Introduction

This Help Sheet is designed for readers who are not familiar with the system of legislation in the UK. Supplementing Help Sheet 1 it outlines the main legislative processes in the Scottish Parliament and the Welsh and Northern Irish Assemblies with regard to their law-making powers. Legislative devolution was accompanied by executive devolution to the Scottish Government, Rìaghaltas na h-Alba (previously known as the Scottish Executive), the Welsh Government, Llywodraeth Cymru (previously known as the Welsh Assembly Government) and the Northern Ireland Executive.

The Legislative Process in Scotland

The Scottish Government can instigate both primary and secondary legislation (Scottish Statutory Instruments) on matters of devolved responsibility (see Help Sheet 1 for an explication of these two forms of legislation). The formal legislative process is modelled on that of the UK Parliament, with bills having to be approved by the Scottish Parliament (Parliamand na h-Alba) and ratified by the monarch as Acts of the Scottish Parliament. As in England there are several types of bill, with the majority being Government Bills.

Elections to the Scottish Parliament were until 2011 held every four years on the first Thursday in May. To prevent a clash with the UK general election that for 2015 was rescheduled to 2016. Normally, a Parliamentary year is 12 months, starting with the first meeting after the election.

The Government’s agenda is determined by the cabinet led by the First Minister who presents its Programme for Government for the Parliamentary year at the beginning of each. This sets out its policies and goals, legislative and non-legislative, with that in a Government’s first year reflecting its election pledges. The document also points to the Government’s longer-term aims and summarises its achievements. Responsibility for overseeing the Government’s strategic objectives and developing proposals for Parliamentary consideration rest with the relevant Cabinet Secretary/Ministers and the directorates that serve them, with bills being drafted by teams at the Office of the Scottish Parliamentary Counsel.

The legislative process is intended to be participative and is best summarised as follows:

- Pre-legislation

Proposals for legislation are frequently subject to public soundings in the form of Government Consultation documents. These are issued according to good practice guidelines and may include detailed proposals or a draft of a bill. Typically they invite paper or online responses to specific questions or more general comments from interested organisations and the wider public, though other mechanisms such as public meetings, focus groups and online discussion forums may also be used. A public petitioning system and provisions for the public to attend cross-party policy groupings meetings also provide opportunities for citizens’ input into policymaking.

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1 The 2015/16 Wales Bill provides powers for the Welsh Assembly to rename itself a Parliament.
2 The 2016 Scotland Act gave the Scottish Government powers to set an alternative date for the 2020 election (again to avoid a clash with the UK general election) and to set future election dates.
3 Departments do not form part of the administrative structure in Scotland (see Chapter 22)

Parliamentary Consideration

Once a draft bill is agreed, Ministers and their teams remain responsible for piloting it through the three stages of Scotland’s unicameral (single chamber) Parliament:

- **Stage One:** Introduction and Consideration (along with accompanying documentation, including a statement of legislative competence, financial assessments and an impact assessment) and report on its general principles by the relevant Committee(s) (Stage 1 Report), followed by a Whole-Parliament Consideration of its merits and a vote on whether it should proceed (or not).\(^4\)

- **Stage Two:** Committee Stage, entailing detailed scrutiny by a relevant Committee, Parliament or a combination of both and consideration of any amendments proposed by its members.

- **Stage Three:** Whole Parliament Consideration of any amendments to the bill and then whether it should be passed.

Once passed, there is a four-week period allowing for verification that the bill is within the Parliament’s remit; confirmation means that it is then submitted for Royal Assent and enacted (as an Act of the Scottish Parliament) for implementation on the specified date or dates.

The secondary legislation process provides for the technical scrutiny of Scottish Statutory Instruments by the Delegated Powers and Law Reform (DPLRC) or another Assembly Committee.

Impact Assessments

As part of the pre-and legislative processes the Government is obliged to provide Business and Regulatory Impact Assessments (BRIAs) for both primary and secondary legislation proposals as they affect business and the third sector. The provision of Partial BRIAs is an element of the consultation process which the feeds into the publication of a Final BRIA. Bills are also subject to Equality Impact Assessments. These consider the effects of legislative proposals on the nine groups with ‘protected characteristics’ under the 2010 Equality Act.\(^5\) Proposed new legislation/bills and policies may also be subject to Child Rights and Wellbeing Impact Assessments.

The Legislative Process in Wales

Unlike Scotland, devolution in Wales initially limited the National Assembly (Cynulliad Cenedlaethol Cymru) to initiating, scrutinising and implementing secondary legislation from the primary legislation drawn up by the UK Parliament (see Help Sheet 1). The 2006 Government of Wales Act provided for a transition to a full legislature in devolved matters, a process completed following the 2011 referendum. As in Scotland, bills have to be approved by the Assembly and receive the Royal Assent before becoming Acts of the Assembly.

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\(^4\) There are permanent Committees of elected members covering each Minister’s area that are responsible for both legislative scrutiny and policy investigation.

\(^5\) Provisions in Scotland (and the rest of the UK) regarding the public sector equality duty and EIAs are more wide-ranging than in England. Under the Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012 relevant public authorities are required to report on progress toward integrating the Public Sector Equality Duty into the exercise of their functions (‘mainstreaming the equality duty’), publish ‘equality outcomes’, review their policies and practices, publish gender pay gap information and equal pay statements and consider the equality duty in award criteria for public procurement.

Elections to the Assembly initially took place every four years on the first Thursday in May, that for 2015 being rescheduled to 2016 to avoid coinciding with the UK general election. Under the Wales Act 2014 they have been placed on a five-year footing. The Assembly year is normally twelve months, commencing with the first meeting after an election.

Policymaking is determined by the cabinet composed of Welsh Ministers and headed by the First Minister who, at the opening meeting of a new Assembly, announces the Government’s aims, priorities and policy proposals. These are set out in its Legislative Programme for its term of office, which is updated in its Programme for Government Annual Report. Policy developing is undertaken by the relevant Ministers and their offices, with bills being drafted by the Office of the Legislative Counsel.

❖ Pre-legislation

The pre-legislative process (for both primary and secondary legislation) again entails internal and public consultation. This may involve the publication of Green and/or White Papers and/or issuing draft bills to interested parties and, in the case of secondary legislation, questionnaires to elicit specific as well as general comments from stakeholders, those with particular expertise and the general public. Citizens can also express their policy concerns through a petition system and, depending on the issue, public meetings and focus groups.

❖ Welsh Assembly Consideration

In the case of primary legislation, Government Bills (and others) have to be steered through a four-stage Assembly process:

• Stage One: Introduction and Consideration of the general principles of the Bill by the relevant Committee, followed by debate and agreement on those principles by the Assembly (the Stage 1 Debate and Report).

• Stage Two: Committee Stage, involving a scrutiny of the bill and any amendments proposed by Assembly members by the relevant Committee.6

• Stage Three: Whole Assembly scrutiny the Bill and any amendments.

• Stage Four: Whole Assembly – votes on/agrees to the final bill.

(There is also provision for an additional amending or Report Stage between the third and final stages).

Once passed and ratified by Royal Assent, the Act of the Assembly comes into force on the specified date or dates.

Statutory Instruments are subject to technical scrutiny by the Constitutional and Legislative Affairs Committee.

❖ Regulatory Impact Assessments

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6 Permanent Committees covering Ministers’ subject areas are, as in the other devolved administrations, responsible for scrutinising legislation and policy investigation.
As elsewhere in the UK, RIAs form a key component of the legislative system, both in draft and finalised forms (alongside draft/finalised bills). Proposals for new policies and legislation/bills are also subject to Equality Impact Assessments (EQIAs) and may also be subject to Children’s Rights Impact Assessments (CRIAs).  

The Legislative Process in Northern Ireland

The Northern Ireland Executive (NIE) can initiate primary and secondary legislation (Statutory Rules) in the spheres of responsibility transferred to the Northern Ireland Assembly, with bills requiring its approval and the Royal Assent to become law. Elections took place every four years on the first Thursday in May until 2011, with that for 2015 deferred to 2016. Normally, a Parliamentary year is twelve months, starting with the first meeting after the election. In line with Northern Ireland’s mandatory coalition provisions the NIE comprises the First and Deputy Prime Ministers, their juniors and Department Ministers.

Its overall agenda, reflecting Northern Ireland’s power-sharing arrangements, is laid out in the Programme for Government presented to the Assembly at the outset of the first year by the First and Deputy First Ministers. This sets the strategic context for the NIE’s policies and priorities, with summaries of its progress being provided in its regular Strategic Online Report and policy updates being announced in the Assembly. Responsibility for managing Executive Bills rests with the relevant Minister and Department, with drafting being undertaken by the Office of the Legislative Counsel.

Pre-legislation

Political complexities and power-sharing provisions mean that policy formulation can involve highly convoluted negotiation within the parties making up the Executive as well as within and between Departments. As with the rest of the UK, public consultations on both primary and secondary legislation (carried out in accordance with the Cabinet Office Code of Practice on Written Consultations) are integral to the pre-legislative stage.

Assembly Consideration

Once a draft Bill is agreed, it is subject to consideration by the Assembly:

- **Stage One:** Formal introduction of Bill; no debate.
- **Stage Two:** Assembly debate – focused on the Bill’s general principles.
- **Stage Three:** Committee Stage – detailed scrutiny and report back on the Bill and any amendments by the appropriate Committee which can take evidence from interested bodies and individuals and the sponsoring Department.  

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**Notes:**

7 The 2006 Government of Wales Act required the Welsh Government to promote equality for all people in exercising its functions (a duty that does not apply to their Scottish and Northern Irish counterparts). Like those in Scotland provisions in Wales regarding the Public Sector Equality Duty and EQIAs are more extensive than those in England. The Equality Act 2010 (Statutory Duties (Wales) Regulations 2011) requires public authorities to set equality objectives, set out how they intend to meet them and the time frame for this, and in doing so pay due regard to reducing pay inequality. The Regulations also include provisions regarding engagement/consultation and procurement and require them to produce Strategic Equality Plans. CRIAs were introduced in 2014.

8 As in Scotland and Wales permanent Committees of elected members undertake legislative scrutiny and policy investigation in each Minister’s field of responsibility.
• **Stage Four:** Consideration Stage – whole Assembly debate and vote on all elements of the Bill including amendments.

• **Stage Five:** Further Consideration by the Assembly – debate limited to new amendments (if there are none, there is no debate).

• **Stage Six:** Final Stage – debate and vote on the Bill.

Following checks to ensure the Bill is within the Assembly’s legislative competence and Royal Assent, it is implemented according to the stipulated time frame as an Act of the Northern Ireland Assembly.

The technical scrutiny of Statutory Rules is undertaken by a relevant Statutory Committee supported by the Examiner of Statutory Rules who also assists the Assembly in matters relating to secondary legislation.

❖ **Regulatory Impact Assessments**

RIAs are also a key tool to ensure Northern Irish legislation is necessary and proportionate and all Departments (and other public bodies) are required to consider RIAs as part of the policy development process. There is a range of legal provisions in Northern Ireland designed to ensure that consideration of human rights and equality issues is integral to the policy development process and the pre-and legislative stages of preparing and considering Executive (and other) Bills. The drafting/consultation on an administration’s Programme for Government also involves the production of a draft strategic-level Equality Impact Assessment and the publication of a final EQIA with the agreed Programme for Government.⁹

❖ **Further Reading**

*Chapter 42 of the Companion provides an overview of the main perspective on policymaking processes. Policy development in the devolved administrations and their differing legislative Powers are discussed in Part IV.*


The progress of a Bill and amendments to it can be tracked on the Scottish Parliament and Welsh and Northern Ireland Assemblies ([www.scottish.Parliament.uk](http://www.scottish.Parliament.uk); [www.assembly.wales](http://www.assembly.wales); and [www.niassembly.gov.uk](http://www.niassembly.gov.uk)).

Information about the range of pressure groups involved in lobbying throughout both the pre- and legislative process can be found in the *Guide to Key Sources on UK Social Policy.*

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⁹ The 1998 Northern Ireland Act placed public sector equalities and good relations duties on public authorities in Northern Ireland, including promoting equality of opportunity, producing equality schemes and conducting equality impact assessments on their policies.