



The UK devolved legislatures: some comparisons between their powers and work

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This standard note summarises the powers and work of the Northern Ireland Assembly, the Scottish Parliament and the National Assembly for Wales and compares those powers and that work.

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1 Introduction

The devolution settlement in the United Kingdom is often described as asymmetrical – there are fundamental differences between the arrangements in each country. The settlements in Scotland and Northern Ireland have features in common. Both have a legislature, which can pass primary as well as secondary legislation in areas which are not reserved for Westminster. However, there are important differences – in particular, the Scottish Parliament can legislate on criminal justice, criminal law and policing, whereas the Northern Ireland Assembly cannot. The devolution settlement in Wales has changed since May 2007, with the possibility now of the National Assembly for Wales passing quasi-primary legislation known as Measures,¹ but is still somewhat different to that in Northern Ireland and Scotland.

2 The devolved legislatures

2.1 Northern Ireland Assembly²

The Northern Ireland Assembly was established following the signing of the Belfast Agreement on 10 April 1998. The Agreement was the result of extended talks between the political parties in Northern Ireland and the governments of the United Kingdom and Ireland. The electorate endorsed the Agreement in a referendum held on 22 May 1998. This paved the way for new legislation (the *Northern Ireland Act 1998*) which defined the future institutions of government in Northern Ireland, and for collaboration between the governments of the UK, Northern Ireland and the Republic of Ireland.

The first elections to the Northern Ireland Assembly were held on 25 June 1998 and the New Northern Ireland Assembly first met in ‘shadow’ form, i.e. without powers of government, on 1 July 1998 to prepare for government. The new Assembly continued to operate in ‘shadow’ form until 2 December 1999 when powers of government were devolved to it by the UK Parliament (and the word ‘new’ was dropped from its title). The first meeting of the Assembly with devolved powers took place on 6 December 1999. The Assembly was suspended on 14 October 2002. Elections to the Assembly took place on 26 November 2003, the Assembly remaining suspended. On 13 October 2006 the St Andrews Agreement was reached and on 22 November 2006 the *Northern Ireland (St Andrews Agreement) Act 2006* was passed. Elections to the Assembly took place on 7 March 2007 and on 8 May 2007 the Northern Ireland Assembly was restored.³

2.2 Scottish Parliament

A referendum held in Scotland on 11 September 1979 produced a clear majority in favour of the creation of a Scottish Parliament with tax varying powers. The Scotland Act, which was passed by the UK Parliament in 1978, established the first Parliament in Scotland since 1707. Under the terms of this act the Scottish Parliament can pass laws affecting Scotland on a range of domestic issues and can raise or lower the basic rate of income tax by up to three pence in the pound. The first elections to the Scottish Parliament took place on 6 May 1979. The first meeting of the Parliament was held on 12 May 1979. The Parliament was officially opened by the Queen on 1 July 1979 and took up its full powers on that date. Subsequently there have been elections to the Scottish Parliament in 1983 and 1987.

¹ provided it has the legislative competence – acquired through UK primary legislation or a new type of secondary legislation, known as Legislative Competence Orders – to do so

² Taken from *A guide to the Northern Ireland Assembly*:
http://education.niassembly.gov.uk/information/GuidetoNIA_2.pdf

³ For further information see Library Standard Note, SN/PC/4245, *Political developments in Northern Ireland since June 2006*: <http://www.parliament.uk/commons/lib/research/notes/snpc-04245.pdf>

2.3 National Assembly for Wales

A referendum held in Wales on 18 September 1997 produced a narrow majority in favour of the creation of a National Assembly for Wales. *The Government of Wales Act 1998* (the 1998 Act) established the National Assembly for Wales as a single corporate body, with secondary legislative powers and 60 Assembly Members. The first elections to the Assembly took place on 6 May 1999. The first meeting of the Assembly took place on 12 May 1999 and the Assembly was officially opened by the Queen on 26 May 1999. Subsequently there have been elections to the Assembly in 2003 and 2007.

The 1998 Act was largely superseded by the *Government of Wales Act 2006* (the 2006 Act) which provided for a formal legal separation between:

- The National Assembly for Wales, which is the legislature comprising the 60 Assembly Members, and
- The Welsh Assembly Government, which is the executive comprising the First Minister, Welsh Ministers, Deputy Welsh Ministers and the Counsel General.

This separation between the legislature and the executive took effect once the First Minister had been appointed by the Queen following the Assembly elections on 3 May 2007. Separation should help to clarify the respective roles of the legislature and the executive.

The statutory framework for the devolved assemblies and parliament and their powers and work are summarised and compared in the following sections.

3 Statutory framework

3.1 Northern Ireland

Acts

Northern Ireland Act 1998:

As passed:

<http://www.opsi.gov.uk/acts/acts1998/19980047.htm>

As amended (Statute Law Database):

[http://www.statutelaw.gov.uk/legResults.aspx?LegType=Act+\(UK+Public+General\)&title=northern+ireland+act+1998&Year=1998&searchEnacted=0&extentMatchOnly=0&confersPower=0&blanketAmendment=0&TYPE=QS&NavFrom=0&activeTextDocId=2045126&PageNumber=1&SortAlpha=0](http://www.statutelaw.gov.uk/legResults.aspx?LegType=Act+(UK+Public+General)&title=northern+ireland+act+1998&Year=1998&searchEnacted=0&extentMatchOnly=0&confersPower=0&blanketAmendment=0&TYPE=QS&NavFrom=0&activeTextDocId=2045126&PageNumber=1&SortAlpha=0)

Library briefings

Two research papers on the *Northern Ireland Bill - 98/76* and *98/77*:

http://www.parliament.uk/parliamentary_publications_and_archives/research_papers/library_research_papers_1998.cfm#61-80

3.2 Scotland

Acts

Scotland Act 1998:

As passed:

<http://www.opsi.gov.uk/acts/acts1998/19980046.htm>

As amended (Statute Law Database):

<http://www.statutelaw.gov.uk/legResults.aspx?LegType=All+Legislation&title=scotland+act&Year=1998&searchEnacted=0&extentMatchOnly=0&confersPower=0&blanketAmendment=0&TYPE=QS&NavFrom=0&activeTextDocId=2044365&PageNumber=1&SortAlpha=0>

Library briefings:

Series of research papers on the *Scotland Bill* - 98/1, 98/2, 98/3, 98/4, 98/5:

http://www.parliament.uk/parliamentary_publications_and_archives/research_papers/library_research_papers_1998.cfm#1-20

3.3 Wales

Acts

[*Government of Wales Act 1998 – mostly repealed by the Government of Wales Act 2006*]
Government of Wales Act 2006:

As passed:

<http://www.opsi.gov.uk/acts/acts2006/20060032.htm>

As amended (Statute Law Database):

<http://www.statutelaw.gov.uk/legResults.aspx?LegType=All+Legislation&title=government+of+wales+act+2006&Year=2006&searchEnacted=0&extentMatchOnly=0&confersPower=0&blanketAmendment=0&TYPE=QS&NavFrom=0&activeTextDocId=2573928&PageNumber=1&SortAlpha=0>

Another source for Schedule 5 (consolidated list of ‘fields’ – broad subjects devolved – and ‘matters’ – specific defined policy areas within fields), as amended (National Assembly for Wales website):

http://www.assemblywales.org/schedule_5_consolidated_list.pdf

Library briefings

Research papers:

The *Government of Wales Bill* 2005, 05/90:

<http://www.parliament.uk/commons/lib/research/rp2005/rp05-090.pdf>

Standard notes:

Government of Wales Bill 2005: a note on the Bill’s progress, SN/PC/4098:

<http://www.parliament.uk/commons/lib/research/notes/snpc-04098.pdf>

The Welsh Assembly elections May 2007: the formation of the Welsh Assembly Government and recent developments in the Assembly, SN/PC/4407:

<http://www.parliament.uk/commons/lib/research/notes/snpc-04407.pdf>.

This includes information about the way in which the Assembly is acquiring the competence (via Legislative Competence Orders and UK primary legislation, e.g. the current *Local Government and Public Involvement in Health Bill*) to pass legislation called Assembly Measures in devolved areas (see pp12-6).

Government explanatory notes⁴

The *Government of Wales Act 2006*:

<http://www.opsi.gov.uk/acts/en2006/2006en32.htm>

4 Devolved powers

4.1 Northern Ireland

Under devolution in Northern Ireland, there are three categories of legislative powers: excepted, reserved and transferred. **Excepted matters** are subjects reserved to Westminster which will not be transferred except by primary legislation. Schedule 2 of the *Northern Ireland Act 1998* specifies excepted matters. These include:-

- the Crown
- parliamentary elections, and Assembly elections including the franchise
- international relations
- defence of the realm
- honours
- nationality
- national taxation
- appointment and removal of judges
- registration of political parties
- coinage etc
- national security
- nuclear energy and installations
- regulation of sea fishing outside Northern Ireland
- provisions dealt with in the Northern Ireland Constitution Act 1973
- the subject matter of the *Northern Ireland Act 1998* with specified exceptions

Schedule 3 sets out **reserved matters**; these are subjects which could be transferred by Order to the Assembly at a later date, with cross-community consent. These include:

- criminal law
- policing
- prisons
- civil aviation
- navigation
- the Post Office
- disqualification from membership of the Assembly
- emergency powers
- civil defence
- consumer protection
- telecommunications

Some reserved matters, principally policing, security, prisons and criminal justice, currently remain within the responsibility of the Secretary of State for Northern Ireland. The Belfast Agreement envisages that in time these will be transferred to the devolved administration in Northern Ireland.

⁴ Government explanatory notes to bills and acts are available from 1999 only

The areas **transferred** to the Assembly include the following:

- finance and personnel
- health, social services and public safety
- education
- agriculture and rural development
- enterprise, trade and investment
- environment
- culture, arts and leisure
- learning and employment
- regional development
- social development

4.2 Scotland

Under the *Scotland Act 1998*, the Scottish Parliament can make primary and secondary legislation in areas not reserved to Westminster (specified in schedule 5 of the Act) or protected from modification (also specified in schedule 5). The list of reserved matters is lengthy and complex. In some areas legislative competence differs slightly from the executive powers devolved to the new administrations, as the Executive can be granted additional powers under s63 where the Parliament has no legislative competence. Below is a summary of the **reserved subjects**:

- the constitution
- defence and national security
- fiscal, economic and monetary system
- trade and industry, including competition and customer protection
- transport (not particular to Scotland) including railways, transport safety and regulation
- social security
- medical ethics: abortion; human fertilisation and embryology; genetics; xenotransplantation and vivisection.
- broadcasting
- foreign affairs
- the civil service
- immigration and nationality
- energy: electricity, coal, oil, gas, nuclear energy
- employment
- equal opportunities

Devolved subjects are those which do not fall under the reserved categories, or are otherwise outside the legislative competence of the Scottish Parliament. They include:

- health
- education and training
- local government
- social work
- housing
- planning
- tourism, economic development and financial assistance to industry

- some aspects of transport, including the Scottish road network, bus policy and ports and harbours
- law and home affairs, including most aspects of criminal and civil law, the prosecution system and the courts
- the police and fire services
- the environment
- natural and built heritage
- agriculture, forestry and fishing
- sport and the arts
- statistics, public registers and records

4.3 Wales

The *Government of Wales Act 2006* (the 2006 Act) provides a mechanism for the Assembly to acquire, on a case-by-case basis, more powers to make its own laws. The ability of the Assembly to make these laws is known as its “legislative competence”. In the 2006 Act the legislative competence of the Assembly is defined by reference to “fields” and “matters”:

- A field is a broad subject area, e.g. education and training, health and health services
- A matter is a specific defined policy area within a field

In the areas where it has legislative competence, the Assembly can make its own laws, known as “Measures”. A Measure will have a similar effect to an Act of Parliament. The fields and matters are listed in Schedule 5 to the 2006 Act. The current fields are:

Field 1: agriculture, fisheries, forestry and rural development

Field 2: ancient monuments and historic buildings

Field 3: culture

Field 4: economic development

Field 5: education and training

Field 6: environment

Field 7: fire and rescue services and promotion of fire safety

Field 8: food

Field 9: health and health services

Field 10: highways and transport

Field 11: housing

Field 12: local government

Field 13: National Assembly for Wales

Field 14: public administration

Field 15: social welfare

Field 16: sport and recreation

Field 17: tourism

Field 18: town and country planning

Field 19: water and flood defence

Field 20: Welsh language

Within each of the above fields, specific matters will be listed which give the Assembly the power to make Measures within the policy area defined by the matter. Schedule 5 may be amended to add more matters within fields, thereby extending the legislative competence of the Assembly and providing more policy areas where it is possible to make Measures. Schedule 5 may be amended by either:

- A new Act of Parliament,⁵ or
- A Legislative Competence Order (LCO) (subject to approval by both the Assembly and the UK Parliament)

The text of Schedule 5 of the 2006 Act is kept up to date on the Assembly website as matters are added to fields. It can be accessed via the following link:

http://www.assemblywales.org/schedule_5_consolidated_list.pdf

5 Comparisons of legislative powers

	Northern Ireland	Scotland	Wales
Excepted matters (NI)⁶ /Reserved subjects (Scotland⁷/Wales)	The Crown Parliamentary elections & Assembly elections including the franchise International relations Defence of the realm Honours Nationality National taxation Appointment and removal of judges	The constitution Defence and national security Fiscal, economic and monetary system Trade and industry, including competition and consumer protection Transport (not particular to Scotland) including railways, transport safety and regulation Social security Medical ethics:	Not specified as such in the <i>Government of Wales Act 2006</i> . By implication those subjects not listed in Schedule 5 of the Act (which lists the devolved subjects)

⁵ e.g. the *NHS Redress Act 2006*: <http://www.opsi.gov.uk/acts/acts2006/20060044.htm>

⁶ Specified in Schedule 2 of the *Northern Ireland Act 1998*

⁷ Specified in Schedule 5 of the *Scotland Act 1998*

	<p>Registration of political parties</p> <p>Coinage etc</p> <p>National security</p> <p>Nuclear energy and installations</p> <p>Regulation of sea fishing outside Northern Ireland</p> <p>Provisions dealt with in the <i>Northern Ireland Constitution Act 1973</i></p> <p>The subject matter of the <i>Northern Ireland Act 1998</i> with specified exceptions</p>	<p>abortion; human fertilisation and embryology; genetics; xenotransplantation and vivisection</p> <p>Broadcasting</p> <p>Foreign affairs</p> <p>The civil service</p> <p>Immigration and nationality</p> <p>Energy</p>	
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	Northern Ireland	Scotland	Wales
Reserved matters (NI) – could be transferred by Order to the Assembly at a later date, with cross-community consent⁸	<p>Criminal law</p> <p>Policing</p> <p>Prisons</p> <p>Civil aviation</p> <p>Navigation</p> <p>The Post Office</p> <p>Disqualification from membership of the Assembly</p> <p>Emergency powers</p> <p>Civil defence</p> <p>Consumer protection</p> <p>Telecommunications</p>		

⁸ Schedule 3 of the *Northern Ireland Act 1998* sets out reserved matters

	Northern Ireland	Scotland	Wales
Transferred areas (NI)/devolved subjects (Scotland/Wales)	<p>These are the areas which are not excepted or reserved. Not specified as such in the <i>Northern Ireland Act 1998</i> but include:</p> <p>Finance and personnel</p> <p>Health, social services and public safety</p> <p>Education</p> <p>Agriculture and rural development</p> <p>Enterprise, trade and investment</p> <p>Environment</p> <p>Culture, arts and leisure</p> <p>Learning and employment</p> <p>Regional development</p> <p>Social development</p>	<p>These are the areas which are not reserved. Not specified as such in the <i>Scotland Act 1998</i> but include:</p> <p>Health</p> <p>Education and training</p> <p>Local government</p> <p>Social work</p> <p>Housing</p> <p>Planning</p> <p>Tourism, economic development and financial assistance to industry</p> <p>Some aspects of transport, including the Scottish road network, bus policy and ports and harbours</p> <p>Law and home affairs, including most aspects of criminal and civil law, the prosecution system and the courts</p> <p>The police and fire services</p> <p>The environment</p> <p>Natural and built heritage</p> <p>Agriculture, forestry and fishing</p>	<p>These are the subjects (fields) which are listed in Schedule 5 of the <i>Government of Wales Act 2006</i>:</p> <p>Agriculture, fisheries, forestry and rural development</p> <p>Ancient monuments and historic buildings</p> <p>Culture</p> <p>Economic development</p> <p>Education and training</p> <p>Environment</p> <p>Fire and rescue services and promotion of fire safety</p> <p>Food</p> <p>Health and health services</p> <p>Highways and transport</p> <p>Housing</p> <p>Local government</p> <p>National Assembly for Wales</p> <p>Public administration</p> <p>Social welfare</p> <p>Sport and recreation</p> <p>Tourism</p> <p>Town and country</p>

		Sport and the arts Statistics, public registers and records	planning Water and flood defence Welsh language
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6 Legislative process

6.1 Northern Ireland Assembly

The Northern Ireland Assembly has the power to make primary legislation.⁹ Public bills can be introduced by a minister (executive bill), a member of the Assembly (private Member's bill) or one of the Assembly's statutory committees. Bills are accompanied by explanatory and financial memoranda.

The main stages in the Assembly are as follows:

First stage	Introduction of Bill
Second stage	A debate on the general principles of the Bill.
Committee stage	Detailed investigation by a Committee which concludes with the publication of a report for consideration by the Assembly
Consideration stage concluded	Consideration of, and an opportunity for Members to vote on, all the details of the Bill, including amendments proposed to the Bill
Further consideration stage	Consideration by the Assembly of, and an opportunity for Members to vote on, any further amendments to the Bill
Final stage	Passing or rejecting of Bill by the Assembly, without further amendment
Royal assent	

6.2 Scottish Parliament

The Scottish Parliament has the power to make primary legislation.¹⁰ Public bills can be introduced by a minister (executive bill), a member of the Parliament (Member's bill) or one of the Parliament's committees (committee bill). Bills are accompanied by explanatory notes, financial and (usually) policy memoranda and a statement from the Presiding Officer setting out his view on whether the bill relates to devolved matters.

⁹ Taken from the Northern Ireland Assembly's website:
<http://www.niassembly.gov.uk/legislation/primary/assleg07.htm>

¹⁰ Taken from the Scottish Parliament's website's:
<http://www.scottish.parliament.uk/vli/publicInfo/hspw/documents/HSPW2ed-Eng.pdf>

The main stages in the Parliament are as follows:

Introduction	
Stage 1	The appropriate parliamentary committee(s) takes evidence on the bill and produces a report on the bill's general principles. A meeting of the Parliament then considers the report and debates whether to agree to the bill's general principles. If the Parliament agrees, the bill goes on to Stage 2. If the Parliament does not agree, the bill falls.
Stage 2	The bill is considered in detail, by a committee or, occasionally, by a Committee of the Whole Parliament. Changes, known as amendments to the bill, can be made at this stage.
Stage 3	The bill is again considered at a meeting of the Parliament. Further amendments can be made and the Parliament then debates and decides whether to pass the bill in its final form.
Possible legal challenge	Once a bill has been passed, there is a four week period during which it may be challenged by the Law Officers if they believe that it is outside the law-making powers of the Scottish Parliament. If it is not challenged, it is then submitted by the Presiding Officer to the Queen for royal assent.
Royal assent	On receiving royal assent, a bill becomes an Act of the Scottish Parliament. Some Acts, or sections of an Act, come into force as soon as royal assent is granted. However, the Scottish Executive often sets a date or dates on which the Act, or parts of it, will come into force.

6.3 National Assembly for Wales¹¹

Background

The *Government of Wales Act 2006* (the 2006 Act) provides a mechanism for the Assembly to acquire, on a case-by-case basis, more powers to make its own laws. The ability of the Assembly to make these laws is known as its “legislative competence”. In the 2006 Act the legislative competence of the Assembly is defined by reference to “fields” and “matters”:

- A field is a broad subject area, e.g. education and training, health and health services
- A matter is a specific defined policy area within a field

In the areas where it has legislative competence, the Assembly can make its own laws, known as “Measures”. A Measure will have a similar effect to an Act of Parliament. The fields and matters are listed in Schedule 5 to the 2006 Act.

Schedule 5 may be amended to add more matters within fields, thereby extending the legislative competence of the Assembly and providing more policy areas where it is possible to make Measures. Schedule 5 may be amended by either:

- A new Act of Parliament,¹² or
- A Legislative Competence Order (LCO) (subject to approval by both the Assembly and the UK Parliament)

The text of Schedule 5 of the 2006 Act is kept up to date on the Assembly website as matters are added to fields. It can be accessed via the following link:

http://www.assemblywales.org/schedule_5_consolidated_list.pdf

Legislative Competence Orders

Legislative Competence Orders (LCOs) are a type of secondary (or subordinate) legislation which transfer specific powers from Parliament to the Assembly. Each new LCO will add a new matter (or matters) to the relevant field in Schedule 5, providing the Assembly with the power to make Measures within the policy areas defined by the matter. An LCO can be proposed by:

- The Welsh Assembly Government
- An Assembly Committee, or
- An individual Assembly Member, if their name is drawn from a ballot

LCOs will be considered in both the Assembly and Parliament in a two-stage process in each:

- The pre-legislative scrutiny of a **proposed** LCO by a committee, and
- The approval by the Assembly and Parliament of a **draft** LCO

Finally, the draft LCO, if approved, will be submitted to Her Majesty in Council. It then becomes law, amending Schedule 5 to the 2006 Act and providing the Assembly with more powers to make Measures.

¹¹ Taken from Library Standard Note SN/4407/PC, *The Welsh Assembly elections May 2007: the formation of the Welsh Assembly Government and recent developments in the Assembly*.

<http://www.parliament.uk/commons/lib/research/notes/snpc-04407.pdf>

¹² e.g. the *Local Government and Public Involvement in Health Act 2007*

The process for pre-legislative scrutiny of proposed LCOs and approval of drafts LCOs by the Assembly and Parliament is complex and some of the details are, at the time of writing, still being developed. A useful diagram of the expected process can be found at the end of the House of Commons Welsh Affairs Committee's recently published report on Legislative Competence Orders.¹³

Briefly, the process will be:

Pre-legislative scrutiny/consideration of the **proposed** LCO:

- Consideration by the relevant Assembly Committee and the House of Commons Welsh Affairs Committee (WAC), possibly jointly (probably involving just selected members of the WAC)
- Consideration at about the same time by the House of Lords Constitution Committee
- Possible amendment of the proposed LCO

Approval of the **draft** LCO:

- The draft Order is laid before the Assembly
- The Assembly can vote to approve or reject the draft Order, which cannot be amended
- If the draft Order is approved by the Assembly it is the responsibility of the Secretary of State to lay the draft before Parliament for approval by both Houses
- If the draft Order is laid (if the Secretary of State refuses to lay it he must give his reasons in writing to the First Minister) it can be approved or rejected but not amended
- If the draft Order is approved by both Houses it is formally approved by the Queen and becomes law, amending Schedule 5 to the 2006 Act

Measures

A Measure is a law made by the Assembly which has similar effect to an Act of Parliament. The Assembly can pass Measures on any matter listed in Schedule 5 to the 2006 Act. While a Measure is in progress through the Assembly it is known as a proposed Measure.

A proposed Measure may be introduced by:

- The Welsh Assembly Government
- An Assembly Committee
- An individual Assembly Member, if their name is drawn from a ballot
- The Assembly Commission

The proposed Measure must be laid in English and Welsh and accompanied by a 'statement of legislative competence' by the Presiding Officer and an Explanatory Memorandum.

¹³ Welsh Affairs Committee, *Legislative Competence Orders in Council: Second Report of Session 2007-07*, HC 175, 9 May 2007. See the Memorandum submitted by Professor Keith Patchett, Special Adviser to the Committee, at Ev 25 at the end of the pdf version of the report:
<http://www.publications.parliament.uk/pa/cm200607/cmselect/cmwelaf/175/175.pdf>

There is a four-stage process for the consideration of a proposed Measure followed, if the proposed Measure is passed by the Assembly, by Royal Approval:

Stage 1	Consideration of general principles by a committee ¹⁴ and agreement of those principles by the Assembly
Stage 2	Detailed consideration by a committee of the proposed Measure and any amendments tabled
Stage 3	Detailed consideration by the Assembly of the proposed Measure and any amendments selected
Stage 4	Vote by the Assembly to pass the final text of the proposed Measure
Royal Approval	

6.4 Comparison of legislative processes

Northern Ireland Assembly	Scottish Parliament	National Assembly for Wales ¹⁵
Bills/Acts	Bills/Acts	Proposed Measure/Measure
First stage	Introduction	
Second stage	Stage 1	Stage 1
Committee stage	Stage 2	Stage 2
Consideration stage concluded	Stage 3	Stage 3
Further consideration stage		
Final stage		Stage 4
	Possible legal challenge	
Royal assent	Royal assent	Royal approval

¹⁴ Unless the proposed Measure is a Committee proposed Measure

¹⁵ Having acquired legislative competence through UK Acts or Legislative Competence Orders (see 3. above)

7 How the devolved legislatures work

7.1 Northern Ireland Assembly¹⁶

Membership

There are 108 Members of the Northern Ireland Assembly, known as Members of the Legislative Assembly (MLAs).

Presiding Officer

The Speaker is the Presiding Officer of the Northern Ireland Assembly. He is also the Chairman of the Assembly Commission, the body corporate of the Assembly, and the Chairman of the Assembly Business Committee. The Speaker must be an elected Member of the Assembly. He is selected as Speaker under Section 39 of the *Northern Ireland Act 1998* (the 1998 Act) on a cross-community basis. Once elected, the Speaker continues to hold office until the conclusion of the next election for Speaker unless he resigns.

The chief characteristics of the office of Speaker are authority and impartiality. His duties fall into two main categories: first, those which are specified in the 1998 Act and the Standing Orders of the Assembly and, secondly, those which fall into the broad category of representational duties.

The Speaker has a scrutiny role in relation to the competence of legislation prior to the first and final stages of a bill. He is also required to forward copies of all bills to the Northern Ireland Human Rights Commission. He selects amendments to bills for debate at the consideration stages and, on the completion of all stages of a bill, sends it to the Secretary of State requesting Royal Assent.

Written notification of the resignation of the First Minister or Deputy First Minister must be given to the Speaker, as should written notification of the appointment, resignation or dismissal of ministers, committee chairs or deputy chairs. In the event of a vacancy occurring in the Assembly's membership the Speaker must inform the Chief Electoral Officer for Northern Ireland.

Other duties of the Speaker include the administration of oaths, presiding at meetings of the Northern Ireland Assembly Commission and a number of representational duties, including receiving visitors to Parliament Buildings, maintaining and developing links with the UK Parliament, the Scottish Parliament, the National Assembly for Wales and legislatures throughout the world, representing the Assembly at the Conference of Regional Legislative Assemblies of Europe, and taking part in activities involving Commonwealth parliamentarians.

Corporate body

The *Northern Ireland Act 1998* (the 1998 Act) states "there shall be a body corporate known as the Northern Ireland Assembly Commission ("the commission") to perform:

- (a) the functions conferred on the Commission by virtue of the enactment; and
- (b) any functions conferred on the Commission by resolution of the Assembly."

¹⁶ Taken from *A guide to the Northern Ireland Assembly*:
http://education.niassembly.gov.uk/information/GuidetoNIA_2.pdf

The Commission is the body corporate of the Northern Ireland Assembly. It has the responsibility, under section 40(4) of the 1998 Act to provide the Assembly, or ensure that the Assembly is provided with the property, staff and services required for the Assembly to carry out its work. The Assembly Commission may delegate any of its functions to the Speaker or a member of staff of the Assembly and may determine its own procedures. The Commission is chaired by the Speaker and consists of five other Assembly Members.

A review of the Assembly Secretariat carried out for the Commission reported in October 2007 and has recommended a new organisational structure, based on function, a new management board and the appointment of a Non-Executive Director.

Plenary sittings

Plenary meetings of the Assembly are usually held twice a week (on Mondays and Tuesdays) in the Assembly Chamber. MLAs are seated in a U-shaped format. Proceedings include prayers, oral questions, committee business and private Members' business.

Most decisions of the Assembly are taken by a simple majority of those voting. However, some decisions require cross-community support, including:

- The election of the Speaker
- Any change in the Assembly's standing orders
- A motion to exclude a minister from office

A substantially verbatim Official Report (Hansard) of proceedings is published the day after every sitting.

Committees

The Assembly has a number of statutory, standing and ad hoc committees. These are:

Statutory (departmental) committees

These consider and advise on departmental budgets and annual plans; consider secondary legislation and take the committee stage of primary legislation; initiate inquiries and make reports; consider matters brought to their attention by ministers and initiate legislation. The 11 committees are:

- Agriculture and Rural Development Committee
- Committee for the Office of the First Minister and Deputy First Minister
- Culture, Arts and Leisure Committee
- Education Committee
- Employment and Learning Committee
- Enterprise, Trade and Investment Committee
- Environment Committee
- Finance and Personnel Committee
- Health, Social Services and Public Safety Committee
- Regional Development Committee
- Social Development Committee

Standing committees:

- Assembly and Executive Review Committee
- Committee on Procedures
- Business Committee

- Public Accounts Committee
- Committee on Standards and Privileges
- Audit Committee

Ad hoc committees

These will be established from time to time to deal with specific time-bounded terms of reference that the Assembly may set.

Committee chairpersons and deputy chairpersons are appointed using a selection system (d'Hondt mechanism) that ensures each Assembly party is represented according to the number of seats it has in the Assembly. Membership of the committees also reflects party strengths. The officeholders of statutory committees do not normally belong to the same political party as the relevant departmental minister.

7.2 Scottish Parliament¹⁷

Membership

There are 129 Members of the Scottish Parliament (MSPs)

Presiding Officer

One of the 129 MSPs is elected by the others to serve as the Presiding Officer. Two MSPs are elected as Deputy Presiding Officers. The role of the Presiding Officer and the two deputies is to:

- Chair meetings of the Parliament
- Convene and chair meetings of the Parliamentary Bureau
- Decide on questions about the rules for parliamentary proceedings
- Represent the Parliament in discussions with other parliamentary or governmental bodies
- Chair the Scottish Parliamentary Corporate Body (Presiding Officer)

Corporate body

The Scottish Parliamentary Corporate Body (SPCB) provides the staff, accommodation and services needed by the Parliament to carry out its work. It is made up of four Members elected by the Parliament from among the MSPs and is chaired by the Presiding Officer.

The work of the Parliament is supported by its own staff, headed by the Clerk/Chief Executive.

Parliamentary Bureau

A group of MSPs representing political parties and groupings with five Members or more in the Parliament form the Parliamentary Bureau. They meet regularly in private to arrange the programme of meetings and the business to be discussed. The minutes, agendas and papers of these meetings can be found on the Scottish Parliament website.

The Parliamentary Bureau draws up the Parliament's proposed agenda or business programme. This programme includes deadlines for the stages of bills or other legislation. It also includes ministerial statements and debates. The proposed agenda is considered and debated in Parliament. The timetable of future business is published in the *Business Bulletin*.

¹⁷ Taken from *How the Scottish Parliament works*:
<http://www.scottish.parliament.uk/vli/publicInfo/hspw/documents/HSPW2ed-Eng.pdf>

Plenary sittings

Meetings of the full Parliament are normally held on Wednesday afternoons and all day Thursday.

Meetings of the full Parliament can include:

- Time for reflection
 - This is when an invited person addresses the Parliament for up to four minutes. Invitations to speak are made with regard to the balance of beliefs and faiths in Scotland. Time for reflection is normally the first item of business on Wednesday afternoons.
- Executive debates
- Non-executive debates
- Committee debates
- First Minister's question time
 - Six questions are selected by the Presiding Officer for MSPs to put to the First Minister. Supplementary questions can also be asked.
- General and themed question time
- Consideration of legislation
- Business motions
 - These allow the Parliament to approve the Parliamentary Bureau's proposals for the business programme.
- Ministerial statements
- Parliamentary Bureau motions
- Decision time
 - This is when MSPs vote on the motions that have been discussed that day. Decision time generally takes place from 5pm on Wednesday and Thursday.
- Members' business
 - This is a debate proposed by a backbench MSP and normally takes place after Decision Time.

Meetings of the full Parliament take place in the Debating Chamber. Seating is arranged in a hemi-cycle. MSPs may sit anywhere, but they generally sit with colleagues from the same party. A record of what is said at public meetings of the Parliament and its committees is published in the *Official Report*.

Each parliamentary session lasts for four years from the date of the first meeting after a general election. Each session is divided into parliamentary years, which run from the date of the first meeting after a general election.

Committees

Committees normally have between five and 15 MSPs as members, selected with regard to the balance of the various parties and groupings of the Parliament. Each committee is chaired by a convenor, can form sub-committees and can hold joint meetings with other committees. Committee meetings do not take place when there is a meeting of the full Parliament and therefore generally meet on Tuesdays and on Wednesday mornings. Committee meetings are normally held in public and can take place anywhere in Scotland, but are usually held at Holyrood. Committees can take written and oral evidence from witnesses and appoint specialists as advisers.

There are eight mandatory committees, required by Standing Orders:

- Audit
- Equal opportunities
- European and external relations
- Finance
- Procedures
- Public petitions
- Standards and public appointments
- Subordinate legislation

The Parliament can also choose to set up subject committees and those established at the start of the third session in 2007 were:

- Economy, Energy and Tourism
- Education, Lifelong Learning and Culture
- Health and Sport
- Justice
- Local Government and Communities
- Rural Affairs and Environment
- Transport, Infrastructure and Climate Change

Subject committees have three main areas of work:

- Legislation
 - Committees can consider and amend proposals for new laws introduced by the Scottish Executive, individual MSPs, individuals, companies or groups. They can also propose new laws in the form of committee bills.
- Inquiries
 - Committees can investigate an area within their remit and publish a report setting out their recommendations. These reports can be discussed at a meeting of the full Parliament.
- Other areas
 - Committees can consider and report on the policy and operation of the Scottish Executive, on European legislation, on secondary (or subordinate) legislation and on public petitions.

7.3 National Assembly for Wales¹⁸

Membership

There are 60 Members of the National Assembly for Wales (AMs)

Presiding Officer

The Presiding Officer is elected by all Assembly Members and, once elected, serves the Assembly impartially. The Deputy Presiding Officer is elected in the same way.

The Presiding Officer's main role is to chair Plenary, maintaining order and protecting the rights of Assembly Members. The Presiding Officer is also responsible for ensuring that

¹⁸ Taken from Library Standard Note SN/4407/PC, *The Welsh Assembly elections May 2007: the formation of the Welsh Assembly Government and recent developments in the Assembly*: <http://www.parliament.uk/commons/lib/research/notes/snpc-04407.pdf> and the National Assembly for Wales website: <http://www.assemblywales.org/> See in particular *Standing orders*: <http://www.assemblywales.org/bus-docs-third-standingorders.pdf>

business is handled on the basis of equality and impartiality and for standing orders, being the final authority on their interpretation. The Deputy Presiding Officer chairs Plenary in the absence of the Presiding Officer.

The provisions of the *Government of Wales Act 2006* and the Standing Orders mean that, in the case of the Presiding Officer and Deputy Presiding Officer, one will normally be from the governing political group or groups and the other from the Opposition. Standing Order 2 can, however, be disapplied by a two thirds majority in plenary.

Corporate body

The *Government of Wales Act 2006* provides for a new corporate body, the National Assembly for Wales Commission.¹⁹ The Commission is responsible for ensuring that property, staff and services are provided for the Assembly. It consists of the Presiding Officer and four Members from different political parties, each with different portfolios of work, and is supported by staff in the Corporate Unit.

Standing Order 3.3²⁰ sets out the arrangements for the appointment of the four Assembly Members, and states that there will not be more than one member of the Commission (other than the Presiding Officer) from the same political group.

Plenary sittings

Plenary meetings take place in the Siambr, the Assembly's debating chamber on Tuesdays and Wednesdays.

Meetings of the full Assembly can include:

- Oral questions
 - Oral Questions are tabled each week for answer in Plenary by the First Minister; and every four weeks for answer by Welsh Ministers, the Counsel General and the Assembly Commission
- Business statements
- Motions
- Debates

Bilingual transcripts of Plenary meetings are published within 24 hours of the end of the meeting. A summary of business conducted at each meeting can be found in the Votes and Proceedings section, which is published within 30 minutes of the end of each meeting.

Committees

Committees in the Assembly carry out many functions: some scrutinise the policies of the Welsh Assembly Government and hold Ministers to account; some examine proposed legislation; and others have specific functions allocated to them by the Assembly or its Standing Orders. There are four main types of Committees:

Scrutiny Committees

have the power to examine the expenditure, administration and policy of the Assembly Government and associated public bodies. Currently they are:

- Communities and Culture Committee

¹⁹ *Government of Wales Act 2006* s.27: <http://www.opsi.gov.uk/acts/acts2006/60032--b.htm#27>

²⁰ Assembly for Wales, *Standing Orders of the National Assembly for Wales*, March 2007: <http://www.assemblywales.org/bus-docs-third-standingorders.pdf>

- Enterprise and Learning Committee
- Health, Wellbeing and Local Government Committee
- Sustainability Committee
 - Rural Development Sub-Committee

Mandatory Committees

are named in the Standing Orders of the Assembly and have specific roles, details of which are listed on their homepages.

- Audit Committee
- Business Committee
- Equality of Opportunity Committee
- European and External Affairs Committee
- Finance Committee
- Petitions Committee
- Standards of Conduct Committee
- Subordinate Legislation Committee

Regional Committees

may exist in each electoral region if the Assembly votes to do so. These committees would be concerned with matters particular to the region.

Ad-hoc Committees

may be created according to the needs of the Assembly. These may include committees created to scrutinise Assembly Measures, Legislative Competence Orders, or specific issues that arise.

Committees are generally ‘party-balanced’, reflecting the number of Assembly Members representing each party within the Assembly, and most meet in public.

8 Comparison of work

Membership

Northern Ireland Assembly	Scottish Parliament	National Assembly for Wales
108 MLAs	129 MSPs	60 AMs

Presiding Officer

Northern Ireland Assembly	Scottish Parliament	National Assembly for Wales
Speaker + 3 Deputy Speakers	Presiding Officer + 2 Deputy Presiding Officers	Presiding Officer + Deputy Presiding Officer

Corporate body

Northern Ireland Assembly	Scottish Parliament	National Assembly for Wales
Northern Ireland Assembly Commission. 5 MLAs and the Speaker who chairs.	Scottish Parliament Corporate Body. 4 MSPs, elected by the Parliament, and the Presiding Officer who chairs.	National Assembly for Wales Commission. 4 AMs and the Presiding Officer who chairs.

Plenary sittings

Northern Ireland Assembly	Scottish Parliament	National Assembly for Wales
Monday and Tuesday	Wednesday afternoon and Thursday	Tuesday and Wednesday

Committees

Northern Ireland Assembly	Scottish Parliament	National Assembly for Wales
Statutory, standing and ad hoc. Scrutiny committees can initiate legislation. Committee membership and officers are selected to reflect party strengths in the Assembly. Officers do not normally belong to the same political party as that of the relevant minister.	Mandatory and subject. Subject committees can initiate legislation.	Scrutiny, mandatory, regional and ad hoc (to scrutinise proposed Legislative Competence Orders). Scrutiny committees can initiate legislation.

9 Further Reading

9.1 General background / comparative material

Websites

The following websites provide brief accounts of the history of and current arrangements for devolution in the UK:

UK Government Directgov website pages on 'Devolved government in the UK' at http://www.direct.gov.uk/en/Governmentcitizensandrights/UKgovernment/Devolvedgovernment/DG_073306

Cabinet Office website pages on 'Devolution in the United Kingdom' at <http://www.cabinetoffice.gov.uk/devolution.aspx>

Constitution Unit, University College London, 'Devolution monitoring programme' at <http://www.ucl.ac.uk/constitution-unit/research/devolution/devo-monitoring-programme.html>

Library briefing papers

There are a number of Library briefing papers on devolution available at http://www.parliament.uk/works/notes_on_parliament_and_constitution.cfm#devolution

See in particular Research paper 03/84, [An introduction to devolution](#) (note that there have been a number of changes in the settlement in Wales since this paper was published in 2003).

Standard note SN/PC/04505, [The UK devolved legislatures: some comparisons between their powers and work](#). This includes links to the relevant legislation and the Library research papers on the preceding bills.

Parliamentary publications

The Commons Justice Committee conducted an inquiry on devolution which reported in the 2008-09 session. Its report [Devolution: a decade on](#) provides a detailed overview of the subject.²¹ The [Government response](#) was published in July 2009.²²

Books

The following books give a useful overview of the history of devolution in the UK before 1997, the settlements made following the enactment of the devolution legislation in 1997-98 and developments in the years since the devolved legislatures and administrations were set up in 1998 and 1999:

- Vernon Bogdanor, *The new British constitution*, Hart, 2009. See chapter 4, Devolution
- John Curtice and Ben Seyd (ed), *Has devolution worked? The verdict from policy makers and the public*, Manchester University Press, 2009
- James Mitchell, *Devolution in the UK*, Manchester University Press, 2009

²¹ HC 529, 2008-09

²² Cm 7687

9.2 Northern Ireland

For information about the powers and work of the Northern Ireland Assembly and Northern Ireland Executive see their respective websites:

<http://www.niassembly.gov.uk/>

<http://www.northernireland.gov.uk/>

See also the Library briefing papers on devolution at:

http://www.parliament.uk/works/notes_on_parliament_and_constitution.cfm#devolution

See in particular the regular standard note on recent political developments in Northern Ireland, the latest of which is SN/PC/5297, [Northern Ireland – political developments since October 2009](#).

9.3 Scotland

For information about the powers and work of the Scottish Parliament and the Scottish Government see their respective websites:

<http://www.scottish.parliament.uk/>

<http://www.scotland.gov.uk/Home>

For chronologies of devolution in Scotland see BBC News, [A decade of devolution](#)

See also the Library briefing papers on devolution at

http://www.parliament.uk/works/notes_on_parliament_and_constitution.cfm#devolution

See in particular:

SN/PC/04372, [The Scottish parliamentary elections May 2007: the formation of the Scottish Executive and the election of the Presiding Officer](#)

SN/PC/04593, [The new Scottish Government](#)

SN/PC/02586, [The West Lothian Question](#)

SN/PC/04744, [The Commission on Scottish devolution - the Calman Commission](#)

The Commission on Scottish Devolution was set up in April 2008 by the UK Government and the Unionist parties in the Scottish Parliament. It was chaired by Sir Kenneth Calman and published its final report in June 2009. For further information see the above Library note and the Commission's website:

<http://www.commissiononscottishdevolution.org.uk/>

The Commission's reports are available on its website, together with commissioned papers on Scottish devolution, including the following which provides a useful overview of the first decade:

[Towards a new settlement? A review of experience of the first decade of Scottish devolution](#), Akash Paun, Constitution Unit, for the Commission on Scottish Devolution, 2008.

9.4 Wales

For information about the powers and work of the National Assembly for Wales and the Welsh Assembly Government see their respective websites:

<http://www.assemblywales.org/>

<http://new.wales.gov.uk/?lang=en>

See also the Library briefing papers on devolution at

http://www.parliament.uk/works/notes_on_parliament_and_constitution.cfm#devolution

See in particular SN/PC/4407, [The Welsh Assembly elections May 2007: the formation of the Welsh Assembly Government and recent developments in the Assembly](#)

The All Wales Convention was set up by the Welsh Assembly Government in October 2007. It was chaired by Sir Emyr Jones Parry and reported in November 2009. For further information see the Convention's website:

<http://allwalesconvention.org/?skip=1&lang=en>

The Convention's report is available on its website, together with the following papers on the current devolution arrangements in Wales and possible future law making powers for the National Assembly for Wales:

[*Getting things done in Wales*](#)

[*How are laws made for Wales?*](#)