

Quick guide

The Constitution – The First Minister and Welsh Ministers

April 2007

Introduction

In 1999 the National Assembly for Wales was constituted as a single corporate body with executive powers. The Government of Wales Act 2006 (“the Act”)¹, however, establishes the Welsh Assembly Government (Llywodraeth Cynulliad Cymru) as an executive and a separate entity from the National Assembly for Wales. The Welsh Assembly Government comprises the **First Minister (Prif Weinidog)**², other **Welsh Ministers (Gweinidogion Cymru)**, and **Deputy Welsh Ministers (Dirprwy Weinidogion Cymru)** and the **Counsel General to the Welsh Assembly Government (Cwnsler Cyffredinol i Lywodraeth Cynulliad Cymru)**.³ The Welsh Assembly Government remains accountable to the National Assembly.

The First Minister and Ministers in the First and Second Assemblies

The Government of Wales Act 1998 (“the 1998 Act”) provided for a “First Secretary” and “Assembly Secretaries” rather than a “First Minister” and “Ministers”. The First Secretary was elected by the Assembly. Executive powers were devolved from Westminster to the National Assembly of Wales and the Assembly then delegated those powers to the First Secretary, who then in turn appointed Assembly Secretaries and delegated powers to them. Collectively the 1998 Act designated the First Secretary and Assembly Secretaries as “the Executive Committee” but it became known as “the Cabinet” from the outset.

As the Assembly established itself a number of changes took place that strengthened the executive character of its governmental side. In February 2000, 3 Deputy Secretaries were appointed to support Assembly Secretaries. In October 2000 the term “Ministers” replaced the term “Secretaries” and the term “First Minister” came into use.

In November 2001 the First Minister announced that the term Welsh Assembly Government/Llywodraeth Cynulliad Cymru would in future be used to describe the Cabinet

¹ Government of Wales Act 2006 (Chapter 32)

² The Welsh language terminology is included in the Act.

³ Information on the Counsel General can be seen Constitutional Quick guide on the Counsel General.

and officials, other than those working for the Presiding Office⁴. This was in order to emphasise the division between the “executive” and “legislative” parts of the Assembly.

When the National Assembly for Wales opened in May 1999, the Rt. Hon. Alun Michael MP, was elected as First Secretary. Following his resignation in February 2000, he was replaced by the Rt. Hon. Rhodri Morgan AM, who served as First Minister to the end of the Second Assembly.

The First Minister in the Third Assembly

The Act provides for the First Minister to be appointed by the Monarch on the recommendation of the Presiding Officer, following a vote in the Assembly. The Act sets out the procedure for the Assembly to choose the First Minister and provides for the Assembly to nominate one of its Members for appointment as First Minister and for the Presiding Officer to recommend the appointment of that person to the Monarch.

Nomination of an Assembly Member for appointment as First Minister is triggered by one of these events:

- the holding of a poll at a general election;
- the Assembly resolving that the Welsh Ministers no longer enjoy the confidence of the Assembly;
- the First Minister tendering resignation to the Monarch;
- the First Minister dying or becoming permanently unable to act or to tender resignation;
- the First Minister ceasing to be a member of the Assembly, other than on a dissolution (e.g. by resigning from the Assembly).

Once one of these events occurs, the Assembly must nominate a First Minister before the end of the period of **28 days** after the occurrence of the event in question. If the Assembly fails to make a nomination within the period allowed, then the Secretary of State is required to propose a day for the holding of an extraordinary general election.

If a vote of no confidence in the Assembly succeeds against the First Minister the Act provides that the First Minister remains in office with all the functions of that office and of the Welsh Ministers generally, until the Assembly nominates a First Minister (or re-nominates the same person as First Minister). The First Minister could therefore, during that period, appoint Ministers if this were necessary for the efficient and effective administration.

⁴ These are the staff working for all Assembly Members such as Committee Service staff and the Table Office. i.e. it is the “legislative branch”. The Office of the Presiding Officer, became the Presiding Officer and then the Assembly Parliamentary Service.

Welsh Minister and Deputy Ministers

Once appointed by the Monarch, the First Minister may, with the approval of the Monarch, appoint Welsh Ministers and Deputy Ministers from among Assembly Members. Unlike in Scotland, these appointments need not be approved by the Assembly itself. The Act places a limit of 12 on the number of Ministers and Deputy Ministers, excluding the First Minister and Counsel General.

The First Minister can remove Ministers and Deputy Ministers from office at any time and they cease to be Ministers if they resign as Assembly Members. If the Assembly resolves that the Welsh Ministers no longer enjoy the confidence of the Assembly, the Bill provides that all Welsh Ministers and Deputy Welsh Ministers resign with immediate effect.

The role of the Welsh Assembly Government

From May 2007, the Welsh Assembly Government has been legally constituted as an executive and exercises powers as such. These include the development and implementation of policy; the exercise of a range of devolved functions and the making of subordinate legislation.

The Welsh Assembly Government can also propose Assembly Measures to be made by the National Assembly.

Accountability of Welsh Ministers

The Welsh Assembly Government is subject to scrutiny by the Assembly. The ways in which it is held accountable include:

Oral Questions: Members may table oral questions to the First Minister, to each Welsh Minister or to the Counsel General, about any matters relating to his or her responsibilities.

Standing Orders require that the First Minister answers oral questions in Plenary for a maximum of 45 minutes a week when the Assembly is in session.

Each Welsh Minister and the Counsel General is required to answer oral questions in Plenary in relation to his or her responsibilities, for a maximum of 30 minutes, every four weeks when the Assembly is in session. Deputy Ministers may answer oral questions on behalf of the First Minister and other Ministers.

Power to Call: The Act enables the Assembly to require any "person"⁵ to attend Assembly proceedings to give evidence, or to produce documents which are in that person's

⁵ "Person" is intended to have the same meaning as in the Interpretation Act 1978, i.e. it applies to public bodies and officers, as well as to private bodies such as companies, trusts etc.

possession or control, concerning any matter relevant to the exercise by the Welsh Ministers of any of their functions and provided the person in question is involved in the exercise of functions or the carrying on of activities in relation to Wales.

The First Minister and Welsh Ministers are required, therefore, to appear before the Assembly or one of its committees, if requested.

Further information

For further information on the Constitution Series, please contact **Dr. Alys Thomas** (Alys.Thomas@Wales.gsi.Gov.UK), Members' Research Service.

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