



Factsheet P8 Procedure Series

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House of Commons Information Office

Scottish and Welsh Business

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The first elections for a new Scottish Parliament and National Assembly for Wales were held on 6 May 1999 following referendums in 1997. In May 1999 these two bodies began sitting and those powers which were the responsibility of the two bodies were formally transferred. The UK Parliament still retains the right to discuss Scottish and Welsh business. This factsheet describes how this takes place.

For information on procedure in the Scottish Parliament and National Assembly for Wales contact the Scottish Parliament Enquiry Unit or the National Assembly for Wales using the contact information at the end of this Factsheet.

This factsheet does not cover devolution in Northern Ireland or the way in which the House of Commons discusses Northern Ireland business. Information on this can be found in **Factsheet L8**.

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Scottish and Welsh Business

This Factsheet looks at the way in which Scottish and Welsh business is dealt with in the House of Commons with the first section looking at devolution in Scotland and Wales and its effects on what is discussed in the House of Commons.

Devolution

Scotland

Scotland has had considerable administrative autonomy since the Act of Union in 1707, which guaranteed the continuation of Scotland's legal and educational frameworks, as well as its church system however, the Westminster Parliament maintained political control over Scotland, and a cabinet member (the Secretary of State for Scotland) was responsible for Scottish matters.

Scottish Parliament

On 11 September 1997 Scotland held a referendum which produced a clear majority in favour of the creation of a Scottish Parliament with tax varying powers. The Scotland Act 1998¹ was passed by the UK Parliament on 19 November 1998 establishing the first Parliament in Scotland since 1707, with primary legislative powers and 129 Members of the Scottish Parliament (MSPs).

The Scottish Parliament was officially opened by the Queen on 1 July 1999 and took up its full powers on that date. The first elections to the Scottish Parliament took place on 6 May 1999 and the first meeting of the Parliament was held on 12 May 1999. Elections are held on a fixed term basis, every four years (at a date varying no more than one month before or after the fourth anniversary of the previous election) subsequently, there have been elections to the Scottish Parliament in 2003 and 2007.

Scottish Executive

The Scottish Government was known as the Scottish Executive when it was established in 1999 following the first elections to the Scottish Parliament.

The Scottish Executive took over many of the responsibilities of the Scottish Office (now called the Scotland Office). The Executive is led by a First Minister who is nominated by the Parliament and in turn appoints the other Scottish Ministers who make up the Cabinet. Civil servants in Scotland are accountable to Scottish Ministers, who are themselves accountable to the Scottish Parliament.

Devolved Matters

Under the Scotland Act 1998, the Scottish Parliament can make primary and secondary legislation in areas not reserved to Westminster. The areas of competence of the Scottish Executive and therefore of the Parliament, are summarised in the table below².

The Parliament is able to pass primary legislation in these devolved areas and the first of these Acts to be passed was the *Mental Health (Public Safety and Appeals) (Scotland) Act 1999*³.

¹ Office of the Public sector Information (OPSI) Scotland Act as passed 1998

Url: http://www.opsi.gov.uk/acts/acts1998/ukpga_19980046_en_1

² See 'An Introduction to devolution in the UK', Research Paper 03/84, November 2003 p.21 for a full list

Url: <http://www.parliament.uk/commons/lib/research/rp2003/rp03-084.pdf>

³ Office of the Public sector Information (OPSI) Mental Health (Public Safety and Appeals) (Scotland) Act 1999

Url: http://www.opsi.gov.uk/legislation/scotland/acts1999/asp_19990001_en_1

Reserved Matters

Responsibility for many matters (known as 'reserved' matters) still resides with the UK Government and Parliament. These reserved areas are set out in the *Scotland Act 1998*. The list of devolved and transferred matters is lengthy and complex. Below is a short summary of the areas affected. A fuller examination of reserved and devolved subject areas is given in House of Commons Library Research Paper 99/84 *Devolution and Concordats*.⁴

Devolved matters	Matters "reserved" to Westminster
Health	the constitution
education and training	defence and national security
local government	fiscal, economic and monetary system
social work	trade and industry, including competition and customer protection
housing	transport (not particular to Scotland) including railways, transport safety and regulation
planning	social security
tourism, economic development and financial assistance to industry	medical ethics: abortion; human fertilisation and embryology; genetics; xenotransplantation and vivisection.
some aspects of transport, including the Scottish road network, bus policy and ports and harbours	broadcasting
law and home affairs, including most aspects of criminal and civil law, the prosecution system and the courts	foreign affairs
the police and fire services	the civil service
the environment	immigration and nationality
natural and built heritage	energy: electricity, coal, oil, gas, nuclear energy
agriculture, forestry and fishing	employment
sport and the arts	equal opportunities
statistics, public registers and records	

Scotland Office

The Scotland Office is a UK Department of State, with representation in the Cabinet that is charged with representing Scotland's interests within the United Kingdom Government.

Secretary of State for Scotland⁵

The Secretary of State for Scotland represent the interests of Scotland in Cabinet as Secretary of State for Scotland, particularly in those matters reserved to the Government by the Scotland Act. He is responsible for the smooth running of the Scotland's devolution settlement and acts as guardian of the Scotland Act, especially in relation to orders made under its authority. The Secretary of State is supported on ministerial matters by the Parliamentary Under Secretary of State for Scotland. Both ministers are advised on their work in relation to Scottish devolution by the Scotland Office, Scotland Office officials report to the Secretary of State and the Parliamentary Under Secretary of State for policy purposes.

⁴ Available <http://www.parliament.uk> or on request from the House of Commons Information Office

⁵ Cabinet Office Devolution guidance note 3 – The role of the Secretary of state for Scotland
 Url: <http://www.justice.gov.uk/guidance/docs/dgn03.pdf>

Sewel Convention (Legislative Consent Motion)⁶

The Westminster Parliament will not normally legislate in devolved areas without the consent of the Scottish Parliament. While the Scottish Parliament has primary law-making powers in most areas of domestic policy, on occasion (for example if there is a common policy aim) it is considered appropriate, with the authority of the Scottish Parliament, for Westminster to legislate on devolved matters. The convention that the UK Parliament will not legislate on devolved matters unless authorised is known as the Sewel Convention (Legislative Consent Motion).

The Sewel Convention was named after Lord Sewel, Minister of State in the Scottish Office during the passage of the Scotland Act 1997-98⁷. In the Lords Committee stage of the Scotland Bill he stated that the Government expected “a convention to be established that Westminster would not normally legislate with regard to devolved matters in Scotland without the consent of the Scottish Parliament” (21 July 1998, Lords Hansard, vol 592, col 791).

Under the Convention, if the UK Government and the Scottish Government agree that it is appropriate to include provisions affecting devolved matters in a Westminster Bill, the Scottish Government invites the Parliament to give consent to those provisions being dealt with by Westminster. This involves the Scottish Government providing a memorandum about the UK Bill, which is usually considered by a relevant Scottish Parliament committee. The Scottish Government will also lodge a motion to which the Parliament as a whole is invited to agree. The motion must be decided on before the Bill reaches its final amending stage at Westminster in the House in which it was first introduced.

Prior to 30 November 2005, the motion was known as a Sewel motion/ memorandum. From 30 November 2005, the motion became known as a legislative consent motion/ memorandum. The procedure for scrutiny of legislative consent memorandums and motions is set out in Chapter 9B of the Standing Orders of the Scottish Parliament⁸.

Boundary Commission for Scotland

The final report of the Boundary Commission for Scotland was submitted on 30 November 2004. It recommended a reduction in the number of Westminster seats in Scotland from 72 to 59. An order to bring effect to the recommendations was passed in early 2005 by both Houses and the Privy Council, with the new constituencies being used in the May 5 General Election of that year.

The then Secretary of State for Scotland, Helen Liddell announced that the number of MSPs would remain at 129.⁹

Wales

Wales is in a different position from Scotland in relation to the UK Parliament. The Act of Union between England and Wales received Royal Assent in April 1536 and ties between the two countries have traditionally been much closer in terms of administrative detail than with Scotland. Wales, retaining much less autonomy than Scotland did, nonetheless, still having its own Secretary of State with responsibility for Welsh Affairs within the cabinet.

⁶ The Sewel Convention taken from the Scottish Parliament website -

Url: <http://www.scottish.parliament.uk/business/legconmem/sewelConvention.htm>

⁷ HL Deb 21 Jul 1998 c791

⁸ Scottish Parliament website - Scottish Parliament Standing Orders

Url: <http://www.scottish.parliament.uk/business/so/sto-4.htm#9b>

⁹ House of Commons Hansard, 18 December 2002, column 860

National Assembly for Wales

On 18 September 1997 Wales held a referendum and produced a narrow majority in favour of the creation of a National Assembly for Wales. The Government of Wales Act 1998¹⁰ established the National Assembly for Wales as a single corporate body, with secondary legislative powers and 60 Assembly Members as well as a First Secretary responsible for appointing additional secretaries in his cabinet.

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 National Assembly is the 60 Assembly Members (AMs) elected by the people of Wales. It is responsible for most public expenditure in Wales, and has powers to make a wide range of secondary legislation. The National Assembly does not have tax-raising powers.

Welsh Assembly Government¹¹

The Welsh Assembly Government is the devolved Government for Wales. The Welsh Assembly Government consists of:

The First Minister
Welsh Ministers
The Counsel General and
Deputy Ministers

It is supported by Civil Servants who work across devolved areas.

Devolved matters

The responsibilities devolved to the National Assembly of Wales are broadly the same as in Scotland; a significant difference in responsibilities is that the Assembly does not have responsibility for civil and criminal law. Also, the Assembly does not have the tax varying powers of the Scottish Parliament and neither can it pass primary legislation. Instead, its powers allow it to pass secondary legislation in the form of statutory instruments.

Government of Wales Act 2006

The 1998 Government of Wales Act was largely superseded by the Government of Wales Act 2006¹² which provided for a formal legal separation between: The National Assembly for Wales and the Welsh Assembly Government. 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.

The number of MPs representing Wales in the UK Parliament is currently 40. There are 60 Assembly Members.

¹⁰ OPSI website: The Government of Wales Act 1998 url:
http://www.opsi.gov.uk/ACTS/acts1998/ukpga_19980038_en_1

¹¹ Taken from the Welsh Assmby Governmnet website
URL:

<http://wales.gov.uk/about/:jsessionid=4fJLKz9PTXj1QBrLWyg1ppGBf4KhK5rYvDwhYQwt2nqK0wbppZJ!2078297436?lang=en>

¹² Office Public Sector Information (OPSI) Government of Wales Act 2006
Url: http://www.opsi.gov.uk/acts/acts2006/ukpga_20060032_en_1

Wales office

With the establishment of the National Assembly for Wales on 1 July 1999, the Welsh Office became the Wales Office. Established in 1999, the Wales Office supports the Secretary of State for Wales in ensuring the smooth working of the devolution settlement in Wales.

Secretary of State for Wales¹³

With effect from 1 July 1999, most of the functions of the Secretary of State for Wales transferred to the National Assembly for Wales. The Wales Office supports the Secretary of State. The Secretary of State for Wales acts to ensure that the interests of Wales are fully taken into account by the UK Government in making decisions that will have effect in Wales, and to represent the UK Government in Wales. The Secretary of State for Wales is responsible for ensuring the passage of Wales-only legislation through Parliament.

The process of legislating for Wales is more complex than in Scotland, as Westminster retains primary law-making powers for Wales.

The Welsh Assembly 'Legislative Competence'¹⁴

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 is similar to an Act of the UK Parliament, but it applies only in Wales. 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

¹³ Cabinet office Devolution Note 4 'The Role of the Secretary of State for Wales'

Url: <http://www.justice.gov.uk/docs/dgn04.pdf>

¹⁴ Taken from House of Commons Standard Note SN/PC/04505 9 'The UK devolved legislatures: some comparisons between their powers and work' November 2007

Url: <http://www.parliament.uk/commons/lib/research/briefings/snpc-04505.pdf>

Field 16: sport and recreation
Field 17: tourism
Field 18: town and country planning
Field 19: water and flood defence
Field 20: Welsh language

Schedule 5 to the 2006 Act lists the “fields” and “measures” and 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, 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 Url 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.

The process for pre-legislative scrutiny of proposed LCOs and approval of drafts LCOs by the Assembly and Parliament is complex.

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 (The Secretary of State has 60 days after the National Assembly for Wales's resolution is received to either lay the draft Order before Parliament or give notice in writing to the First Minister of the Secretary of State's refusal to do so and the reasons for that refusal).
- If the draft Order is laid 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

A useful diagram the expected process can be found at the end of the House of Commons Welsh Affairs Committee's recently published report on Legislative Competence Orders¹⁵.

A recent example of a Legislative Competence Order seeking to transfer legislative competence in Welsh language matters (field 20 above) from Westminster to the Assembly in Cardiff was approved by the Welsh Assembly on 3rd November 2009 and will be presented to the House of Commons and Lords for approval by Welsh Secretary of State. Further information is available on the National Assembly of Wales website.¹⁶

Like Scotland, Wales has historically been over-represented at Westminster but there is no formal provision for a reduction in the number of Welsh MPs, partly because Westminster retains responsibility for primary legislation affecting Wales.

Scottish and Welsh Business in the House of Commons

As it still has responsibility for a number of areas of policy, the UK Parliament retains the right to debate Welsh and Scottish matters. Historically, Scottish and Welsh business has been conducted in similar ways. The House of Commons has defined times for oral questions and debates, as well as the opportunity to ask written questions, there are also Select, Grand and Public Bill Committees. This section looks at Scottish and Welsh Business in the House of Commons.

Oral Questions

Oral questions to both the Secretaries of State for Scotland and Wales take place approximately every five weeks. Until devolution the Scottish Office had an hour of questions, and the Welsh Office had thirty minutes. After devolution the time available for the Scotland Office (as it is now known) was reduced to thirty minutes and then further to fifteen minutes. Questions to both departments may be asked by Members with constituencies anywhere in the United Kingdom but they must now relate to the Secretary of State's responsibilities following devolution (see above).

¹⁵ 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: URL:

<http://www.publications.parliament.uk/pa/cm200607/cmselect/cmwelaf/175/175.pdf>

¹⁶ National assembly for Wales Website - National Assembly for Wales (Legislative Competence) (Welsh Language) Order 2009 Url: <http://www.assemblywales.org/bus-home/bus-legislation/bus-leg-legislative-competence-orders/bus-legislation-lco-2009-no10.htm>

Select Committees

Under House of Commons Standing Order No.152¹⁷ the Scottish and Welsh Affairs Committee are each given responsibility for relations with the relevant devolved legislature.

Scottish Affairs

The Scottish Affairs Select Committee has a maximum of eleven Members, with a quorum of three. The Committee can examine the expenditure, administration and policy of the Scotland Office and the Advocate General for Scotland. The Scottish Affairs Committee was not established during the course of the 1987 Parliament. It was re-established in 1992 following the General Election. It has the power to take evidence sessions in Scotland and regularly receives evidence from the Scottish Executive in relation to particular inquiries¹⁸ and has taken oral evidence from Scottish Ministers¹⁹

“The Sewel Convention: The Westminster perspective”

The Scottish Affairs Select Committee published a report in 2006 entitled “The Sewel Convention: The Westminster perspective”.²⁰ This report made recommendations about changes to the way the UK and Scottish Parliaments should work in areas relating to Scotland. The Government response to the report²¹ accepted a number of the recommendations including the following:

Written ministerial statement

Is now published after the Queen’s Speech setting out the legislative programme’s implications for Scotland.

Explanatory Notes

A new section in the Explanatory Notes to Bills will state explicitly if the Scottish Parliament’s consent is required for provisions in a Bill.

Order paper

Where UK proceedings on a piece of legislation have been the subject of a Sewel motion in the Scottish Parliament, this fact is indicated on the order paper of the relevant House.

Welsh Affairs

The Welsh Affairs Select Committee has a maximum of eleven Members, with a quorum of three. Its terms of reference are to examine matters within the responsibility of the Secretary of State for Wales (including relations with the National Assembly for Wales) and pre-scrutiny of proposed Legislative Competence Orders. The Committee can take evidence in Wales, and in recent years has done so in Barry, Cardiff and Aberystwyth.

The Welsh Affairs Committee may invite members of any committee of the National Assembly for Wales to attend and participate in its proceedings (but not to vote) see: House of Commons Standing order No.137A (3)²².

¹⁷ House of Commons Standing Order 152 Url: <http://www.publications.parliament.uk/pa/cm200809/cmstords/2/2.pdf>

¹⁸ See Scottish Affairs Committee Fourth Special Report of Session 2007-08 HC 1098

Url: <http://www.publications.parliament.uk/pa/cm200708/cmselect/cmsscota/1098/1098.pdf>

¹⁹ Scottish Affairs Committee Second Report of Session 2007-08 HC 525

Url: <http://www.publications.parliament.uk/pa/cm200708/cmselect/cmsscota/525/525.pdf>

²⁰ The Sewel Convention: the Westminster perspective, 4th report of the Scottish Affairs Select Committee : HC 983 2005-06 Url: <http://www.publications.parliament.uk/pa/cm200506/cmselect/cmsscota/983/983.pdf>

²¹ The Sewel Convention: the Westminster perspective: Government Response to the Committee’s Fourth Report of Session 2005–06: HC 1634 2005-06

Url: <http://www.publications.parliament.uk/pa/cm200506/cmselect/cmsscota/1634/1634.pdf>

²² House of Commons Standing Order 137A (3) URL:

The evidence session gathering process during which witnesses, including Welsh Affairs Committee Government and UK Ministers can be questioned regarding the detail and scope of a proposed order and the Committees' reports are published as House of Commons papers by the Stationery Office, as are other select Committee reports (see Factsheet P2). Like the other Select Committees both the Welsh Affairs²³ and Scottish Affairs²⁴ Committees have pages on the Parliament website. These list the Membership, meetings and reports of the Committees.

House of Lords Constitution Committee²⁵

On the 18 April 2007 the House of Lords Constitution Committee agreed (initially for a 12-month trial period) to perform pre-legislative scrutiny on proposed Legislative Competence Orders under section 95 of the Government of Wales Act 2006 ("the 2006 Act"), to complement the scrutiny role of the House of Commons Welsh Affairs Committee.

This followed the committee's own report on the Government of Wales Bill published during the Bill's passage through Parliament, in which it suggested that pre-legislative scrutiny in the House of Lords should be carried out by either the Delegated Powers and Regulatory Reform Committee or by the House of Lords Constitution Committee²⁶.

The Committee has two functions:

- examining Public Bills for matters of constitutional significance; and
- investigating wider constitutional issues (including pre-legislative scrutiny of proposed Legislative Competence orders)

Membership

The Committee consists of 12 Members. It draws on the constitutional expertise in the House of Lords: it currently includes a former Lord Chief Justice, two former Attorneys General, a former Leader of the House of Lords, three former ministers, academics and those with business and commercial expertise. More information on the work of the House of Lords Constitution Committee can be found in the House of Lords briefing 'The Constitution committee'²⁷

Grand Committees

Members of the Scottish and Welsh constituencies are automatically members of their respective grand committees. **Meetings of these grand committees have become less frequent, and the range of business undertaken more limited, since the devolution of powers and responsibilities to the Scottish Parliament and the National Assembly for Wales.**

<http://www.publications.parliament.uk/pa/cm200809/cmstords/2/2.pdf>

²³ Welsh Affairs Committee homepage URL:

http://www.parliament.uk/parliamentary_committees/welsh_affairs_committee.cfm

²⁴ Scottish Affairs Committee homepage URL:

http://www.parliament.uk/parliamentary_committees/scottish_affairs_committee.cfm

²⁵ Taken from The House of Lords Select Committee on the Constitution 2nd report of Session 2007-08 'Scrutiny of Welsh Competence Orders' report HL paper 17 Url:

<http://www.publications.parliament.uk/pa/ld200708/ldselect/ldconst/17/17.pdf>

²⁶ See House of Lords Constitution Committee, 8th Report (2005-06): Government of Wales Bill (HL Paper 142), paragraphs 23-24. Url: <http://www.publications.parliament.uk/pa/ld200506/ldselect/ldconst/142/142.pdf>

²⁷ House of Lords Briefing The Constitution Committee

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

The main types of business provided for by the two Committees are listed below:

Oral Questions

Ministerial Statements

Motions on Statutory Instruments

Adjournment or General debates

Adjournment debates at the end of the day's business allocated by ballot.

In the Scottish Grand Committee oral questions are taken at the beginning of the sitting and last for 45 minutes. Questions are tabled at the Table Office in the House of Commons (see also **Factsheet P1**). Only members of the Committee can table such questions, and should reach the Table Office five days (excluding Fridays and weekends) before the date for answer. The Member asking the question must specify that it is to be put to the relevant Grand Committee.

Government ministers, including the Prime Minister and Ministers in the House of Lords, can make statements to the Grand Committee. In the Scottish Grand Committee, if the statement is related to Government policy concerning Scotland, or in response to an event in Scotland, then the Chairman has discretion as to the length of proceedings, otherwise it will be for forty-five minutes. Such statements may be made at the commencement of the sitting, or after questions (if a day on which questions are asked) or after the short debate if on such a day.

The Scottish Grand Committee may also consider statutory instruments (see **Factsheet L7**) for up to an hour and a half, on the motion that the SI be revoked, annulled, not made, or approved, to take note or that an Order in Council be not submitted to Her Majesty in Council

Short debates lasting up to thirty minutes can be raised by members of the Committees at ten days notice, and must relate to either Scottish or Welsh matters. These debates will begin at the commencement of the sitting, or if this is also a question day, after questions. During a short debate, the Member who raised the subject and the replying Minister may speak for 5 minutes: other Members of the Committee for 3 minutes. The Chairman has the power to order Members to resume their seats if the time limits are exceeded

Each Committee can debate matters relating exclusively to its country. The SGC can debate such matters on eight days, four of which are chosen by the Government, two by the leader of the largest opposition party in Scotland, and two at the disposal of the next largest opposition party in Scotland.

A Bill can be referred to the Grand Committee prior to its second reading, the motion to do so being made by a minister with at least ten sitting days notice. The Committee will consider the bill 'in relation to its principle', and if approved the House of Commons will formally give the bill its second reading. In the Scottish Grand Committee, such bills have to be certified by the Speaker as relating exclusively to Scotland. The Committee can then debate the bill for up to two and a half hours (in total) on one or more days. The Committee may also consider the bill at a later date for up to a further one and a half hours after its report stage, which in effect constitutes its third reading, although the Commons will again give a formal third reading to the bill.

Scottish Grand Committee

A Scottish Committee can be dated from an experiment of 1894, and the Scottish Grand Committee was established in its present form in 1957: it consists of all 59 Members representing Scottish Constituencies, with a quorum of ten (three during the half hour adjournment debate).

The Scottish Grand Committee may sit anywhere in Scotland as well as Westminster. It first did so at a sitting in Edinburgh on 15 February 1982, when it considered youth unemployment and training.

Traditionally it considered the principles of Scottish Bills which were referred to it at second reading. However, UK Parliament Bills relating only to Scotland are rare since the establishment of the Scottish Parliament and there have been no meetings of the Committee in the last few years.

Welsh Grand Committee

The Welsh Grand Committee was first appointed in the 1959-60 session and consists of all Members representing Welsh constituencies, together with not more than 5 other Members nominated by the Committee of Selection, with a quorum of 7 including the Chairman.

The Welsh Grand Committee may also sit outside of Westminster. It first did so on 8 March 1993 when it debated the governance of Wales.

Oral questions are also taken in the Welsh Grand Committee. In the Welsh Grand Committee they are taken at the beginning of a sitting but last for thirty minutes. The procedure for tabling questions is the same as for the Scottish Grand Committee.

Ministerial statements may be made. The one difference from the Scottish Grand Committee is that the Chairman has discretion as to the length of proceedings on a statement regardless of whether it is on a matter or event relating to Wales.

Bills may be referred to the Welsh Grand Committee but there is no provision restricting this to Bills certified by the Speaker as relating exclusively to Wales. Also, the time allowed for debate is that set in the Commons motion referring the Bill to the Welsh Grand Committee. **Statutory Instruments are not considered by the Welsh Grand Committee they are considered by Delegated Legislation Committees and Lords Grand Committee.**

Matters specific to Wales can be referred to the Grand Committee, but the number of days for this is not specified in the standing orders.

Information on the Grand Committees

Committee details on the Scottish and Welsh Grand Committees can be found under 'General Committees' formally Standing Committees page on the Parliament Website²⁸. This lists the Membership of the Committees and reports of any proceedings in the current session with links to previous sessions. Notice of forthcoming Grand Committee meetings is also given in the Weekly Information Bulletin publication produced by the House of Commons Information Office²⁹.

Scottish Public Bill Committees

There are two such committees which debate bills certified by the Speaker as relating exclusively to Scotland. There is no such committee for Wales. The First Scottish Public Bill Committee, established in 1948, usually considers the committee stage of Government Bills. The Second

²⁸ General Committee pages on the Parliament website URL:

<http://www.publications.parliament.uk/pa/cm200809/cmgeneral/cmgeneral.htm>

²⁹ Weekly Information Bulletin URL: <http://www.publications.parliament.uk/pa/cm/cmweb.htm>

Scottish Public Bill Committee, established in the 1962-63 Session, considers the committee stage of Private Members' Bills.

Each committee is comprised of not fewer than 16 Members: the quorum is 17 or one third of the total membership, excluding the Chairman, whichever is the less. There must be at least 16 Members from Scottish constituencies.

Both committees last sat in the 1998-99 session when the first committee debated the *Scottish Enterprise Bill* and the second debated the *Mental Health (Amendment) (Scotland) Bill*.

Devolution the future

Scottish/Welsh Grand Committees

Devolution has led to the House of Commons reconsidering its own response to Scottish and Welsh business. The Procedure Select Committee has examined the procedural consequences of devolution, and in their fourth report of 1998-99³⁰ stated:

The Grand Committees will be found unnecessary because the debates formerly held in them will come to Westminster Hall or the House itself. If suspension of the Grand Committees meant that debates on matters relating to Scotland, Wales or Northern Ireland were not held we would think again, but, in principle...it is undesirable to have Members with "a different role, different responsibilities, and different rights in this Parliament". We consider that retention of the Grand Committees would give different Members different rights, and that this is undesirable.

However, in response to this, the Rt Hon Margaret Beckett MP, Leader of the House, stated that:

The Procedure Committee recommended that the operation of the Grand Committees be suspended during the experiment with sittings in Westminster Hall. We have always accepted that some adjustment to the procedures of those Committees would be necessary, but I am reluctant at this early stage to dispense with what is still a useful procedure.

There will continue to be important Welsh and Scottish matters that need to be debated in the House. Whether they are debated on the Floor, in Westminster Hall or in a Grand Committee can depend on circumstances. I do not want to close off one option so soon and particularly before we have seen how the Westminster Hall experiment works. That experiment is designed to provide time for additional debates on subjects that are not usually covered elsewhere. If part of that time is taken up with debates that would otherwise be held in the Grand Committees, the scope for such additional debates will be restricted from the outset.

A subsequent answer to a parliamentary question from Mrs Margaret Ewing MP gave further indications of the government's thinking:

Mrs. Ewing: To ask the President of the Council what proposals she has for the Scottish Grand Committee to meet in Scotland.

³⁰ HC 185 1998-99; Government response HC 814 1998-99

Mrs. Beckett: No decisions have been taken about possible sittings of the Grand Committees next session. The Grand Committee is a useful mechanism for Scottish MPs to highlight UK-wide policies which have an impact in Scotland ...Decisions on future meetings will be taken in the light of this. (HC Deb 5 November 1999 c356W)

Welsh Legislative Competence Orders (LCOs)

The House of Lords Select Committee on Constitution in its 2nd report of Session 2007-08 entitled 'Scrutiny of Welsh Legislative Competence orders'³¹ published 4th Dec 2007 looked at the possible Next Steps in Devolution. It stated:

The rather complex provisions for making LCOs and Measures set out in Part 3 of the 2006 Act are interim arrangements pending the coming into force of Part 4 of the Act. This will permit the National Assembly to make "Acts of the Assembly" on any subject within its legislative competence. Part 4 may only be brought into force after a referendum in which the majority of the voters support the National Assembly acquiring such law-making powers.

On 23 October 2007, Sir Emyr Jones Parry was appointed by the Welsh Assembly Government to chair the All-Wales Convention³² to promote the case for moving to the next stage of devolution.

In 2008 the Welsh Affairs Committee published a report on the Review by the Secretary of State of the procedure for Legislative Competence Orders (LCOs) in Council³³

It concluded:

We believe that the best way of ensuring effective and thorough pre-legislative scrutiny of LCOs is for their automatic referral to the Welsh Affairs Committee, along with the other improvements identified in this paper. We are convinced that this would enable the process to work more effectively. We recommend that the current system of scrutiny by the Welsh Affairs Committee on behalf of the House of Commons be confirmed as standard practice, with the procedural modifications we have proposed.

We also recommend that the Secretary of State undertakes to review the situation again in a year's time. In this important scrutiny role, we look forward to working constructively with the Wales Office, the Welsh Assembly Government and the National Assembly for Wales.

³¹ Scrutiny of Welsh Legislative Competence orders published 4th Dec 2007
Url: <http://www.publications.parliament.uk/pa/ld200708/ldselect/ldconst/17/17.pdf>

³² All-Wales Convention website Url: <http://allwalesconvention.org/?lang=en>

³³ 2nd Report of the Welsh Affairs Committee, Legislative Competence Orders in Council (HC 175, Session 2006-07), para 18 URL: <http://www.publications.parliament.uk/pa/cm200607/cmselect/cmwelaf/291/291.pdf>

Devolution: A Decade On

On 12 May 2009 the House of Commons Justice Committee produced a report 'Devolution: A Decade On'³⁴ and the Government published its response in July 2009³⁵

In its report the Justice Committee concluded on the Legislative Process for Scotland and Wales by stating:

Scotland

We welcome the procedures and mechanisms which have been put in place by the Scottish Parliament for the effective scrutiny of Legislative Consent Motions, and the effective system of communication with the Westminster Parliament, which appears to be working satisfactorily.

We recommend that the UK and Scottish Governments set out and publicise their agreed understanding of the principles which should govern the use of Legislative Consent Motions.

Government response

The UK Government remains committed to the principles of the Sewel Convention: that the UK Parliament should respect the responsibilities and remit of the Scottish Parliament and seek consent to matters that are within devolved competence, or that would alter powers of Scottish Parliament itself or Scottish Ministers. Since 1999 over 100 Legislative Consent Motions have been successfully tabled. This co-operative approach to legislation has enabled the introduction of cross-UK legislation in relation to Climate Change, Child Poverty and Marine management in the last year alone.

The Government's introduction and adherence to the Sewel Convention since the creation of the Scottish Parliament is one of the best examples of the effective cooperation between the Devolved Administration in Scotland and the UK Government.

Devolution Guidance Note 10³⁶ – one of a series of notes providing guidance to officials and available to the public – sets out the criteria for applying the Sewel Convention. The Government believes this provides a clear overview of the process and suggested contact points: this information is provided to all UK Government Bill teams and has ensured full adherence to the Convention during the past 10 years.

Wales

We recognise that the process of enhancing the legislative competence of the National Assembly for Wales with the consent of Whitehall and Westminster is seen by some commentators as complex. It is a new process, and there were some initial fears that it would be difficult to achieve an efficient and streamlined process of scrutinizing and enacting Legislative Competence Orders.

³⁴ House of Commons Justice Committee 5th Report Session 2008-09 HC 529-I-11 entitled 'Devolution: A Decade On'
URL: <http://www.publications.parliament.uk/pa/cm200809/cmselect/cmjust/529/529i.pdf>
URL: <http://www.publications.parliament.uk/pa/cm200809/cmselect/cmjust/529/529ii.pdf>

³⁵ Government response to Devolution: A Decade on Cm7687 2008-09 July 2009
URL: <http://www.official-documents.gov.uk/document/cm76/7687/7687.pdf>

³⁶ Cabinet Office Devolution Guidance Note 10 'Devolution Primary Legislation affecting Scotland' Url:
<http://www.justice.gov.uk/guidance/docs/dgn10.pdf>

We agree that there is a legitimate role for Westminster in scrutinizing draft Legislative Consent Orders to check whether they are in order, what their scope is, whether the drafting is clear and precise and whether the legislative competence can or should be devolved under the terms of the Act.

However, the process in Whitehall is less clear and we are also concerned about the lack of transparency of the role of the Secretary of State in determining whether or not he would lay a draft Order before both Houses of Parliament. We recommend that the Secretary of State produce a protocol outlining the principles that would inform such a decision, and the maximum timescales within which a decision should be made.

We recognise that accessibility of the law relating to Wales is important for the development of healthy democracy. We encourage the Government to facilitate the work of the Welsh Assembly Government in seeking to achieve this objective.

Government response

The Government welcomes the Committee's recognition of the role played by Westminster in scrutinising Legislative Consent Orders. The system the Government has put in place, through the Government of Wales Act 2006, enables the Welsh Assembly Government to request that powers be devolved through Orders in Council. The National Assembly has already acquired legislative competence in a number of areas, through three Orders and framework powers in seven Acts, and yet more are in train.

We believe that the Government of Wales Act 2006 makes sufficiently clear the role of the Secretary of State in laying draft Orders before Parliament.

We continue to work with the Welsh Assembly Government on the accessibility of law relating to Wales. The Office of Public Sector Information (OPSI) lists on its website both Welsh Measures and Secondary legislation and delegated legislation made under the Government of Wales Act 2006. The National Assembly for Wales and the Welsh Assembly Government also maintain comprehensive websites, with information readily available

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