

NATIONAL ASSEMBLY FOR WALES**LEGISLATION COMMITTEE REPORT****The Changing of School Session Times (Wales) Regulations 2000****Background**

Under section 41(1)(b) of the School Standards and Framework Act 1998 the governing body of a community, voluntary controlled or community special school are responsible for determining the daily starting and finishing times of each school session.

Regulations may make provision as to the procedure to be followed where the governing body propose to make any change in the times of the school sessions.

These Regulations make such provision, with a view to securing that proposed changes are adequately publicised and that comments from interested persons are taken into account.

Standing Order 11.5

Having had the opportunity of looking at an early draft of these Regulations the legal advisers to the Committee have been able to identify a number of points which have now been taken into account in the final draft. Accordingly, there are no points in respect of which the Committee needs to invite the Assembly to pay special attention under Standing Order 11.5.

General Observations**Minor discrepancy between English and Welsh texts**

There is a slight discrepancy between the Welsh and English texts in Regulation 2(2)(i) – the English states that the local education authority is to be informed of a change and when "it is to take effect" whilst the Welsh says (effectively) "when it is intended to take effect". This is a minor point which does not affect the validity.

Questions arising as to whether a person is a "parent"

It has been drawn to the attention of the Committee that an earlier draft of the Regulations included provision that any question of whether a person was a "parent" for the purposes of the Regulations was to be determined by the local education authority. This was included in pursuance of the enabling power in section 41(3)(c) of the School Standards and Framework Act 1998.

This was omitted from the draft Regulations laid before the Assembly, on the basis that

provision simply for the question to be determined by the local education authority did not fulfil the requirements of Article 6.1 of the European Convention on Human Rights.

With the provision omitted, disputes will fall to be determined by the High Court under judicial review proceedings, and the requirements of Article 6.1 are thus be met.

The Committee point out, however, that to pursue a dispute by means of legal action in the High Court is not a remedy which an individual can easily invoke. It is suggested that it would have been more satisfactory if the Regulations had continued to include provision for determination by the local educational authority but with something added to set down a procedure for the hearing and determination of such matters, which would ensure compliance with Article 6.1 of the Convention.

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Chair,
Legislation Committee

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