defined in section 15 of the Social Services and Well-being Act, the definition is drawn in terms of the intended purpose of a service not in terms of a list of services.



that a certain service or community activity is adequate to meet a person's needs (and therefore deems them "in-eligible") but that person disagrees.

Keith Bowen also told us that when local authorities decide that a person's needs and well-being outcomes can be met through a community service, there should be a clear onus on the authority to record the rationale for the decision and how that service will meet the person's well-being outcomes and needs. We were told that the Care and Support (Assessment) (Wales) Regulations 2015 and code of practice on assessments state clearly that the local authority must record exactly what community resource is meeting a particular assessed need (and how), and that stakeholder groups would be more comfortable if the Care and Support (Eligibility) (Wales) Regulations 2015 and the associated code of practice also included the same requirement.

We note the concerns raised by stakeholders around the consistency and availability of community preventative services across Wales, particularly given the Welsh Government's intention that more people can be signposted to these services, and fewer people will require formal care and support services. We believe that the eligibility framework should set out explicitly that if a suitable preventative service (or alternative option) is not available to meet an individual's needs and well-being outcomes, they must automatically become eligible. We recommend that the code of practice accompanying these regulations be amended to:

- include a requirement to record a person's need and well-being outcome; and**
- specify exactly how a particular community service would be meeting that need and well-being outcome.**

'Can and can only' test

Several organisations highlighted the risk that the 'can and can only' test could lead to delays in an individual's ability to access the care and support they need, and decisions being made that are not in the person's best interest.

Age Cymru told us that it is concerned that the restrictive nature of the test creates potential for its application to become a barrier to accessing personalised services. This is because it could be interpreted in such a way that a person has to



demonstrate that their needs are not being met by the preventative services available in the community. It said that steps must be taken to ensure that this does not delay people from accessing personalised services to support the achievement of their well-being outcomes.

Rick Wilson from the Wales Alliance for Citizen Directed Support (WACDS) told us that there is an ambiguity in the 'can and can only' framework. He noted:

“[my] anxiety about ‘can and can only’ is that local authorities could potentially use that to highlight people having to exhaust their own social networks before the local authorities have a duty to provide a care plan and an assessed service.”

The WACDS said that legal opinion has suggested that the 'can and can only' test could be interpreted by some local authorities as meaning that people approaching them for support would be expected to 'prove' that they had made every attempt to overcome the barriers to them achieving their wellbeing outcomes within family and community resources before being listened to. It noted that this would create unnecessary and harmful delays for individuals, and therefore wants to see guidance that ensures that this approach is not permitted:

“We are concerned that the requirement for individuals to exhaust all possible family- and community-based options for support before becoming eligible for statutory services could widen the gaps that people can fall through. We do not wish to see people being expected to 'prove' that they have made every attempt to overcome the barriers to them achieving their wellbeing outcomes within family and community resources before being listened to. We would therefore like to see guidance that discourages this.”

The Motor Neurone Disease Association said that the 'can and can only' test could leave people at risk of receiving low quality or inadequate support for a significant period before the local authority is willing or able to step in. It noted that if people, before they can access the appropriate services, are required to demonstrate that they have exhausted the capacity of local, more generalist services to meet their needs, this would create “a serious risk that people with a



rapidly progressive condition could face unnecessary delays in accessing services.”

We note concerns raised regarding a potential delay in accessing services should an individual be required to demonstrate that they had tried all other options (such as a generic community service) before they can become eligible for care and support arranged by a local authority. We agree with the view expressed by stakeholders that individuals should not experience delays in accessing services or feel under unnecessary pressure to demonstrate that they are unable to meet their well-being outcomes without care and support arranged by the local authority. We recommend that steps are taken through guidance to local authorities to firmly clarify their responsibilities prior to the commencement of the regulations.

Several organisations including the Wales Carers Alliance raised concerns that it was unclear whose responsibility it will be to demonstrate that a person’s assessed needs can or cannot be met with the assistance of services in the community and told us that amendments were required to rectify this. In a published briefing, Carers Wales stated:

“The draft Code of Practice needs to be more prescriptive about how the process is managed. Will the onus be on the local authority to show that needs can be met elsewhere (by community based or preventative services)? We feel very strongly that this responsibility should lie with local authorities and if the need cannot be met then a person meets the eligibility criteria for a care and support plan.”

We strongly believe that the code of practice should be clear that the responsibility for demonstrating that an individual’s needs and well-being outcomes can be met through community services should be placed on the local authority rather than on the individual. We recommend that the code of practice be amended to reflect this.

Impact on carers

Stakeholders told us that the need to access services outside of the eligibility criteria could lead to additional pressure on unpaid carers and families. The Social



Care and Wellbeing Alliance Wales told us that its overall impression is that the eligibility criteria as currently written rely too much on informal support from family and friends.

Age Cymru and Wales Carers Alliance also shared concerns that this change of emphasis could easily result in additional demand and expectation being placed on unpaid carers to meet the care and support needs of their loved ones and take on increased care tasks themselves.

Witnesses called for the code of practice to be amended to explicitly state that the willingness and ability of a carer to be able to provide care, at present and in the future, must be recorded, as well as how any preventative services are judged to meet assessed needs and outcomes.

We would be very concerned if the introduction of these regulations resulted in increased pressure on unpaid carers to fulfil the care needs of their family and friends in place of local authority provided care. We recommend that the code of practice be amended to:

- **make it clear that there should not be an over-reliance on voluntary caring arrangements; and**
- **include a requirement for the willingness and ability of a carer to provide care, at present and in the future, to be recorded as part of the eligibility criteria process.**

Best interests of the person

We also heard evidence that when a local authority makes a decision on a person's eligibility for services, it should consider what would be in the best interests of that individual. Jim Crowe representing the Disability Reference Group cited an example of a young adult with learning disabilities who may benefit from living independently of their family. A local authority could use the 'can and can only' test to determine that that young person should remain living at home. Dr Samantha Clutton also spoke of the best interests of children in her evidence. She told us that:

"In considering 'can and can only', what we would like to continue is what has been the bedrock of children's social care in terms of making a decision



on whether social care intervention is in the best interests of a child. We believe that that should still be at the heart of decisions about social care intervention in children's lives. [...]

A child may, in theory, have access to a community service, but they are not going to be able to achieve that access without the intervention of adults... When we're making best-interest decisions in relation to a child, we need to ensure that, in deciding there is a service in the community that can meet those needs, we put in place support to make sure that they can access that."

We believe that when making decisions about a person's needs, it is vital that the local authority interpret the 'can and can only' criteria in a way that meets the best interests of that individual and enables them to achieve their well-being outcomes. We recommend that this should be made clear to local authorities through guidance on the implementation of the regulations.

Advocacy

Several organisations told us that the code of practice should be strengthened in relation to provisions around access to advocacy. Dr Clutton said that Barnardo's Cymru would like to see a presumption in the code of practice that children and young people will need an advocate:

"We do believe that there should be a presumption that every child and young person needs an advocate to act for them and help them have a voice within the care and support planning process and the assessment process."

Age Cymru is concerned that some of the language and phrasing used in the code of practice does not reflect the intention of the work of the Advocacy Technical Group which participated in the development of the draft code of practice on advocacy:

"In particular, it fails to recognise that support by family and friends may be inappropriate, as opposed to unavailable. Where there are conflicts of interest between an individual and members of their family, or potential safeguarding concerns, advocacy by those family members is entirely



inappropriate. The paragraph also fails to reflect those situations where independent advocacy is appropriate.

In line with the comments above, we are concerned about the phrasing that has been added around inclusion of an advocate 'where one has been identified' as this does not reflect the importance of providing advocacy where an individual can, and can only, participate effectively in assessment, eligibility and other processes with the assistance of an independent advocate."

We share the views of stakeholders that access to independent advocacy should be available as a matter of course to all children and for adults who require this assistance. We recommend that the code of practice be amended to strengthen these provisions. This is particularly important to ensure that support is provided to anyone involved in the eligibility process who needs access to an independent advocate to enable them to understand their rights and how decisions are taken.

Reviewing decisions

Concerns were raised by stakeholders in relation to arrangements for reviewing decisions taken by local authorities on eligibility for care packages. We were told that making a formal complaint was not an appropriate mechanism should an individual feel that their circumstances had not been considered satisfactorily, and that it was unclear how a person would be considered eligible for re-assessment. In its written evidence Age Cymru said that the draft code of practice gives local authorities a large degree of discretion in deciding whether a person requires a re-assessment of whether their needs are being met. It said that the implication appears to be that if the local authority is satisfied that needs have not changed or that needs are being met, then no re-assessment would take place. It also stated that it remains unclear what recourse, if any, exists for the person.

Whilst we were reassured by the [Minister's letter of 10 June](#) in which he stated that "should someone feel that the care service they are receiving is not meeting their needs they, or their representative, can request a review of that service and/or a re-assessment of their needs at any time", we do not believe that this is reflected in the code of practice as it is currently drafted (which focuses on a right to re-assessment when circumstances or needs have changed).



In our [report on the Regulation and Inspection of Social Care \(Wales\) Bill](#), we commented that there should be adequate provision for people who have been found ineligible for services to access redress. In that report we recommended that the arrangements set out in sections 19, 21 and 24 of the Social Services and Well-being (Wales) Act 2014 be kept under review to ensure that the mechanisms for reassessment and review of decisions in relation to individuals' eligibility are robust and provide appropriate redress.

We welcome the clarification provided in the Minister's letter of 10 June that someone can request a review or re-assessment at any time should they feel that the care service they receive does not meet their needs. However, we believe that the code of practice should set out a prescribed mechanism that:

- enables an individual to challenge formally eligibility decisions; and
- sets out clearly the timescale within which an individual should receive a re-assessment.

We strongly believe that service users should feel confident in their ability to seek redress if they believe that the solution provided by the local authority does not – or will not – meet their needs and well-being outcomes. We also believe that, in requesting a re-assessment, service users should not have to demonstrate that their circumstances have changed significantly. In order to provide clarity to local authorities and service users, we recommend that the code of practice is amended to:

- reflect the information about re-assessment outlined in the Minister's letter of 10 June; and
- set out the formal arrangements for users to seek redress outlined above.

UN convention on the Rights of Disabled People

In our report on the Regulation and Inspection of Social Care (Wales) Bill, we recommend that the Minister for Health and Social Services bring forward amendments to require all those who exercise functions under the Bill to have due regard to the United Nations Convention on the Rights of the Child, the United Nations Convention on the Rights of Disabled People, and the United Nations Principles for Older Persons.



The code of practice on assessments includes reference to having due regard to the United Nations Convention on the Rights of Disabled People. However, the same reference is not included in the code of practice on eligibility, even though it makes reference to the United Nations Convention on the Rights of the Child, and the United Nations Principles for Older People.

This inconsistency was highlighted to us in both written and oral evidence. Jim Crowe representing the Disability Reference Group said:

“I think it’s going to look increasingly odd that the Act and parts of the Act, regulations and guidance, don’t refer to the United Nations Convention on the Rights of Persons with Disabilities. That is the fundamental statement of global legislation as it applies to disabled people. It seems extraordinary that it’s missing from the face of the Act. It is now in one or two of the codes of practice, but it’s not consistent.

I think the fundamentals, like referencing Acts that the UK Government has ratified and that the Welsh Government has supported, really should be flagged up within this guidance, because disabled people are a significant sector of the population who will be affected by this legislation and guidance”.

We believe that consistency across the relevant pieces of primary and secondary legislation is important for ensuring that provisions are implemented fairly and that service users can access the care they require to meet their needs. We therefore recommend that the code of practice on eligibility make reference to the United Nations Convention on Disabled People, as well as the United Nations Convention on the Rights of the Child and the United Nations Principles for Older People.

Reviewing the implementation of the Regulations

These regulations are an important element of the implementation of the Social Services and Well-being (Wales) Act 2014 and will result in a big change to the way social care services are delivered. We believe that it is vital to ensure that the new eligibility framework delivers the right level of access to care and support for people who require it across Wales. Mr Burch from ADSS Cymru noted in oral



evidence that “we will have to make sure that we monitor it in ways that help us ascertain that people aren’t, for example, being denied services they do need”.

We believe that service providers have a responsibility to ensure that people’s needs are being met in order to allow them to fulfil their well-being outcomes. We recommend that the Welsh Government and local authorities monitor closely the implementation of these regulations at an early stage to ensure that the needs of individuals are being met. Additionally, in the legacy report which we will publish at end of this Assembly, we will recommend that our successor committee review the implementation of these regulations at an appropriate time.





Cabinet Office

English Votes for English Laws: An Explanatory Guide to Proposals

July 2015

Introduction

The Government has announced plans to change the way legislation is considered in the House of Commons to give English and Welsh MPs a fairer say over laws that only affect their constituencies and are on matters which have been devolved. This note sets out how the new legislative process will work if it is agreed by the House of Commons. It is published alongside the proposed new Standing Orders and an Explanatory Memorandum.

What is it trying to address?

English Votes for English Laws addresses the so-called ‘West Lothian Question’ - the position where English MPs cannot vote on matters which have been devolved to other parts of the UK, but Scottish, Welsh and Northern Ireland MPs can vote on those same matters when the UK Parliament is legislating solely for England.

As devolution to Scotland, Wales and Northern Ireland is strengthened, the question of fairness for England becomes more acute. These proposals change the process by which legislation is considered by the House of Commons so that MPs with constituencies in England (and where relevant England and Wales) are asked to give their consent to legislation that only affects England (or England and Wales), and is on matters that are devolved elsewhere in the UK. Those MPs will therefore have the opportunity to veto such legislation. The change will strengthen England’s voice, just as devolution has strengthened the voices of Scotland, Wales and Northern Ireland within the Union, so that the legislative process is fair for everyone. All MPs will continue to be able to amend and vote on all legislation, as they can now.

What legislation is affected?

The new process will apply to Government bills introduced in this Parliamentary Session that have a Second Reading in the Commons after the new rules are agreed. It will then apply to all parts of Government bills which are certified by the Speaker as containing English, or English and Welsh, provisions. It will not apply to routine bills that implement the House’s spending decisions contained in the Estimates. It will also apply to secondary legislation.

How does it work for bills?

- When a bill has been introduced in the Commons, the Speaker will **certify** whether the bill, or parts of it, should be subject to the new process. When making this decision the Speaker will decide whether the legislation relates exclusively to England, or England and Wales, and concerns matters which are devolved to Scotland, Wales or Northern Ireland.
- Once the Speaker has certified a bill it continues to **Second Reading and Committee Stage** as normal.
- Any bills that the Speaker has certified as England-only in their entirety will be

considered by only English MPs at **Committee Stage**. The membership of this Committee will reflect the numbers of MPs that parties have in England. This will not apply to any other bills, such as those which contain a mixture of England-only and England and Wales provisions or bills which contain provisions which are UK-wide.

- After this the bill continues to **Report Stage** as normal.
- For bills containing English or English and Welsh provisions, there is then a process for gaining the consent of English or English and Welsh MPs. A Legislative Grand Committee considers a **Consent Motion** for any clauses that the Speaker has certified as English or English and Welsh only. This is a new stage which will allow all English or English & Welsh MPs either to consent to or to veto those clauses. At this stage no amendments to the text of the bill can be made but specified clauses can be vetoed by amendments to the Consent Motion. In the case of a bill which is England-only, or England and Wales only, this stage allows those MPs to consent to or veto the whole bill.
- If clauses of the bill are vetoed by the Legislative Grand Committee there is a **Reconsideration Stage** when further amendments can be made, to enable compromises to be reached. The whole House can participate in this stage, which is, in effect, a second Report Stage for disputed parts of the bill. This is followed by a **second Legislative Grand Committee** at which all English or English & Welsh MPs are asked to consent to the amendments made by the whole House. If no agreement is reached at this point, the disputed parts of the bill fall.
- Following Report stage and any Consent Motions the bill continues to **Third Reading**, in which as now all MPs can participate. It then progresses to the House of Lords. If there are any consequential amendments to the rest of the bill required as a result of disputed parts of the bill falling, there will be an additional stage before Third Reading to allow this.

The legislative process in the House of Lords is unchanged.

If the bill is amended by the House of Lords, then when it returns to the Commons the Speaker is required to certify any motions relating to Lords amendments to the bill, on the same basis as before. Any votes on amendments that have been certified as England or England and Wales only will be subject to a double majority vote. That is to say that such amendments will have to be supported by a majority of English or English and Welsh MPs as well as a majority of all MPs before they can become law.

In a double majority vote MPs will go through the division lobbies as now, but their votes will be recorded electronically as well as counted by the Tellers. This will allow two results to be announced at the end: one for English, or English and Welsh MPs, and one for the whole House.

The process for bills that start in the House of Lords is similar, with bills being certified when they first arrive in the House of Commons.

The new process is summarised in a diagram attached to this note.

What about Finance bills?

Finance bills, and bills that could usually be referred to as finance bills, are included in the new procedures. They will be subject to the same process as other bills, but with one change. The Legislative Grand Committee for these bills may consist not only of English or English and Welsh MPs, but also English, Welsh and Northern Ireland MPs where relevant. This reflects the devolution of income tax rates and thresholds on earnings to Scotland. Relevant Budget Resolutions, on which Finance Bills are founded, will also be subject to the consent of these MPs, in a double majority vote. Any taxes which apply to Great Britain will continue to be considered on a UK-wide basis

How does it work for secondary legislation?

Secondary legislation that is subject to the affirmative procedure, or that is subject to the negative procedure and has been prayed against and scheduled for debate, will be certified by the Speaker using the same criteria as for bills. Unlike bills, he will consider statutory instruments in their entirety. If a whole statutory instrument is England or England and Wales only and meets the “devolution test” it will be subject to the new process. If any part of it applies to Scotland, Northern Ireland or the whole UK, it will not be subject to it.

When considered in committee, all statutory instruments will be considered as they are now. If a statutory instrument that is certified as English (or English & Welsh) is pressed to a vote on the floor of the House the support of both the whole House and of English (or English and Welsh) MPs will need to be secured in order for it to be approved. These decisions, where contested, will usually be taken by deferred division, as now. Votes on the distribution of spending in England, or England and Wales, such as on the Revenue Support Grant and Police Grant, will also be subject to the new procedures (with a double-majority vote in which both the UK and English, or English and Welsh, majorities would need to agree to the proposals).

How will the changes be made?

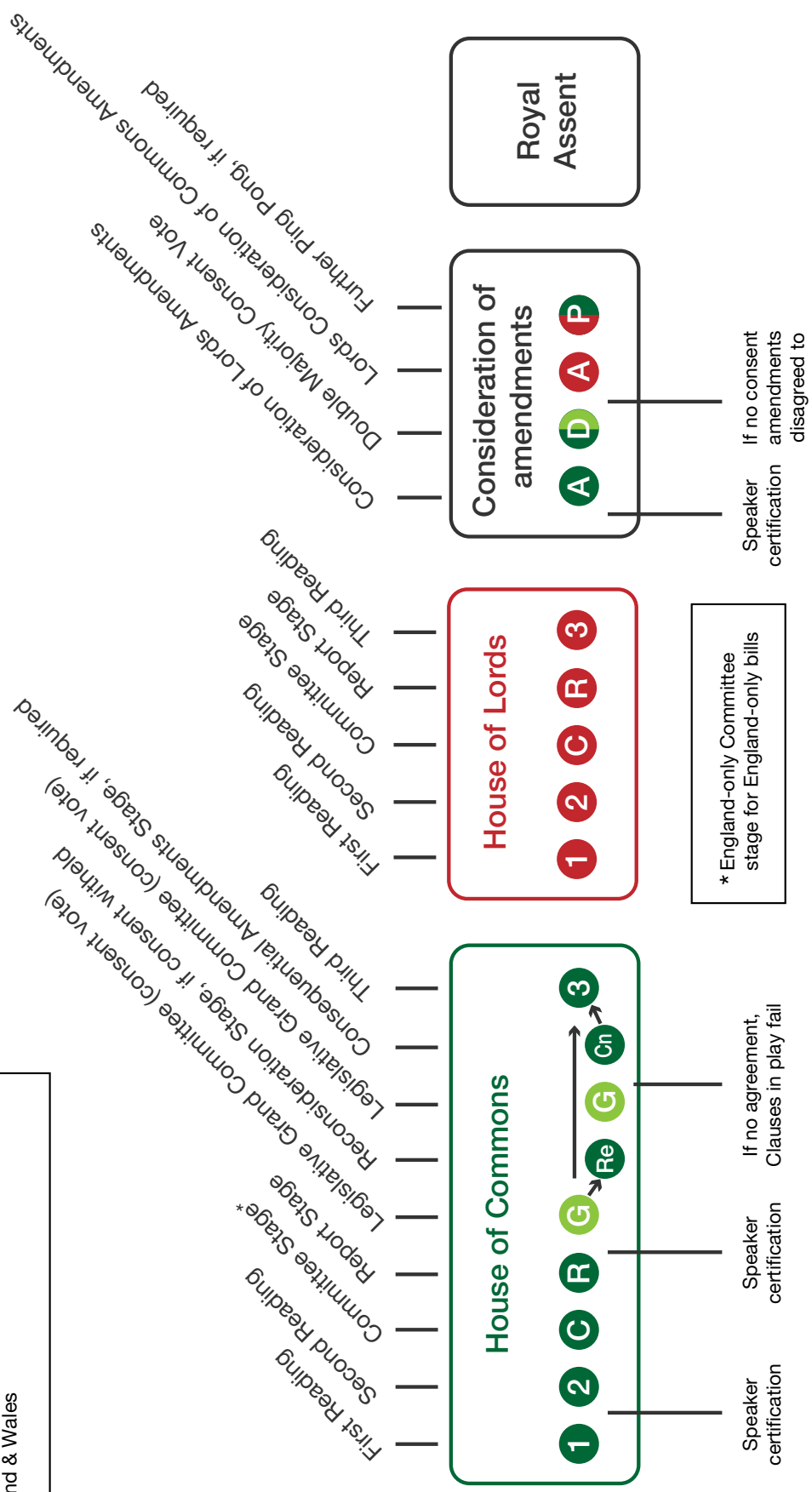
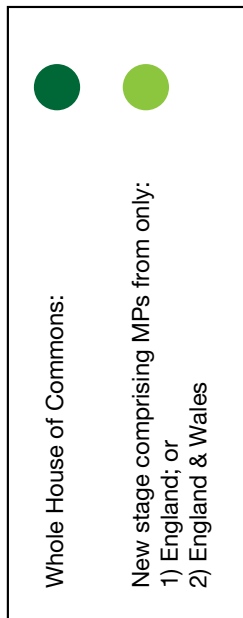
The proposed changes to the legislative process would be implemented by amendments to the Standing Orders that govern the procedure of the House of Commons. The whole House of Commons will vote on these proposed changes.

This decision is for the House of Commons only as the legislative process in the House of Lords is unchanged. The new process is planned to take effect on the day after approval by the House of Commons. It would then apply to bills that have a Second Reading in the Commons, and all new statutory instruments laid, from that date.

Review

The Government is proposing that the House of Commons Procedure Committee will be invited to assess the new procedure after the first bills have been passed under the new rules.

Outline of model - Bill starting in the House of Commons





English Votes for English Laws: Proposed Changes to the Standing Orders of the House of Commons and Explanatory Memorandum

English Votes for English Laws – Proposed Changes to the Standing Orders of the House of Commons and Explanatory Memorandum

The Government has announced plans to change the way legislation is considered in the House of Commons to give English and Welsh MPs a fairer say over laws that only affect their constituencies and are on matters which have been devolved. This note contains:

- I. The text of the changes the Government proposes are made to the Standing Orders (page 3)
- II. An explanatory memorandum explaining the changes, which should be read alongside the proposed changes to the Standing Orders (page 23)

A separate explanatory guide has also been published which provides a summary of the proposals.

I. Proposed Changes to the Standing Orders of the House of Commons

(1) New Standing Orders as follows:

“CERTIFICATION OF BILLS, CLAUSES AND SCHEDULES ETC: GENERAL

83J. Certification of bills etc. as relating exclusively to England or England and Wales and being within devolved legislative competence

- (1) The Speaker shall, before second reading-
 - (a) consider every public bill presented by a Minister of the Crown or brought from the Lords and taken up by a Minister of the Crown, and
 - (b) certify any such bill, or any clause or schedule of any such bill, which, in the Speaker’s opinion-
 - (i) relates exclusively to England or to England and Wales, and
 - (ii) is within devolved legislative competence.
- (2) A clause or schedule relates exclusively to England or to England and Wales if (disregarding any minor or consequential effects outside the area in question) it applies only to England or (as the case may be) to England and Wales.
- (3) A clause or schedule which relates exclusively to England is within devolved legislative competence if-
 - (a) it would be within the legislative competence of the Scottish Parliament to make any corresponding provision for Scotland in an Act of that Parliament,
 - (b) it would be within the legislative competence of the National Assembly for Wales to make any corresponding provision for Wales in an Act of that Assembly, or
 - (c) it would be within the legislative competence of the Northern Ireland Assembly to make any corresponding provision for Northern Ireland in an Act of that Assembly and the corresponding provision would deal with a transferred matter.
- (4) A clause or schedule which relates exclusively to England and Wales is within devolved legislative competence if-
 - (a) it would be within the legislative competence of the Scottish Parliament to make any corresponding provision for Scotland in an Act of that Parliament, or
 - (b) it would be within the legislative competence of the Northern Ireland Assembly to make any corresponding provision for Northern Ireland in an Act of that Assembly and the corresponding provision would deal with a transferred matter.
- (5) A bill-
 - (a) relates exclusively to England and is within devolved legislative competence if every clause and every schedule of it relates exclusively to England and is within devolved legislative competence;

- (b) relates exclusively to England and Wales and is within devolved legislative competence if every clause and every schedule of it relates exclusively to England and Wales and is within devolved legislative competence.
- (6) In deciding whether a bill relates exclusively to England or to England and Wales, the Speaker shall treat any clause or schedule whose only effects are minor or consequential effects outside the area in question as relating exclusively to that area.
- (7) In deciding whether a bill, clause or schedule is within devolved legislative competence, the Speaker may take account of any amendments to the legislative competence of the Scottish Parliament, the National Assembly for Wales or the Northern Ireland Assembly which-
 - (a) are not in force at the time of certification, but
 - (b) are to come into force on a day already fixed by law,if the Speaker considers that the bill, clause or schedule is itself only likely to come into force on or after that day; and, for this purpose, an amendment which is in force but applies only in relation to a future period of time (or a bill, clause or schedule which is likely to come into force but so apply) is to be treated as not being in force (or as not likely to come into force) until the start of that period (being a day already fixed by law).
- (8) In deciding whether to certify a bill, clause or schedule under this order the Speaker shall disregard any provision inserted by the House of Lords which, in his opinion, has the sole objective of ensuring that Standing Order No. 80(a) (Privilege (bills brought from the Lords)) will apply to the bill.
- (9) The Speaker shall announce any decision under this order without giving the reasons for the decision to the House.
- (10) This order shall not apply to the following bills-
 - (a) a bill which is certified under Standing Order No. 97(1) (Scottish Grand Committee (bills in relation to their principle)),
 - (b) a bill referred to the Welsh Grand Committee under Standing Order No. 106(1) (Welsh Grand Committee (bills)),
 - (c) a bill referred to the Northern Ireland Grand Committee under Standing Order No. 113(1) (Northern Ireland Grand Committee (bills in relation to their principle)),
 - (d) a bill which falls to be considered by the select committee appointed under Standing Order No. 140 (Joint Committee on Consolidation, &c., Bills),
 - (e) a bill whose main purpose is to give effect to proposals contained in a report by a Law Commission,
 - (f) a tax law rewrite bill,
 - (g) a Consolidated Fund or an Appropriation Bill,
 - (h) a bill introduced under the Statutory Orders (Special Procedure) Act 1945 or for confirming a provisional order.

83K. Committal and recommitment of certified England only bills.

- (1) A bill certified by the Speaker under Standing Order No. 83J as relating exclusively to England and being within devolved legislative competence may only be committed to-
 - (a) a public bill committee (to which Standing Order No. 86(2)(iv) (Nomination of general committees) applies), or
 - (b) the Legislative Grand Committee (England).
- (2) A bill whose current certification by the Speaker (whether under Standing Order No. 83J or 83L) is that it relates exclusively to England and is within devolved legislative competence may only be recommitted to-
 - (a) a public bill committee (to which Standing Order No. 86(2)(iv) (Nomination of general committees) applies), or
 - (b) the Legislative Grand Committee (England).

83L. Reconsideration of certification before third reading

- (1) Paragraph (2) applies in relation to every bill which-
 - (a) was eligible for certification under Standing Order No. 83J (whether or not the bill, or any clause or schedule of it, was so certified),
 - (b) has been amended since its second reading, and
 - (c) has completed the stages before its third reading.
- (2) The Speaker shall, before a motion may be made for the third reading of the bill-
 - (a) reconsider the bill, and
 - (b) certify the bill, or any clause or schedule of it, if the bill or clause or schedule, in the Speaker's opinion-
 - (i) relates exclusively to England or to England and Wales, and
 - (ii) is within devolved legislative competence.
- (3) Paragraph (4) applies in relation to every bill which-
 - (a) was certified (whether in whole or in part) by the Speaker under Standing Order No. 83J,
 - (b) has been amended since its second reading, and
 - (c) has completed the stages before its third reading.
- (4) The Speaker shall, before a motion may be made for the third reading of the bill, certify any amendment made to the bill since second reading which, in the opinion of the Speaker-
 - (a) related to the bill so far as certified under Standing Order No. 83J,
 - (b) was not made by the Legislative Grand Committee (England) or a public bill committee to which Standing Order No. 86(2)(iv) (Nomination of general committees) applies, and

(c) either-

(i) resulted in there being no certification under paragraph (2) when there would otherwise have been such a certification, or

(ii) changed the area to which a certification under paragraph (2) would otherwise have related.

- (5) Any amendment certified under paragraph (4) shall be certified as relating exclusively to the area to which the certification under paragraph (2) would have related had that amendment not been made (and there shall be no certification as to devolved legislative competence).
- (6) The Speaker shall announce any decision under paragraph (2) or (4) without giving the reasons for the decision to the House.
- (7) The Speaker shall, wherever possible, announce the Speaker's decisions under paragraph (2) or (4) immediately after the conclusion of proceedings on the previous stage of the bill.
- (8) Paragraphs (2) to (8) of Standing Order No. 83J apply for the purposes of certification of bills, clauses, schedules and amendments under this order as they apply for the purposes of certification of bills, clauses and schedules under that order.

83M. Consent Motions for certified England only or England and Wales only provisions

(1) Paragraphs (2) and (3) apply where-

(a) a bill, or clauses or schedules of a bill, have been certified under Standing Order No. 83J as relating exclusively to England or to England and Wales and being within devolved legislative competence, and the bill has completed the stages before its third reading without having been amended,

(b) a bill or clauses or schedules of a bill have been certified under Standing Order No. 83L(2) as relating exclusively to England or to England and Wales and being within devolved legislative competence, or

(c) amendments have been certified under Standing Order No. 83L(4) as relating exclusively to England or to England and Wales.

- (2) A Consent Motion which gives consent to the bill, clauses or schedules or amendments must be passed by the legislative grand committee for the area to which the certification relates before a motion may be made for the third reading of the bill.
- (3) If a Minister of the Crown indicates his or her intention to move a Consent Motion, the House shall forthwith resolve itself into the legislative grand committee which is to consider the motion.
- (4) If a Minister of the Crown indicates his or her intention to move both a Consent Motion which is to be passed by the Legislative Grand Committee (England and Wales) and a Consent Motion which is to be passed by the Legislative Grand Committee (England)-
 - (a) the House shall forthwith resolve itself into the Legislative Grand Committee (England and Wales) to consider the motion for that committee,

- (b) on moving that motion, the Minister shall also inform the committee of the terms of the motion to be moved in the Legislative Grand Committee (England),
 - (c) any debate in the Legislative Grand Committee (England and Wales) may also relate to the motion for the Legislative Grand Committee (England), and
 - (d) on conclusion of proceedings in the Legislative Grand Committee (England and Wales)-
 - (i) the House shall forthwith resolve itself into the Legislative Grand Committee (England),
 - (ii) a Minister of the Crown shall forthwith move the motion for that committee, and
 - (iii) proceedings in the Legislative Grand Committee (England) shall be brought to a conclusion forthwith.
- (5) Standing Order Nos. 83E (Programme orders: conclusion of proceedings on consideration and up to and including third reading) and 83I (Programme orders: supplementary provisions) shall apply for the purpose of bringing proceedings to a conclusion in accordance with paragraph (4)(d)(iii) above (whether or not those proceedings are subject to a programme order) as they apply for the purpose of bringing proceedings to a conclusion in accordance with a programme order.
- (6) On the conclusion of proceedings on a Consent Motion (or, in a case falling within paragraph (4), the conclusion of proceedings on the second Consent Motion), the chair shall report the decision of the committee (or, as the case may be, the decisions of the committees) to the House.
- (7) Subject to paragraph (8), a Consent Motion shall be in the form either “That the Committee consents to the XXX Bill” or “That the Committee consents to [the following certified clauses [and schedules] of the XXX Bill] [and certified amendments made by the House to the XXX Bill]...”; and in the latter case the motion shall identify the clauses or schedules or amendments in question.
- (8) If a Minister of the Crown wishes to propose that a committee should not consent to certain clauses or schedules or amendments, the Consent Motion shall be in the form “That the Committee consents to [the following certified clauses [and schedules] of the XXX Bill] [and certified amendments made by the House to the XXX Bill]... and does not consent to [the following certified clauses [and schedules] of the XXX Bill] [and certified amendments made by the House to the XXX Bill]...”; and in any such case the motion shall identify the clauses or schedules or amendments in question.
- (9) A Consent Motion may only be moved by a Minister of the Crown and may be moved without notice.
- (10) Proceedings under this order may be proceeded with, though opposed, after the moment of interruption.

83N Reconsideration of bills so far as there is absence of consent

- (1) Where a legislative grand committee decides on a Consent Motion under Standing Order No. 83M to withhold consent to a bill or any clause or schedule of a bill or any amendment, the bill shall be set down for reconsideration; and any order for the third reading of the bill shall be discharged.
- (2) Reconsideration of the bill shall be for the sole purpose of considering changes to the bill to resolve matters in dispute as a result of the withholding of consent.
- (3) Paragraphs (2) and (4) to (8) of Standing Order No. 83L, and Standing Order No. 83M, shall apply following reconsideration of a bill in relation to the bill so far as reconsidered as they apply in relation to a bill; but as if-
 - (a) in Standing Order No. 83L(4)-
 - (i) the reference to any amendment since second reading were a reference to any amendment made on reconsideration, and
 - (ii) sub-paragraphs (a) and (b) were omitted, and
 - (b) in the case of any matter, there shall be deemed to be a certification in relation to the area or areas to which any relevant previous certification under Standing Order No. 83L(2) or (4) related if there would not otherwise be a certification in relation to that area or areas.
- (4) If, following reconsideration of a bill and the steps taken by virtue of paragraph (3), a legislative grand committee withholds consent to the whole bill (whether or not amended on reconsideration), the bill may not be given a third reading and shall not pass.
- (5) Paragraph (6) applies if, following reconsideration of a bill and the steps taken by virtue of paragraph (3), a legislative grand committee withholds consent to-
 - (a) any clause or schedule of the bill (whether or not amended on reconsideration), or
 - (b) any amendment to the bill,but does not withhold consent to the whole bill.
- (6) The bill shall be amended so as to remove any provisions of the bill which are not agreed by the House and any relevant legislative grand committee; and it is the bill as so amended which proceeds to its next stage.
- (7) A Minister of the Crown may move a motion for the bill as so amended to be considered again (“consequential consideration”); and such a motion may be made without notice and the question on any such motion shall be put forthwith.
- (8) If the motion is passed, the House shall proceed forthwith to consequential consideration of the bill as so amended; and any order for the third reading of the bill shall be discharged.
- (9) Consequential consideration of the bill as so amended shall be for the sole purpose of considering minor or technical changes in consequence of the removal of provisions under paragraph (6).

- (10) Proceedings on reconsideration or consequential consideration, or a motion for consequential consideration, may be proceeded with, though opposed, after the moment of interruption.
- (11) References in the standing orders of this House to consideration of a bill on report shall, so far as relevant and subject to paragraph (12), include reconsideration or consequential consideration of a bill under this order.
- (12) In its application by virtue of paragraph (11), Standing Order No. 72 (Consideration of bill as amended in committee of whole House) has effect as if the words “, as amended in a committee of the whole House,” were omitted.

830. Consideration of certified motions or amendments relating to Lords Amendments or other messages

- (1) The Speaker shall consider any motion relating to a Lords amendment to a bill or to any other message from the Lords in respect of a bill.
- (2) The Speaker shall certify the motion if, in the Speaker’s opinion, it-
 - (a) relates exclusively to England and is within devolved legislative competence, or
 - (b) relates exclusively to England and Wales and is within devolved legislative competence.
- (3) For the purposes of paragraph (2) a motion relates exclusively to England or to England and Wales and is within devolved legislative competence if it or any provision of it-
 - (a) relates to a Lords amendment, or an item in another message, which would, if agreed, result in-
 - (i) a clause or schedule as amended which relates exclusively to England or to England and Wales and is within devolved legislative competence,
 - (ii) a new or unamended clause or schedule which so relates and is within devolved legislative competence, or
 - (iii) the omission of a clause or schedule which so relates and is within devolved legislative competence, or
 - (b) contains proposals which would, if agreed, so result.
- (4) The Speaker shall also certify the motion if, in the Speaker’s opinion, it or any provision of it-
 - (a) relates to a Lords amendment, or an item in another message, which would, if agreed, result in a clause or schedule, which relates exclusively to England or to England and Wales and is within devolved legislative competence, ceasing to so relate or to be within devolved legislative competence, or
 - (b) contains proposals which, if agreed, would so result.
- (5) Any motion certified under paragraph (4) shall be certified as relating exclusively to the area to which the clause or schedule relates (and there shall be no certification as to devolved legislative competence).

- (6) The same motion may be certified in relation to different areas under paragraphs (2) and (4) or either of them.
- (7) If a division is held on a motion certified under this order, the motion shall be agreed to only if, of those voting in the division-
- (a) in the case of a motion certified in relation to England, a majority of Members and a majority of Members representing constituencies in England,
 - (b) in the case of a motion certified in relation to England and Wales, a majority of Members and a majority of Members representing constituencies in England and Wales, and
 - (c) in the case of a motion certified both in relation to England and in relation to England and Wales, a majority of Members, a majority of Members representing constituencies in England and a majority of Members representing constituencies in England and Wales,
- vote in support of the motion.
- (8) The Speaker shall, in selecting motions relating to Lords amendments or other messages, have regard to the extent to which such motions are drafted so that they can be certified under this order by virtue of every provision of them meeting the test in paragraph (3)(a) or (b) or (4)(a) or (b).
- (9) If a motion relating to a Lords amendment or other message is disagreed to under this order because one of the groups voting in the division has not voted in support of it while another has, the decision of the House shall be-
- (a) in the case of a motion to disagree (or agree) to a Lords amendment or an item in another message, to disagree with it, and
 - (b) in any other case, such decision as would have the effect of leaving the bill so far as it relates to that matter in the same position as it was before the Lords amendment or other message was received from the Lords.
- (10) The Speaker shall announce any decision under paragraph (2) or (4) without giving the reasons for the decision to the House.
- (11) This order does not apply in relation to-
- (a) any motion relating to a bill which was not eligible for certification under Standing Order No. 83J, and
 - (b) any of the following motions-
 - (i) any ways and means motion or motion authorising expenditure,
 - (ii) any programming motion,
 - (iii) any order of consideration motion,
 - (iv) any motion of, or relating to, the Reasons Committee, and
 - (v) any other motion of a similar kind to a motion falling within any of paragraphs (i) to (iv).

- (12) In this order-
- (a) references to motions are to be read as including, so far as relevant, references to amendments to Lords amendments and references to amendments to the bill, and
 - (b) the reference in paragraph (3)(a)(i) to clauses or schedules as amended includes, in particular, a reference to clauses or schedules which would be amended by virtue of their territorial application being modified otherwise than in the clauses or schedules themselves.
- (13) Paragraphs (2) to (4), (7) and (10) of Standing Order No. 83J apply for the purposes of deciding under this order whether clauses or schedules relate exclusively to England or to England and Wales and are within devolved legislative competence as they apply for the purposes of the certification of clauses or schedules under that order; and, in the case of a bill which relates exclusively to England or to England and Wales, paragraph (6) of that order also applies for the purpose of deciding under this order whether clauses or schedules so relate.

CERTIFICATION OF INSTRUMENTS AND MOTIONS: GENERAL

83P. Certification of instruments

- (1) The Speaker shall-
- (a) consider every instrument to which this order applies, and
 - (b) certify any such instrument which, in the Speaker's opinion-
 - (i) relates exclusively to England or to England and Wales, and
 - (ii) is within devolved legislative competence.
- (2) An instrument-
- (a) relates exclusively to England and is within devolved legislative competence if every provision of it relates exclusively to England and is within devolved legislative competence;
 - (b) relates exclusively to England and Wales and is within devolved legislative competence if every provision of it relates exclusively to England and Wales and is within devolved legislative competence.
- (3) Paragraphs (2) to (4) and (6) and (7) of Standing Order No. 83J apply for the purposes of this order; and as so applied those paragraphs have effect as if-
- (a) references to a bill were to an instrument, and
 - (b) references to a clause or schedule were to a provision of an instrument.
- (4) The Speaker shall announce any decision under this order without giving the reasons for the decision to the House.
- (5) This order applies to any instrument (whether or not in draft) upon which proceedings may be taken in pursuance of an Act of Parliament where the instrument-
- (a) meets any of conditions A to C, and

- (b) is not a report within paragraph (1)(a) to (c) of Standing Order No. 83R.
- (6) Condition A is that the instrument-
 - (a) stands referred to a Delegated Legislation Committee pursuant to paragraph (3) of Standing Order No. 118 (Delegated Legislation Committees), or
 - (b) does not stand so referred because sub-paragraph (a) of that paragraph applies to it.
- (7) Condition B is that a member has given notice of a motion of the kind mentioned in sub-paragraph (a) of paragraph (4) of Standing Order No. 118 in relation to the instrument and the instrument-
 - (a) stands referred to a Delegated Legislation Committee, or
 - (b) has been set down for consideration in the Chamber on a particular day.
- (8) Condition C is that the Regulatory Reform Committee has made a recommendation of the kind mentioned in paragraph (1) or (2) of Standing Order No. 18 (Consideration of draft legislative reform orders etc.) in relation to the instrument.

83Q. Deciding the question on motions relating to certified instruments

- (1) This order applies to the following motions-
 - (a) a motion to approve a certified instrument;
 - (b) a motion of the kind mentioned in paragraph (4)(a) of Standing Order No. 118 in relation to a certified instrument;
 - (c) a motion to disagree with a report of the Regulatory Reform Committee that contains a recommendation of the kind mentioned in paragraph (2) of Standing Order No. 18 in relation to a certified instrument;
 - (d) an amendment of a motion within any of sub-paragraphs (a) to (c).
- (2) If a division is held on a motion to which this order applies, the motion shall be agreed to only if, of those voting in the division-
 - (a) a majority of Members, and
 - (b) a majority of Members representing qualifying constituencies,vote in support of the motion.
- (3) In this order-
 - (a) “a certified instrument” means an instrument which has been certified under Standing Order No. 83P as relating exclusively to England or to England and Wales;
 - (b) “qualifying constituencies” means constituencies in the part of the United Kingdom to which the instrument has been certified as relating exclusively.

83R. Deciding the question on certain other motions

- (1) This order applies to the following motions-
 - (a) a motion to approve a report which has been laid before the House pursuant to Chapter 2 of Part 5 of the Local Government Finance Act 1988 (revenue support grant: England);
 - (b) a motion to approve a report which has been laid before the House under section 52ZD of the Local Government Finance Act 1992 (referendums relating to council tax increases: principles);
 - (c) a motion to approve a report which has been laid before the House pursuant to section 46 of the Police Act 1996 (police grant);
 - (d) a motion for a resolution under section 26(2)(b)(ii) of the Higher Education Act 2004 (student fees);
 - (e) an amendment of a motion within any of sub-paragraphs (a) to (d).
- (2) If a division is held on a motion to which this order applies, the motion shall be agreed to only if, of those voting in the division-
 - (a) a majority of Members, and
 - (b) a majority of Members representing qualifying constituencies,
 vote in support of the motion.
- (3) In this order “qualifying constituencies” means-
 - (a) in the case of a motion within paragraph (1)(a), (b) or (d) or an amendment of such a motion, constituencies in England;
 - (b) in the case of a motion within paragraph (1)(c) or an amendment of such a motion, constituencies in England or Wales.

CERTIFICATION OF FINANCE BILLS, INSTRUMENTS AND MOTIONS**83S Modification of Standing Orders Nos. 83J to 83N: Finance Bills which relate exclusively to England, Wales and Northern Ireland**

- (1) In their application in relation to a bill within paragraph (2), Standing Orders Nos. 83J to 83N shall have effect with the modifications in paragraphs (3) to (5).
- (2) A bill is within this paragraph if-
 - (a) it is a Finance Bill, or
 - (b) it is a bill which, before second reading, only contained provision which would be within the ordinary scope of a Finance Bill (or would be if the provision was to take effect in the current financial year).
- (3) In Standing Order No. 83J-
 - (a) in paragraph (1)(b)(i) after “Wales” insert “or to England, Wales and Northern Ireland”;

- (b) in paragraph (2) after “Wales” (in both places) insert “or to England, Wales and Northern Ireland”;
 - (c) after paragraph (4) insert-
 - “(4A) A clause or schedule which relates exclusively to England, Wales and Northern Ireland is within devolved legislative competence if it would be within the legislative competence of the Scottish Parliament to make any corresponding provision for Scotland in an Act of that Parliament.”;
 - (d) in paragraph (5) after sub-paragraph (b) insert “;
 - (c) relates exclusively to England, Wales and Northern Ireland and is within devolved legislative competence if every clause and every schedule of it relates exclusively to England, Wales and Northern Ireland and is within devolved legislative competence”; and
 - (e) in paragraph (6) after “Wales” insert “or to England, Wales and Northern Ireland”.
- (4) In Standing Order No. 83L, in paragraph (2)(b)(i) after “Wales” insert “or to England, Wales and Northern Ireland”.
- (5) In Standing Order No. 83M-
- (a) in paragraph (1) after “Wales” (in each place) insert “or to England, Wales and Northern Ireland”;
 - (b) for paragraph (4) substitute-
 - “(4) If a Minister of the Crown indicates his or her intention to move Consent Motions which are to be passed by more than one legislative grand committee-
 - (a) the order in which the Consent Motions are to be considered is:
 - (i) any motion to be considered by the Legislative Grand Committee (England, Wales and Northern Ireland),
 - (ii) any motion to be considered by the Legislative Grand Committee (England and Wales), and
 - (iii) any motion to be considered by the Legislative Grand Committee (England),
 - (b) the House shall forthwith resolve itself into the legislative grand committee which is to consider the first Consent Motion,
 - (c) on moving that motion, the Minister shall also inform the committee of the terms of any other Consent Motion to be moved in any other legislative grand committee,
 - (d) any debate in the first legislative grand committee may also relate to any other Consent Motion to be moved in any other legislative grand committee,
 - (e) on conclusion of proceedings in the first legislative grand committee-

- (i) the House shall forthwith resolve itself into the legislative grand committee which is to consider the next Consent Motion,
- (ii) a Minister of the Crown shall forthwith move that motion, and
- (iii) proceedings in the second legislative grand committee shall be brought to a conclusion forthwith, and

(f) on conclusion of proceedings in the second legislative grand committee, sub-paragraphs (e)(i) to (iii) shall apply in relation to any third Consent Motion and a third legislative grand committee as they apply in relation to the second Consent Motion and the second legislative grand committee.”;

(c) in paragraph (5) for “(4)(d)(iii)” substitute “(4)(e)(iii) and (f)”;

(d) in paragraph (6) for “second Consent Motion” substitute “Consent Motions”.

83T. Modification of Standing Orders Nos. 83P and 83Q: financial instruments which relate exclusively to England, Wales and Northern Ireland

- (1) In their application in relation to a financial instrument, Standing Orders Nos. 83P and 83Q shall have effect with the following modifications.
- (2) In Standing Order No. 83P-
 - (a) in paragraph (1)(b)(i) after “Wales” insert “or to England, Wales and Northern Ireland”;
 - (b) in paragraph (2) after paragraph (b) insert “;
 - (c) relates exclusively to England, Wales and Northern Ireland and is within devolved legislative competence if every provision of it relates exclusively to England, Wales and Northern Ireland and is within devolved legislative competence”;
 - (c) in paragraph (3) for the words from the beginning to “apply” substitute “Paragraphs (2) to (4A) and (6) and (7) of Standing Order No.83J (as modified by Standing Order No. 83S(3))”.
- (3) In Standing Order 83Q(3)(a) after “Wales” insert “or to England, Wales and Northern Ireland”.
- (4) For the purposes of this order an instrument is a “financial instrument” if it is made or proposed to be made in exercise of powers conferred by (and only by)-
 - (a) an Act which resulted from a Finance Bill;
 - (b) a provision of an Act which would have been within the ordinary scope of a Finance Bill.

83U. Certification of PCTA motions which would give statutory effect to other motions which affect certain taxes and relate exclusively to England, to England and Wales or to England, Wales and Northern Ireland

- (1) In this order—
 - (a) “PCTA motion” means a motion that, pursuant to section 5 of the Provisional Collection of Taxes Act 1968, provisional statutory effect shall be given to one or more other motions; and
 - (b) “affected motion”, in relation to a PCTA motion, means a motion that would be given provisional statutory effect if the PCTA motion was passed.
- (2) The Speaker shall—
 - (a) consider every PCTA motion, and
 - (b) certify any such motion which, in the Speaker’s opinion, falls within paragraph (3), (4) or (5).
- (3) A PCTA motion falls within this paragraph if every provision of the affected motion or of each of the affected motions—
 - (a) relates exclusively to England, and
 - (b) is within devolved legislative competence.
- (4) A PCTA motion falls within this paragraph if every provision of the affected motion or each of the affected motions—
 - (a) relates exclusively to England and Wales, and
 - (b) is within devolved legislative competence.
- (5) A PCTA motion falls within this paragraph if every provision of the affected motion or each of the affected motions—
 - (a) relates exclusively to England, Wales and Northern Ireland, and
 - (b) is within devolved legislative competence.
- (6) The Speaker shall announce any decision under this order without giving the reasons for the decision to the House.
- (7) Paragraphs (2) to (4A) of Standing Order No. 83J (as modified by Standing Order No. 83S(3)) apply for the purposes of this order; and as so applied those paragraphs have effect as if references to a clause or schedule were to a provision of an affected motion.

83V Certification of motions upon which a Finance Bill is to be brought in which would authorise provision relating exclusively to England, to England and Wales or to England, Wales and Northern Ireland

- (1) This order applies to any founding motion which, if passed, would-
 - (a) authorise a bill to include provision which would be within the ordinary scope of a Finance Bill, or
 - (b) authorise a Finance Bill to include provision which would not be within the ordinary scope of a Finance Bill.
- (2) The Speaker shall-
 - (a) consider every motion to which this order applies, and
 - (b) certify any such motion which, in the Speaker's opinion, falls within paragraph (3), (4) or (5).
- (3) A motion falls within this paragraph if it would, if passed, only authorise a bill to include provision which-
 - (a) relates exclusively to England, and
 - (b) is within devolved legislative competence.
- (4) A motion falls within this paragraph if it would, if passed, only authorise a bill to include provision which--
 - (a) relates exclusively to England and Wales, and
 - (b) is within devolved legislative competence.
- (5) A motion falls within this paragraph if it would, if passed, only authorise a bill to include provision which-
 - (a) relates exclusively to England, Wales and Northern Ireland, and
 - (b) is within devolved legislative competence.
- (6) The Speaker shall announce any decision under this order without giving the reasons for the decision to the House.
- (7) Paragraphs (2) to (4A) and (7) of Standing Order No. 83J (as modified by Standing Order No. 83S(3)) apply for the purposes of this order; and as so applied those paragraphs have effect as if references to a clause or schedule were to a provision.
- (8) In paragraph (1) "founding motion" means a motion upon which a bill is to be brought in.

83W. Deciding the question on motions certified under Standing Order No. 83U or 83V

- (1) If a division is held on a motion which has been certified under Standing Order No. 83U or 83V, the motion shall be agreed to only if, of those voting in the division-
 - (a) a majority of Members, and
 - (b) a majority of Members representing qualifying constituencies,

vote in support of the motion.

- (2) In this order “qualifying constituencies” means-
- (a) in a case where the motion concerned was certified as falling within paragraph (3) of Standing Order No. 83U or 83V, constituencies in England;
 - (b) in a case where the motion concerned was certified as falling within paragraph (4) of either of those standing orders, constituencies in England or Wales;
 - (c) in a case where the motion concerned was certified as falling within paragraph (5) of either of those standing orders, constituencies in England, Wales or Northern Ireland.

LEGISLATIVE GRAND COMMITTEES

83X. Legislative Grand Committees

- (1) There shall be-
- (a) a Legislative Grand Committee (England),
 - (b) a Legislative Grand Committee (England and Wales), and
 - (c) a Legislative Grand Committee (England, Wales and Northern Ireland).
- (2) The Legislative Grand Committee (England) shall consist of all Members representing constituencies in England.
- (3) The Legislative Grand Committee (England and Wales) shall consist of all Members representing constituencies in England and all Members representing constituencies in Wales.
- (4) The Legislative Grand Committee (England, Wales and Northern Ireland) shall consist of-
- (a) all Members representing constituencies in England,
 - (b) all Members representing constituencies in Wales, and
 - (c) all Members representing constituencies in Northern Ireland.
- (5) A Deputy Speaker or a Member of the Panel of Chairs may chair a legislative grand committee.
- (6) The functions of the Legislative Grand Committee (England) shall be-
- (a) to consider any bills committed or recommitted to the committee in accordance with Standing Order No. 83K, and
 - (b) to consider any Consent Motions under Standing Order No. 83M which relate to the committee.
- (7) The functions of the Legislative Grand Committee (England and Wales) and the Legislative Grand Committee (England, Wales and Northern Ireland) are to consider any Consent Motions under Standing Order No. 83M which relate to them.

83Y. Legislative Grand Committees: supplementary

- (1) The standing orders of this House applicable to a committee of the whole House shall, so far as relevant, be applicable to a legislative grand committee.
- (2) Accordingly, references in the standing orders to a committee of the whole House or to the House in committee, or similar references, shall be read as references to the relevant legislative grand committee.
- (3) Paragraphs (1) and (2) do not apply to Standing Order No. 82 (Business Committee)."

Amendments to existing Standing Orders

(2) In Standing Order No. 12 (House not to sit on certain Fridays), in line 20, after "notices of" insert "Consent Motions under Standing Order No. 83M (Consent Motions for certified England only or England and Wales only provisions) and of".

(3) In Standing Order No. 51 (Ways and means motions)—

- (a) in line 8, after "forthwith" insert "upon the announcement of the Speaker's decision with respect to the motion under Standing Order No. 83U", and
- (b) in line 12, after "forthwith" insert "upon the announcement of the Speaker's decision with respect to the motion under Standing Order No. 83V".

(4) After Standing Order No. 63(4) (Committal of bills not subject to a programme order) insert-

"(5) In the case of a bill certified by the Speaker under Standing Order No. 83J as relating exclusively to England and being within devolved legislative competence (Certification of bills etc. as relating exclusively to England or England and Wales and being within devolved legislative competence)-

- (a) committal under this order is subject to Standing Order No. 83K (Committal and recommittal of certified England only bills), and
- (b) committal under this order to a public bill committee is accordingly to a public bill committee to which Standing Order No. 86(2)(iv) (Nomination of general committees) applies.

(6) Nothing in this order enables a bill to be committed to any legislative grand committee other than the Legislative Grand Committee (England)."

(5) In Standing Order No. 64 (Notices of amendments, &c., to bills), in line 2, after "schedules" insert ", of Consent Motions under Standing Order No. 83M (Consent Motions for certified England only or England and Wales only provisions)".

(6) In Standing Order No. 73 (Report of bills committed to public bill committees), in line 4, after "bill committee" insert "or the Legislative Grand Committee (England)".

(7) In Standing Order No. 83A (Programme motions), in line 30, after "and" insert "up to and including".

(8) In Standing Order No. 83B (Programming committees)-

- (a) in line 2, after "reading" insert "or in legislative grand committee or on reconsideration or consequential consideration", and

(b) in line 14, after “reading” insert “or in legislative grand committee or on reconsideration or consequential consideration”.

(9) In Standing Order No. 83C (Programming sub-committees)-

(a) in line 22, after “and” insert “up to and including”,

(b) in line 62, after “and” insert “up to and including”, and

(c) in line 75, after “and” insert “up to and including”.

(10) In Standing Order No. 83D (Programme orders: conclusion of proceedings in public bill committee or in committee of the whole House)-

(a) in the title, after “House” insert “etc.”, and

(b) in line 2, after “bill committee” insert “, in the Legislative Grand Committee (England) when exercising functions under Standing Order No. 83X(6)(a) (Legislative Grand Committees)”.

(11) In Standing Order No. 83E (Programme orders: conclusion of proceedings on consideration or third reading)-

(a) in the title for “or” substitute “and up to and including”,

(b) in line 2, after “and” insert “up to and including”, and

(c) in line 22, at end, insert-

“(5) In the application of this order to proceedings on a Consent Motion in legislative grand committee, the references to the Speaker in paragraphs (2) and (4) are to be read as references to the Chairman of Ways and Means or either Deputy Chairman.”

(12) After Standing Order No. 83F(7) (Programme orders: conclusion of proceedings on consideration of Lords amendments), at the end of line 35, insert-

“(8) Where a single question would be put under paragraph (3)(a), (4)(a), (6) or (7) in circumstances where some or all of the amendments or motions concerned are (or would be) certified under Standing Order No. 83O (Consideration of certified motions or amendments relating to Lords Amendments or other messages) in relation to a particular part or parts of the United Kingdom, the Speaker shall put forthwith-

(a) a single question on any amendments or motions for which the certification is in relation to England,

(b) a single question on any amendments or motions for which the certification is in relation to England and Wales,

(c) a single question on any amendments or motions for which the certification is both in relation to England and in relation to England and Wales, and

(d) a single question on any amendments or motions for which there is no certification.

(9) If a division is held on a question put under paragraph (8), the motions or amendments shall be agreed to only if, of those voting in the division-

- (a) in a case falling within sub-paragraph (a) of that paragraph, a majority of Members and a majority of Members representing constituencies in England,
- (b) in a case falling within sub-paragraph (b) of that paragraph, a majority of Members and a majority of Members representing constituencies in England and Wales,
- (c) in a case falling within sub-paragraph (c) of that paragraph, a majority of Members, a majority of Members representing constituencies in England and a majority of Members representing constituencies in England and Wales, and
- (d) in a case falling within sub-paragraph (d) of that paragraph, a majority of Members,

vote in support of them.

(10) Paragraph (9) of Standing Order No. 83O shall apply to a decision made by virtue of paragraph (9) above as it applies in relation to a decision made by virtue of paragraph (7) of that order.”

(13) In Standing Order No. 83G (Programme orders: conclusion of proceedings on further messages from the Lords)-

- (a) in line 12, after “shall” insert “, subject to paragraphs (6) and (7)”, and
- (b) at the end of line 14 insert-

“(6) Paragraph (7) applies where, if there were (or are) separate motions to agree in relation to each of the remaining Lords proposals, some or all of the motions would be (or are) certified under Standing Order No. 83O (Consideration of certified motions or amendments relating to Lords Amendments or other messages).

(7) The Speaker shall put forthwith-

- (a) in the case of any remaining Lords proposals for which there would be (or are) motions certified in relation to England, the question that the House agrees with the Lords in those proposals,
- (b) in the case of any remaining Lords proposals for which there would be (or are) motions certified in relation to England and Wales, the question that the House agrees with the Lords in those proposals,
- (c) in the case of any remaining Lords proposals for which there would be (or are) motions certified both in relation to England and in relation to England and Wales, the question that the House agrees with the Lords in those proposals, and
- (d) in the case of any remaining Lords proposals for which there would be (or are) motions which would not be (or are not) certified, the question that the House agrees with the Lords in those proposals.

(8) If a division is held on a question put under paragraph (7), the proposals shall be agreed to only if, of those voting in the division-

- (a) in a case falling within sub-paragraph (a) of that paragraph, a majority of Members and a majority of Members representing constituencies in England,

(b) in a case falling within sub-paragraph (b) of that paragraph, a majority of Members and a majority of Members representing constituencies in England and Wales,

(c) in a case falling within sub-paragraph (c) of that paragraph, a majority of Members, a majority of Members representing constituencies in England and a majority of Members representing constituencies in England and Wales, and

(d) in a case falling within sub-paragraph (d) of that paragraph, a majority of Members,

vote in support of them.

(9) Paragraph (9) of Standing Order No. 83O shall apply to a decision made by virtue of paragraph (8) above as it applies in relation to a decision made by virtue of paragraph (7) of that order.”

(14) In Standing Order No. 83I (Programme orders: supplementary provisions), in line 2, after second “House” insert “or in legislative grand committee”.

(15) In Standing Order No. 86 (Nomination of general committees), in line 33, at end insert-

“(iv) for the consideration of any bill certified by the Speaker under Standing Order No. 83J (or, in the case of recommittal after recertification, Standing Order No. 83L) as relating exclusively to England and being within devolved legislative competence, the Committee of Selection, in nominating Members to a public bill committee, shall have regard to the composition of that part of the House consisting of Members representing constituencies in England; and no Member who does not represent a constituency in England shall be nominated to such a committee”.

(16) The new Standing Orders, and the changes to Standing Orders, made by this order do not apply in relation to-

(a) any bills which have had a Second Reading in this House on or before the day on which this order is made,

(b) any bills introduced in the previous Parliament which have been carried over into this Parliament,

(c) any instruments or draft instruments laid on or before the day on which this order is made, and

(d) any motions agreed to on or before that day.

II. Explanatory Memorandum

This Memorandum is published alongside the Government's proposed changes to House of Commons Standing Orders to assist understanding of how they affect the legislative process.

Primary Legislation

83J. Certification of bills etc. as relating exclusively to England or England and Wales and being within devolved legislative competence

This Standing Order sets out how English Votes will apply to Government bills once they are introduced in the House of Commons. The process is as follows:

- The Speaker of the House of Commons certifies whole bills (or clauses and schedules within them) using the following test:
 - Does the bill, clause or schedule relate only to England, or England and Wales?
And:
 - Is the subject matter devolved to one or more of Scotland, Wales or Northern Ireland?
- If the test is met, a bill, or clauses or schedules within it, are be subject to the new process. The two elements of the test are both required: in general, a clause that relates only to England will often be on a matter which is devolved, but this will not always be the case.
- For the purposes of certification the Speaker discounts any minor or consequential effects of individual clauses or schedules on other parts of the UK (paragraphs (2) and (6)). So for example, where a bill relates only to England in terms of its impacts, but makes a minor alteration to a piece of legislation which is Scotland- or Northern Ireland-only, the Speaker would be required to disregard this for the purposes of certification; or where a clause would be certified as England-only except for consequential effects, the clause will be certified as England-only. The judgement of what is minor or consequential is for the Speaker.
- Paragraph (7) allows for the planned devolution of a power (to Scotland, Wales or Northern Ireland) to be taken into account by the Speaker in certain circumstances. For example, the planned timing of the devolution of powers to Scotland may inform decisions on certification in relation to measures for England that are set to come into force after the relevant powers have been devolved to Scotland.
- The Speaker must announce to the House decisions on certification without giving reasons (paragraph (9)).
- Private Members' bills are not subject to the new rules; nor will some other bills of specified types. For example, bills relating to the House's approval of Government's spending plans - such as Consolidated Fund and Appropriation bills - are excluded (paragraph (10)).

83K. Committal and recommitment of certified England only bills

This Standing Order provides that entirely England-only bills are considered by English MPs only at Committee stage - whether in public bill committee or on the floor of the House in a Legislative Grand Committee (paragraph (1)).

A public bill committee on an England-only bill consists of MPs for constituencies in England and membership will reflect the party proportions in England (amendment to Standing Order No. 86 in paragraph (15) of the motion).

On the floor of the House, the Legislative Grand Committee (England), comprises all MPs for constituencies in England.

The same rule applies in the event that a bill is recommitted for further consideration in Committee by the House (paragraph (2)).

83L. Reconsideration of certification before third reading

This Standing Order requires the Speaker to re-certify a bill and the clauses and schedules within it after Report stage (if it has been amended at Committee or Report stage). This is to ensure that English or English and Welsh MPs are asked to consent to the bill, or the English and Welsh provisions within it, in the Consent Motion process.

The test applied is the same as when the bill was introduced (set out in new SO No. 83J). Paragraphs (4) and (5) ensure that all amendments to the bill that affect or change the certification are subject to the consent of English or English and Welsh MPs. This is to prevent the whole House amending the bill at Report stage as it relates to England or England and Wales without MPs from England or England and Wales having the opportunity to consent to, or veto, such changes.

83M. Consent Motions for certified England only or England and Wales only provisions

This Standing Order provides for a new legislative process following Report stage, where a bill or provisions of it have been certified by the Speaker. Legislative Grand Committees are formed to consider Consent Motions relating to England- or England and Wales-only bills or provisions of bills.

The process is as follows:

- After Report stage, a 'Legislative Grand Committee' is formed of all English, or English and Welsh, MPs to consider any Consent Motion relating to a bill, or clauses and schedules within a bill, certified as relating to England- or England and Wales-only. The timing of the Legislative Grand Committee is subject to programming: in many cases it is anticipated that it could follow straight after Report stage.
- The Consent Motion may be amended, for instance, if English or English and Welsh MPs wish to veto some or all of the clauses. Amendments to the text of the bill within clauses cannot be made at this stage. A Minister may also propose that the Committee does not consent to specified clauses and schedules (paragraph (8)).
- If there are no amendments to the motion, the decision on the Consent Motion can be taken immediately, or may be debated if Members wish to do so. If there are amendments, they can be debated and voted on.

- At the end of any debate the Legislative Grand Committee decides on the Consent Motion and any proposed amendments to it, with or without a vote. Only English or English and Welsh MPs may vote.
- Where there are both English and English and Welsh provisions requiring consent, there is a single debate but the decisions on consent are taken consecutively, first by English and Welsh MPs for provisions certified as English and Welsh and then by English MPs for provisions certified as English (paragraphs (4)-(6)).

83N Reconsideration of bills so far as there is absence of consent

This Standing Order provides for a new legislative stage following the Consent Motion process only if a bill, or clauses/schedules within it, have been vetoed. This is the Reconsideration stage. In effect, this is a second Report stage which only looks at matters relating to the vetoed provisions.

The process is as follows:

- Any bill which has had some of its clauses provisionally vetoed by a Legislative Grand Committee cannot proceed directly to Third Reading. Instead, the bill goes to a Reconsideration stage (paragraph (1)).
- The sole purpose of the Reconsideration stage is to consider changes to the bill to resolve matters that were vetoed at the Consent Motion process (paragraph (2)).
- Reconsideration stage includes all MPs. The Government and others may make amendments to the bill in response to the veto of clauses by a Legislative Grand Committee. This stage is designed to enable compromises to be reached between the whole House and the Legislative Grand Committee.
- Following the agreement of amendments at Reconsideration stage, a Minister may prompt the formation of the relevant Legislative Grand Committee(s) a second time in order to give consent to the amendments made.
- If the Consent Motion is in relation to the whole bill (because the whole bill is certified and is in dispute) and is not agreed, the whole bill cannot proceed (paragraph (4)).
- If the Legislative Grand Committee does not give consent to the amendments made at Reconsideration stage, those parts of the bill that are not agreed are removed and the rest of the bill proceeds (paragraphs (5) and (6)). For bills starting in the Lords, a message to this effect is returned to that House with the Commons amendments.
- If, as a result of the removal of clauses and schedules from the bill at Reconsideration stage, the rest of the bill requires consequential amendments to make it technically workable, there is a further stage: “consequential consideration” (paragraphs (7)-(10)). This allows the Government to make the necessary technical amendments to the bill immediately before it proceeds to Third Reading. It is governed by a programme motion, like other stages.

830. Consideration of certified motions or amendments relating to Lords amendments and other messages

This Standing Order deals with the process by which the Commons considers Lords amendments or other Lords messages (“ping pong”). The same principles apply to the consideration of Lords amendments that relate to England or England and Wales: namely, that both the whole House and the English or English and Welsh MPs must agree for them to remain in the bill.

The process is as follows:

- The Speaker is required to certify any motions relating to Lords amendments or Lords messages which relate to England, or England and Wales, only.
- Paragraphs (2) to (6) ensure that English, or English and Welsh, MPs have the opportunity to veto Lords amendments that may make changes to the bill or parts of the bill that relate to England or England and Wales.
- Where there is a vote relating to a certified Lords amendment, there must be a majority of both the whole House and of all English, or English and Welsh, MPs. For example, where a motion that is certified as England-only is proposed in relation to a Lords amendment, a majority of the whole House of Commons and a majority of MPs from English constituencies need to agree the motion before it is accepted (paragraph (7)).
- This double majority is achieved by a single vote, in which the votes of the whole House and of the English, or English and Welsh, MPs are recorded separately, allowing two results to be given.
- Where there is a double majority in favour of a motion to agree the Lords amendments, they are agreed and a message to this effect is sent to the House of Lords.
- Where either the whole House or the English, or English and Welsh, MPs do not agree to a motion relating to the Lords amendments, the amendments are not agreed and a message to this effect is sent to the House of Lords. For example, if the motion before the House of Commons is “That this House disagrees to the Lords amendment”, a disagreement within the House of Commons would result in a message of disagreement being sent to the Lords. This has the effect of ensuring that where there is disagreement in the Commons over Lords amendments, the relevant part of the bill is left as it was when the Commons last agreed it (paragraph (9)).
- Similar rules apply for subsequent messages from the Lords as apply for Lords amendments.
- The Speaker is required to seek to ensure that decisions relating to England-, or England and Wales-only, Lords amendments are put to the House separately wherever possible (paragraph 8).
- In summary, any amendments proposed by the Lords to English or English and Welsh provisions must receive the consent of both the whole House and English or English and Welsh MPs before they can become law.

Secondary Legislation

83P. Certification of instruments

The Speaker is generally required to consider for certification affirmative statutory instruments and negative statutory instruments which have been set down for a decision on the floor of the House on a specified day or have been referred to a delegated legislation committee.

The Speaker is required to apply the same test set out in new SO No. 83J to these statutory instruments but must apply it to the instrument as a whole (paragraphs (1) to (3)). So, for an instrument to be certified as England-only the entirety of it must be England-only. The inclusion of UK-wide provisions would mean that the instrument would be subject to the normal procedures for statutory instruments rather than the new English Votes procedure.

83Q. Deciding the question on motions relating to certified instruments

This Standing Order sets out the process for voting on motions relating to statutory instruments.

It provides for such motions to be subject to a double majority: a majority of both the whole House and of relevant MPs, must vote in favour of the motion for it to be agreed (paragraph (2)).

Motions to approve statutory instruments will continue to be subject to deferred divisions (i.e. a paper-based vote on a separate day) when they are taken at the end of the day (after the “moment of interruption”) and are opposed. Both results of any deferred division will be announced.

Where there is a division in the House on an instrument or motion, there will be a single vote in which the votes of the whole House and of the English, or English and Welsh, MPs are recorded separately, and two results are announced.

83R. Deciding the question on certain other motions

This Standing Order applies the English Votes process to a small number of statutory decisions relating to England, or to England and Wales, that are taken by the House of Commons but do not relate directly to statutory instruments. These include decisions on the distribution of the Revenue Support Grant (England-only) and the Police Grant (England and Wales only). If there is a vote on one of these motions, both a majority of the whole House of Commons and of English or English and Welsh (as the case may be) MPs must vote in favour for the motion to be agreed. This double majority vote is taken in a single division, as described above.

Finance Bills & Related Matters

83S. Modification of Standing Orders Nos. 83J to 83N: Finance Bills which relate exclusively to England, Wales and Northern Ireland

This Standing Order sets out that for Finance Bills the test for certification in SO No. 83J is modified so that the first part of the test is:

- Does the bill, or clause or schedule, relate only to England, or to England and Wales, or to England, Wales and Northern Ireland?

This is to ensure that MPs representing constituencies in England, Wales and Northern Ireland are asked to consent to Finance Bills, or clauses or schedules of Finance Bills, which relate exclusively to England, Wales and Northern Ireland and concern devolved taxes.

Standing Order 83X establishes a Legislative Grand Committee (England, Wales and Northern Ireland) for the purpose of considering Consent Motions which are required in respect of a clause or schedule of a Finance Bill which has been certified as relating exclusively to England, Wales and Northern Ireland.

The modifications made by Standing Order 83S also apply in relation to bills which are not Finance Bills but which, when introduced, only contain provisions which would be within the ordinary scope of a Finance Bill (such as a bill which is concerned solely with stamp duty land tax). This means that bills which are akin to a Finance Bill are also capable of being certified as relating exclusively to England, Wales and Northern Ireland. The modifications made by this Standing Order do not apply to bills where only some of the provisions would be within the ordinary scope of a Finance Bill.

The rest of SO No. 83S makes consequential modifications to SOs Nos. 83J to 83N which reflect the modified test.

83T. Modification of Standing Orders Nos. 83P and 83Q: financial instruments which relate exclusively to England, Wales and Northern Ireland

This Standing Order applies to instruments made under a Finance Act. It also applies to instruments made under a provision of any other kind of Act in a case where the provision concerned would have been within the ordinary scope of a Finance Bill. The effect of the Standing Order is to enable financial instruments of this sort to be certified by the Speaker as relating exclusively to England, Wales and Northern Ireland (and not only as relating exclusively to either England or to England and Wales). Where a financial instrument of this sort is certified as relating exclusively to England, Wales and Northern Ireland any motion relating to the instrument (such as a motion to approve the instrument) requires the support of a majority of those MPs who represent constituencies in England, Wales and Northern Ireland (as well as the support of a majority of all MPs).

The Speaker is required to apply the same test as applies to primary legislation to these statutory instruments but must apply it to the instrument as a whole, as for other instruments. So, for an instrument to be certified as England, Wales and Northern Ireland-only the entirety of it must be England, Wales and Northern Ireland-only. The inclusion of UK-wide provisions would mean that it would be subject to the normal procedures for statutory instruments rather than the new procedure.

83U. Certification of PCTA motions which would give statutory effect to other motions which affect certain taxes and relate exclusively to England, to England and Wales or to England, Wales and Northern Ireland

This Standing Order sets out the certification process for certain motions which are moved immediately after the Chancellor's Budget Speech (but before the start of the Budget Debate).

Tax measures to be included in the Finance Bill are specified in Budget Resolutions, which are put to the House at the end of the Budget Debate. However, immediately after the Chancellor's Budget speech the Chancellor may move a motion under section 5 of the Provisional Collection of Taxes Act 1968 which would, if agreed to, give provisional statutory effect to some of these Budget Resolutions before the House votes on them at the conclusion of the Budget Debate some days later. The effect of doing this is to give provisional statutory effect, immediately after the Budget speech, to certain tax measures announced in the Budget speech.

SO No. 83U sets out the process for the Speaker to determine which of these motions under section 5 of the PCTA 1968 should be certified and therefore subject to the new procedure. It sets out that the Speaker can certify any motion under section 5 of the PCTA 1968 which would give provisional statutory effect to another motion which:

- relates exclusively to England, to England and Wales, or to England, Wales and Northern Ireland; and,
- contains provision which is devolved to one or more of Scotland, Wales or Northern Ireland.

83V. Certification of motions upon which a Finance Bill is to be brought in which would authorise provision relating exclusively to England, to England and Wales or to England, Wales and Northern Ireland

This Standing Order sets out the certification process for motions which are moved at the end of the Budget Debate.

At the end of the Budget Debate the Chancellor moves motions which authorise the upcoming Finance Bill to include provisions which give effect to the proposals outlined in the Budget speech.

The effect of this Standing Order is to require the Speaker to certify any of these motions which would, if passed, only authorise the Finance Bill to include provision which-

- relates exclusively to England, to England and Wales or to England, Wales and Northern Ireland, and
- is on a subject matter devolved to one or more of Scotland, Wales or Northern Ireland.

The Standing Order also applies to motions which would authorise a bill other than a Finance Bill to include provision of a kind that could ordinarily be included in such a Finance Bill. So, for example, a motion which authorised a bill other than a Finance Bill to include provisions about stamp duty land tax would be required to be considered for certification under this Standing Order.

83W. Deciding the question on motions certified under Standing Order 83U or 83V

This Standing Order makes provision about what is to happen when there is a division in the House of Commons on a motion which has been certified by the Speaker and relates to a Finance Bill.

This Standing Order provides that where there is a division on a motion which has been certified, the motion shall be agreed to only if, of those voting in the division-

- a majority of MPs vote in support (as is ordinarily required), and
- a majority of those MPs who represent constituencies in the parts of the United Kingdom that would be affected by the motion vote in support of it.

Legislative Grand Committees

83X. Legislative Grand Committees

This Standing Order establishes three separate Legislative Grand Committees: for England; England and Wales; and England, Wales and Northern Ireland. They consist of all MPs for constituencies in the relevant parts of the UK (paragraphs (1) to (4)). As explained under 83Y, these Legislative Grand Committees take place in the Chamber during the course of a sitting of the House, in the same way as a Committee of the whole House.

The Legislative Grand Committee (England) may be asked to consider at Committee stage a bill that is certified as entirely England-only if it is not referred to a public bill committee of England-only MPs. This is the equivalent of a Committee of the whole House.

Otherwise, the functions of these Legislative Grand Committees are to consider any Consent Motions relating to bills, or clauses and schedules within them, that have been certified and therefore require the separate consent of MPs representing the relevant constituencies. For example, where a bill contains clauses that are certified as England-only and clauses that are certified as relating to England and Wales-only, these two sets of clauses require the consent of the two relevant Legislative Grand Committees, as well as the whole House.

83Y. Legislative Grand Committees: supplementary

This Standing Order provides for the proceedings in the new Legislative Grand Committees to be similar in nature to those in Committee of the whole House.

Other paragraphs of the motion

The other paragraphs of the motion make consequential amendments to other Standing Orders to apply them to the new legislative stages established. In particular, they ensure that the Standing Orders governing programming are applied to the new legislative stages.

Paragraph (16) concerns the commencement of the new Standing Orders. They apply to:

- all bills that have a Second Reading in the House of Commons after the date on which the new Standing Orders are agreed by the House;
- all statutory instruments laid after the day on which the new Standing Orders are agreed by the House; and
- any other motions to which the new rules apply that are decided after the day on which the new Standing Orders are agreed by the House.

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Lesley Griffiths AM
Minister for Communities and Tackling Poverty
Welsh Government
5th Floor, Ty Hywel
Cardiff Bay
CF99 1NA

Your ref:
Our ref: PO/RB/AEJ

9 July 2015

Dear Lesley

During the debate on the General Principles of the Renting Homes (Wales) Bill in Plenary on 7 July, Members raised questions around whether the Bill complies with the European Convention on Human Rights. Such concerns were also raised in the Communities, Equalities and Local Government and Constitutional and Legislative Affairs Committees' reports on the Bill.

On two occasions during the debate you referred to my statement on legislative competence at the time of the Bill's introduction as evidence that the Bill complied with the human rights requirements.

You will be aware that my view on competence at the start of the legislative process is based on the information I have before me, ie the text of the Bill and the Explanatory Memorandum. It is the role of our committees to examine Bills in detail, to consult widely and to improve them through amendment. Given the complexity of the devolution settlement, it is perfectly proper for that detailed examination to raise issues of competence, including of compliance with the European Convention on Human Rights.

I do not expect the view that I give prior to introduction of a Bill to be used by the Government, or any other Member, to constrain that detailed scrutiny or as justification for a particular position.

Croesewir gohebiaeth yn y Gymraeg a'r Saesneg/We welcome correspondence in both English and Welsh



Llywydd
Presiding Officer



I am copying this letter to the Chair of the Communities, Equalities and Local Government Committee, the Chair of the Constitutional and Legislative Affairs Committee, and the First Minister.

A handwritten signature in cursive script that reads "Rosemary".

Dame Rosemary Butler AM
Presiding Officer

Agenda Item 4.1

By virtue of paragraph(s) vi of Standing Order 17.42

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Agenda Item 4.2

By virtue of paragraph(s) vi of Standing Order 17.42

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