

## **LEGISLATIVE CONSENT MEMORANDUM**

### **POLICE REFORM AND SOCIAL RESPONSIBILITY BILL – BYELAW POWERS**

#### **Legislative Consent Motion**

1. “To propose that the National Assembly for Wales, in accordance with Standing Order 26.4, agrees that those provisions relating to seizure, retention and forfeiture powers under good rule and government byelaws in Part 4 of the Police Reform and Social Responsibility Bill, as introduced into the House of Commons on 30<sup>th</sup> November 2010, so far as they fall within the legislative competence of the National Assembly for Wales, should be considered by the UK Parliament.”

#### **Background**

2. The Legislative Consent Motion at paragraph 1 above has been tabled by Carl Sargeant AM, Minister for Social Justice and Local Government under Standing Order 26.4 of the Standing Orders (SO) of the National Assembly for Wales (“the National Assembly”). This Legislative Consent Memorandum is laid under S.O 26.2.

3. S.O 26 prescribes that a Legislative Consent Motion must be tabled, and a Legislative Consent Memorandum laid, before the National Assembly if a UK Parliamentary Bill makes provision in relation to Wales for a purpose that falls within the legislative competence of the National Assembly.

4. The Police Reform and Social Responsibility Bill was introduced into the House of Commons on 30 November 2010. The Bill can be found at:

<http://services.parliament.uk/bills/2010-11/policereformandsocialresponsibility/documents.html>

#### **Summary of the Bill and its Policy Objectives**

5. The Bill is sponsored by the Home Office. The main purpose of the Bill is to make provision about the administration and governance of police forces; about the licensing of, and for the imposition of a late night levy in relation to, the sale and supply of alcohol; for the repeal of sections 132 to 138 of the Serious Organised Crime and Police Act 2005 and for the prohibition of certain activities in Parliament Square; to enable provision in local authority byelaws to include powers of seizure and forfeiture; about the control of dangerous or otherwise harmful drugs; to restrict the issue of arrest warrants for certain extra-territorial offences; and for connected purposes.

#### **Provisions of the Bill for which consent is sought**

6. The provision amending section 235 of the Local Government Act 1972 is contained in clause 148 (Miscellaneous Provisions Part 4).

7. In respect of the subject matter of clause 148 the legislative competence of the National Assembly is contained in Schedule 5 to the Government of Wales Act 2006. In that Schedule Matter 12.2 provides competence for –

“Provision for and in connection with –

(a) the procedure for the making and coming into force of byelaws, and

(b) the enforcement of byelaws.”

Clause 148 deals with the enforcement of byelaws.

8. Subclause (1) of clause 148 enables local authorities to attach powers of seizure and retention of any property in connection with any breach of a byelaw made under Section 235 of the Local Government Act 1972 and enables the courts, upon conviction for non-compliance or contravention of any byelaw, to order forfeiture of any such property.

### **Advantage of Utilising this Bill**

9. It is advantageous for local authorities in Wales to be able to make good rule and government byelaws (section 235 Local Government Act 1972) which contain the power of seizure and retention because this will provide local authorities with the opportunity to strengthen these byelaws and assist them in their efforts to protect their communities. It is the view of the Welsh Assembly Government that it is appropriate to deal with these provisions in this UK Bill as it represents the most appropriate and proportionate legislative vehicle to enable these provisions to apply in Wales at the earliest opportunity.

10. This Legislative Consent Memorandum has therefore been laid, and the Legislative Consent Motion tabled, before the National Assembly for consideration.

### **Financial Implications**

11. There are no additional financial implications for the Welsh Assembly Government apart from any associated administration costs which can be met from the Social Justice and Local Government Delegated Running Costs budget.

12. It is anticipated that there will be minor additional costs for local authorities should they wish to include this power. This may be through additional consultation when making the byelaw and during enforcement.

13. However, the power to incorporate the powers of seizure and retention is optional and it will be a matter for individual local authorities to decide whether they need to use it.

**Carl Sargeant AM, Minister for Social Justice and Local Government,  
January 2011**