

LEG 03-99 (min)

LEGISLATION COMMITTEE

MINUTES

Date: 20 July 1999

Time: 10.30am

Venue: Committee Room 3

Attendance:

Michael German, Chair (Liberal Democrat: South Wales East)

Nicholas Bourne (Conservative: Mid and West Wales)

Jocelyn Davies (Plaid Cymru: South Wales East)

Carwyn Jones (Labour: Bridgend)

Huw Lewis (Labour: Merthyr Tydfil and Rhymney)

David Rhys Lloyd (Plaid Cymru: South Wales West)

John Marek (Labour: Wrexham)

Owen John Thomas (Plaid Cymru: South Wales Central)

John Turnbull Office of the Counsel General

Cedric Longville Office of the Counsel General

Huw Evans Office of the Counsel General

Jane Phillips Committee Clerk

Gareth Brydon Committee Secretariat

Apologies:

Lynne Neagle (Labour: Torfaen)

Item 1 : Discussion on the language and format of subordinate legislation

Paper: LEG 03-99 (p.1)

Paper: LEG 03-99 (p.2)

1.1 The Chair reported that he had met representatives of the Law Society on 16th July. The Society had raised a number of concerns about the

Office of the Presiding Officer's proposals for the publication of subordinate legislation. These included:

- The speed of transfer of draft and made subordinate legislation from the Intranet to the Internet ;
- Indexing of published subordinate legislation;
- Proposals for a digest of Welsh subordinate legislation ;
- Incorporating amendments to subordinate legislation once it had been published.

He had given an undertaking to the Law Society to take these matters up with the Presiding Officer and also to report to the Committee on the outcome.

1.2 Mr Evans spoke to his paper on English and Welsh Texts of Assembly Subordinate Legislation (LEG-03-99(p.1)). He reminded Members that, in accordance with section 66(4) of the Government of Wales Act 1998, draft subordinate legislation normally had to be in English and Welsh. Members discussed the relationship between translation and construction. The meaning of a piece of subordinate legislation should be construed from reading both English and Welsh texts together. The aim should be to eliminate inconsistencies in order to allow the same interpretation from either language. However the final view about construction would be a matter for the courts.

1.3 The Chair asked members to consider whether both languages should be presented in

columns on the same page; or on opposite pages. Mr Longville reported that a firm of IT consultants had advised that columns were easier on the eye and took up less space. However, in discussion, it was noted that the Tax Law Rewrite Committee had concluded that opposite pages were easier to read, although the format added an extra twenty per cent to the printing costs (but this was in the context of single language documentation). The majority view was in favour of the dual column format. The Presiding Officer had responsibilities for the publication of subordinate legislation under Standing Order 22.61 and Members agreed to recommend this to him. However, the Committee would look at the issue again next year in the light of experience.

1.4 The Committee recognised that clarity and style were issues for the legal draughtsperson in the first instance. However, the Committee had a remit to consider these issues if the meaning was unclear under Standing Order 11.5 (iv). It was important that the drafting of legislation should be as reader-friendly as possible, avoiding Latin terms for example. It was agreed to recommend to the Presiding Officer that the explanatory note should be included at the front of each statutory instrument and other pieces of subordinate legislation.

1.5 The Committee recognised that there had to be a trade-off between layout and the other considerations above. However, the Committee considered that the Assembly had the opportunity to be ground-breaking in terms of formatting and that diagrams and other visual aids could be incorporated as an aid to the written text at the draughtsperson's discretion. The Committee resolved to commend an easy-to-read font in as a large a font size as possible to the Presiding Officer.

Item 2: Future Work Programme

2.1 The date of the next meeting was noted as 14th September.

The Chair commented that it had been helpful that the Committee had been able to cover so much ground in preparing for their duties. Mr Turnbull confirmed that there would probably be a number of pieces of subordinate legislation for the Committee to consider straight after the Recess.

2.2 The Chair informed Members that Mr Turnbull would stand down from the

Management Board of the Counsel General when he took up his appointment as Legal Adviser to the Committee on 1 September.

Item 3: Minutes of Previous Meeting

3.1 The Committee agreed the minutes of the last meeting LEG-02-99(min).

3.2 Members referred to paragraph 1.5 of the minutes which stated the

Committee's view that "... it was in the best interests of the Assembly that all draft subordinate legislation should be subject to scrutiny." However, they noted that the first two items of subordinate legislation to be considered at Plenary were being dealt with under Part Two of Standing Order 22 (Subordinate Legislation Subject to Parliamentary Procedure). This meant that they could not be amended by the Assembly and would not be subject to scrutiny by the Legislation Committee.

3.3 The Committee expressed concern that Standing Order 22.32 could provide the Executive with a device to get legislation for Wales through without proper consideration by the National Assembly . This was a matter which could be resolved by revising Standing Orders The Chair undertook to communicate the Committee's views to the Presiding Officer.

3.4 The meeting closed at 12.00pm.