



Cynulliad National  
Cenedlaethol Assembly for  
Cymru Wales

**ADRODDIAD GAN Y PWYLLGOR DEDDFAU**

**LEGISLATION COMMITTEE REPORT**

**The Local Health Boards (Transfer of Property, Rights and Liabilities) (Wales) Order  
2003**

This provides for the transfer of property, rights and liabilities to the new local health boards.

**Standing Order 11.5**

The Assembly is invited to pay special attention to the following drafting defects which have been acknowledged on behalf of the Minister. It is considered that these should be corrected by an amending order as soon as possible.

**Article 6**

Paragraph (2) applies only to “property, rights and liabilities”. This could be misleading as although paragraph (2) is clearly meant to relate to all of the matters mentioned in paragraph (1), it is only (1)(c) which refers to “property, rights or liabilities”. This is compounded by the fact that with paragraph (1) referring to “This article” paragraph (2) should refer to “this article” rather than “paragraph (1) above”.

**Article 8(1)**

Paragraph (1) applies paragraphs (2) – (4) “where a transfer ... operates so as to affect adversely the rights of any third party”. Clearly, however, article 8 is intended to operate not where it has already been determined that the rights of a third party are adversely affected but where it is claimed that such rights are adversely affected.

**Schedules 1 and 2**

Each Schedule contains two entries referring to rights of occupation at Preswylfa, Mold. Since column 2 indicates, for each entry, that the rights are currently vested in the North Wales Health Authority there is nothing to indicate which rights are to be transferred to the Powys Local Health Board and which to the Flintshire Local Health Board. Whilst this may be covered in the agreement referred to in the Preamble, the division should be indicated in the Schedules as it is the Order which effects the transfer.

**Schedule 3**

The status of the table on the final page of the Order is uncertain. It is assumed that it is intended to be part of Schedule 3 but the headings do not to make this clear.

**Observations****Preamble**

“Schedule B” will be corrected to “Schedule 5B” in the published version.

Footnote (a) should identify the legislation which inserted Schedule 5B into the 1977 Act.

**Article 2(1)**

The second and third and fifth to seventh definitions should begin with a lower case letter.

**Schedules 1 and 2**

These appear to be identical. On this basis articles 3 and 4 could both have referred to one schedule.

Mick Bates AM  
**Chair, Legislation Committee**

18 March 2003