

REPORT OF THE BUSINESS COMMITTEE
PROPOSAL TO CHANGE STANDING ORDERS

Introduction

Special provisions need to be agreed by the Assembly to enable general subordinate legislation to be made by the Permanent Secretary during the period between the Assembly elections and the election of the Presiding Officer. This will take the form of a temporary revision to Standing Order 22 and new temporary Standing Orders 29A and 29B (see attached). It has not been reasonably practicable to include a Welsh version of these temporary standing orders in this report. A Welsh version will be circulated to Members via e-mail before the relevant debate takes place.

Proposal

These temporary Standing Orders were agreed by Business Committee on 25th March 2003 and the Assembly is invited to approve them.

Business Committee Secretariat
March 2003

STANDING ORDER 22 – ASSEMBLY GENERAL SUBORDINATE LEGISLATION

1. After paragraph 22.30, insert –

“ORDINARY ELECTION 2003

22.31 During the ordinary election period an Assembly Order shall be made on behalf of the Assembly by being signed by:-

- (a) the Presiding Officer (or in his absence the Deputy Presiding Officer), or
- (b) until such officers are elected, the Permanent Secretary,

Provided that in either case the Permanent Secretary has determined in relation to that Order that in his or her opinion it is necessary for the proper discharge of the functions of the Assembly that that Order is so made during the ordinary election period.

22.32 In relation to the making of an Assembly Order on behalf of the Assembly during the ordinary election period:-

- (a) paragraphs 22.1 to 22.4 and 22.27 of this standing order shall have effect and be construed as if references to a Minister or to the Assembly Cabinet (including references to be construed as such) also included reference to the Permanent Secretary; and
- (b) paragraphs 22.28 and 22.29 shall apply as if a relevant determination made by the Permanent Secretary under paragraph 22.27 had been a determination made by the Assembly Cabinet under that paragraph.

22.33 Before making a determination under paragraph 22.31, the Permanent Secretary shall, so far as he or she considers it reasonably practicable in the circumstances, consult the person or persons specified in para. 22.34.

22.34 The specified person or persons is or, as the case may be, are:

- (a) in the case of a political group with a majority of the Members elected to the Assembly after the election on 1st May 2003, the leader of that group, but if there is no such group, then,
- (b) the leaders of the two or more political groups who have agreed (pursuant to “temporary standing order” [under resolution on 19th March 2003] to fix the date and time of the 1st meeting of the Assembly after the election on 1st May 2003, but if there has been no such agreement, then,
- (c) the leaders of such two or more political groups which the Permanent Secretary considers represents a majority of Members elected to the Assembly.

Provided that in respect of any consultation on 1st May 2003, the specified person or persons shall be such person or persons as the Permanent Secretary considers is or, as the case may be, are, likely to represent a majority of Members elected to the Assembly at the election on that date.

22.35 As soon as possible after the end of the ordinary election period, the Permanent Secretary shall lay before the Assembly a statement setting out:-

- (a) what, if any, Assembly Orders have been made on behalf of the Assembly during the ordinary election period;
- (b) his or her reasons for making a determination under para 22.31; and

- (c) the intended effect of any Assembly Order made on behalf of the Assembly in the ordinary election period and any financial implications of that Order.

22.36 In paragraphs 22.31, 22.32 and 22.35, “ordinary election period” means the period beginning with the date of the ordinary election (within the meaning of section 2(4) of the Act) in 2003 and ending with the election of the First Minister following that ordinary election.”

2. After Standing Order 29 insert –

“STANDING ORDER 29A : OTHER ASSEMBLY SUBORDINATE LEGISLATION AND ORDINARY ELECTION 2003

29A.1 This standing order applies to Assembly subordinate legislation other than:-

- (a) Assembly Orders; or
- (b) Assembly subordinate legislation to which standing order 23, section 1 or 2, or standing order 25 apply;

and in the following paragraphs of this standing order references to Assembly subordinate legislation shall be construed accordingly.

29A.2 In this standing order –

- (a) the term “ordinary election period” shall be construed in accordance with para 22.36; and
- (b) references to Assembly subordinate legislation being made shall in the case of Assembly subordinate legislation made by the Assembly, whether jointly or not, together with a UK Minister or UK Government Department or the Scottish Executive, be construed as including reference to Assembly subordinate legislation made on behalf of the Assembly.

29A.3 Subject to paragraph 29A.4 and 29A.5, Assembly subordinate legislation may, during the ordinary election period, be prepared and made by the Permanent Secretary.

29A.4 Before Assembly subordinate legislation can be made under para 29A.3 the Permanent Secretary must determine in relation to that Assembly

subordinate legislation, that in his or her opinion it is necessary for the proper discharge of the functions of the Assembly that that subordinate legislation is made during the ordinary election period.

29A.5 Before making a determination under paragraph 29A.4, the Permanent Secretary shall, so far as he or she considers it reasonably practicable in the circumstances, consult the person or persons specified in paragraph 29A.6.

29A.6 The specified person or persons is or, as the case may be, are:

- (a) in the case of a political group with a majority of Members elected to the Assembly, the leader of that group, but if there is no such group, then,
- (b) the leaders of the two or more political groups who have agreed (pursuant to “temporary standing order” [under resolution on 19th March 2003] to fix the date and time of the 1st meeting of the Assembly after the election on 1st May 2003, but if there has been no such agreement, then,
- (c) the leaders of such two or more political groups which the Permanent Secretary considers together represent a majority of Members elected to the Assembly.

Provided that in respect of any consultation on 1st May 2003, the specified person or persons shall be such person or persons as the Permanent Secretary considers is or as the case may be are likely to represent a majority of Members elected to the Assembly at the election on that date.

29A.7 In the case of Assembly subordinate legislation made with a UK Minister or UK Government Department or the Scottish Executive the Permanent Secretary shall notify the relevant person or body that he or she made that subordinate legislation on behalf of the Assembly.

29A.8 As soon as possible after the end of the ordinary election period, the Permanent Secretary shall lay before the Assembly a statement setting out:-

- (a) what, if any, Assembly subordinate legislation has been made during the ordinary election period;
- (b) his or her reasons for making a determination under para 29A.4; and
- (c) the intended effect of any Assembly subordinate legislation made during the ordinary election period and any financial implications of that subordinate legislation.

29A.9 Whenever a statement is laid before the Assembly under para 29A.8, a Member may, within the period of 40 working days beginning with the date on which the statement is laid, table a motion instructing the relevant Minister –

- (a) to consider the possibility of any Assembly subordinate legislation made under the standing order being revoked or where appropriate being revoked in relation to Wales; and
- (b) to lay before the Assembly as soon as possible a report stating what action the Minister has taken or proposes to take in that respect.

29A.10 Assembly subordinate legislation made under this standing order shall be in both English and Welsh unless the Permanent Secretary considers that that would be inappropriate in the circumstances or not reasonably practicable.

29A.11 The Permanent Secretary shall arrange for any Assembly subordinate legislation made under this standing order which is not in Welsh to be translated into Welsh and the translation published for public information

unless he or she considers that inappropriate in the circumstances or not reasonably practicable.

29A.12 Nothing in this standing order shall, in relation to Assembly subordinate legislation which is Assembly general subordinate legislation, be construed as overriding the application of standing order 22 to such legislation.

STANDING ORDER 29B : ASSEMBLY CONFIRMATION APPROVAL ETC OF SUBORDINATE LEGISLATION AND ORDINARY ELECTION 2003

29B.1 This standing order applies where the Assembly has power to confirm approve, agree or consent to subordinate legislation submitted to the Assembly by a Minister of the Crown, but does not apply to subordinate legislation made by Order in Council under section 22 of the Act.

29B.2 In this standing order the term “ordinary election period” shall be construed in accordance with paragraph 22.36.

29B.3 Subject to para 29B.4 and para. 29B.5, the Permanent Secretary may, during the ordinary election period, confirm, approve, agree or, as the case may be, give consent on behalf of the Assembly to any subordinate legislation submitted by a Minister of the Crown for that purpose, and shall do so in writing.

29B.4 Before the Permanent Secretary confirms, approves, agrees or gives consent under paragraph 29B.3, he or she must determine that in his or her opinion it is necessary for the proper discharge of the functions of the Assembly that the confirmation, approval, agreement or consent is given during the ordinary election period.

29B.5 Before making a determination under paragraph 29B.4, the Permanent Secretary shall, so far as he or she considers it reasonably practicable in

the circumstances, consult the person or persons specified in paragraph 29B.5.

29B.6 The specified person or persons is or, as the case may be, are:

- (a) in the case of a political group with a majority of Members elected to the Assembly, the leader of that group, but if there is no such group, then,
- (b) the leaders of the two or more political groups who have agreed (pursuant to “temporary standing order” [under resolution on 19th March 2003] to fix the date and time of the 1st meeting of the Assembly after the election on 1st May 2003, but if there has been no such agreement, then,
- (c) the leaders of such two or more political groups which the Permanent Secretary considers together represent a majority of Members elected to the Assembly.

Provided that in respect of any consultation on 1st May 2003 the specified person or persons shall be such person or, as the case may be, persons as the Permanent Secretary considers is or, as the case may be, are likely to represent a majority of Members elected to the Assembly at the election on that date.

29B.7 As soon as possible after the end of the ordinary election period, the Permanent Secretary shall lay before the Assembly a statement setting out:-

- (a) what, if any, subordinate legislation to which he or she has given confirmation, approval, agreement or consent under para 29B.3;
- (b) his or her reasons for making a determination under para 29B.4; and

- (c) the intended effect of the subordinate legislation to which he has given confirmation, approval, agreement or consent under para 29B.3 and any financial implications.”.