

LEGISLATION COMMITTEE MEETING**MINUTES:**

Date: 30 April 2002
Time: 9:30 a.m.
Venue: Committee Room 1, National Assembly Building

Attendance:

Mick Bates (Chair)	(Liberal Democrat)
Lorraine Barrett	(Labour)
Ron Davies	(Labour)
Glyn Davies	(Conservative)
Delyth Evans	(Labour)
John Griffiths	(Labour)
Dr Dai Lloyd	(Plaid Cymru)
Owen John Thomas	(Plaid Cymru)

Officials

John Turnbull	Legal Adviser
D Huw Davies	Assistant Legal Adviser
Olga Lewis	Committee Clerk
Simon Thwaite	Deputy Committee Clerk
Peter Jones	Counsel to Assembly Committees

Apologies for absence: Pauline Jarman

Item 1: Minutes of the previous meeting and matters arising: LEG-10-2002(min)

1.1 The Committee agreed the minutes of the meeting held on 23 April 2002

Item 2: Chair's Report

2.1 The Chair began by thanking everybody who assisted with organising the visit of the delegation from **the House of Commons Joint Committee on Statutory Instruments** and **Deregulation and Regulatory Reform Committee**. In particular the Chair wished to thank Dr John Marek who found time in his busy schedule to meet with them, also Lorraine Barrett who attended the orientation session and helped to welcome the guests.

2.2 The Chair reminded Members of the legislation drafting seminar for the outside bodies and the press that will take place **tomorrow, 12.45pm - 13.30** in **Conference Room "C"**. The Chair informed Members they may attend if they wish.

Item 3: Assembly Orders for Consideration**LC467 - The School Government (Terms of Reference) (Amendment) (Wales) Regulations 2002**

3.1 Mr Davies presented the report to the Committee. The Regulations will be made under the Standard Procedure.

3.2 The Committee agreed that it did not need to invite the Assembly to pay special attention to the Regulations on any grounds specified in Standing Order 11.5. The Legal Advisers had had the opportunity to see an early draft and identified a number of points which had been taken into account in the final draft.

3.3 The Committee's report to the Assembly on the Regulations is attached as LC467 (Report).

LC468 - The School Teacher Appraisal (Wales) Regulations 2002

3.4 Mr Davies presented the report to the Committee. The Regulations will be made under the Standard Procedure.

3.5 The Committee agreed that it did not need to invite the Assembly to pay special attention to the regulations on any grounds specified in Standing Order 11.5 nor did they have any general observations.

3.6 The Committee's report to the Assembly on the Regulations is attached as LC468 (Report).

LC469 - The School Governors' Annual Reports (Wales) (Amendment) Regulations 2002

3.7 Mr Davies presented the report to the Committee. The Regulations will be made under the Accelerated Procedure.

3.8 The Committee agreed that it did not need to invite the Assembly to pay special attention to the Regulations on any grounds specified in Standing Order 11.5. However, the Committee did make a general observation which they felt should be recorded in their report.

3.9 The Committee's report to the Assembly on the Regulations is attached as LC469 (Report).

LC470 - The Education (School Information) (Wales) (Amendment) Regulations 2002

3.10 Mr Davies presented the report to the Committee. The Regulations will be made under the Accelerated Procedure.

3.11 The Committee agreed that it did not need to invite the Assembly to pay special attention to the regulations on any grounds specified in Standing Order 11.5 nor did they have any general observations.

3.12 The Committee's report to the Assembly on the Regulations is attached as LC470 (Report).

LC471 - The Animals and Animal Products (Import and Export) (England and Wales) (Amendment) (Wales) (No.2) Regulations 2002

3.13 Mr Davies presented the report to the Committee. The Regulations had been made under the Executive Procedure.

3.14 A question was raised as regards to the provenance of the originating legislation. It was agreed that the Legal Adviser should clarify the matter.

3.15 The Committee did make two general observations which they felt should be recorded in their report.

3.16 The Committee's report to the Assembly on the Regulations is attached as LC471 (Report).

LC472 - The Disease Control (Interim Measures) (Wales) (Amendment) Order 2002

3.17 Mr Turnbull presented the report to the Committee. The Order had been made under the Executive Procedure.

3.18 The Committee agreed that it did not need to invite the Assembly to pay special attention to the Order on any grounds specified in Standing Order 11.5. However, the Committee did make two general observations which they felt should be recorded in their report.

3.19 The Committee's report to the Assembly on the Order is attached as LC472 (Report).

LC473 - The Waste Management Licensing (Amendment) (Wales) Regulations 2002

3.20 Mr Turnbull presented the report to the Committee. The Regulations had been made under the Executive Procedure.

3.21 The Committee agreed that it did not need to invite the Assembly to pay special attention to the regulations on any grounds specified in Standing Order 11.5 nor did they have any general observations.

3.21 The Committee's report to the Assembly on the Regulations is attached as LC473 (Report).

LC474 - The Food (Jelly Confectionery) (Emergency Control) (Wales) Regulations 2002

3.22 Mr Turnbull presented the report to the Committee. The Regulations had been made under the Executive Procedure.

3.23 The Committee agreed that it did not need to invite the Assembly to pay special attention to the Regulations on any grounds specified in Standing Order 11.5. However, the Committee did make a general observation which they felt should be recorded in their report.

3.24 The Committee's report to the Assembly on the Regulations is attached as LC474 (Report).

LC462 - The Registration of Social Care and Independent Health Care (Wales) Regulations 2002

3.25 Mr Turnbull presented the report to the Committee. The Regulations had been made under the Executive Procedure.

3.26 Having considered the Legal Advisors report, Members concluded that there were matters to raise under Standing Order 11.5.

3.27 In **Regulation 2(1) – “relative”** the final line of this definition “husband and wife” should be “husband or wife”. It was stated that it should be possible to correct this in the published version.

3.28 **Regulation 9(a)** requires details of the “appropriate office of the National Assembly” to be included in the certificate. In the definition of that term, however, it is acknowledged that there may not be a specifically identified office, and the term is then to refer to any office of the Assembly.

3.29 In view of the above it was not clear how paragraph (a) of regulation 9 was to be complied with where there was no specified office. In the response submitted on behalf of the Minister the validity of this point is acknowledged. It is, however, submitted that in practice this will not be of consequence because there are plans to specify offices for all parts of Wales.

3.30 **Regulation 9(f)** requires a certificate of registration to contain details of any condition to which the registration is subject, and lists specific aspects of condition requirements which are to be included.

3.31 The implication of this might be thought to be that the definitive text of the condition will be set out somewhere else and that details of the condition, including the matters specifically referred to, have then to be copied into the certificate of registration. In reality, however, it seems that the only definitive text of the definition will be in the certificate of registration.

3.32 In these circumstances the Committee's concern was that if the purpose of listing specific items in paragraphs (i) – (v) was to set out the type of matter which may be specified in conditions, the enabling powers do not appear to authorise this.

3.33 The observations submitted on behalf of the Minister confirm that the purpose of this provision was not to set out matters that may be included in conditions. The point in issue is thus the drafting point that paragraphs (i) – (v) may not be of practical significance since the full text of the condition would necessarily be set out in the certificate of registration.

3.34 In **Regulation 18(f)(g)** the paragraphs are printed within square brackets which have been unintentionally retained from a draft version. These brackets should be deleted from the published version.

3.35 In **Schedule 2, paragraph 10(2)(a) and (c)** The references to “section 113(313)” are clearly not correct. Again this should be corrected in the published version.

3.36 The Committee did make a number of general observations which they felt should be recorded in their report.

3.37 A Member raised the question of how the Committee would receive clarification that the points stated in the Report had been amended on the particular SI.

3.38 In reply the Legal Adviser stated that the Committee did not have the power to enforce changes to the SI's, only to report to the Assembly. However the Legal Adviser did check the final SI's against the report to ensure recommended amendments were taken into account.

3.39 These matters had been the subject of referral under Standing Order 11.4. The Committee's report to the Assembly on the Regulations is attached as LC462 (Report).

Item 4: Discussion of the response to the Committee's request for information regarding the choice of procedures for SIs.

4.1 The Chair reminded the Committee that at the meeting of the Legislation Committee **26 February** the members expressed the wish to be informed why particular procedures were chosen for different Statutory Instruments. It was decided that the clerk would contact

the Business Unit to inform them that the Committee would like to obtain this information in the future. To this effect, the Clerk to the Committee wrote to the Head of the Business Unit Marion Stapleton. The response of the Business Unit had been circulated to members.

4.2 At the last meeting the Committee decided that the response they received did not fully answer the members' questions. In particular, the members were concerned with the lack of information on the allocation of executive procedure. Last Tuesday all the statutory instruments on our agenda (11 in total) followed executive procedure. So far this year the Committee has considered 154 statutory instruments. Out of these, 86 have followed the executive procedure. It was decided that the Chair should write to the Business Minister alerting him to the problem. The Chair's letter to the Business Minister had been distributed to Members.

4.3 The Chair informed the Committee that a procedure had been put in place which would make that information available to members. The Chair was informed that the Assembly Members would be receiving short explanation why executive procedure was used. That information would be e-mailed to Assembly members by the Business Unit. The Chair stated that the procedure started on the 11th of April.

4.4 A discussion ensued. It was decided that the consideration of the use of Executive and other procedures should be continued further at the next meeting to allow for the Members' assessment of the information which is now being provided to them in this respect.

Item 5: Legal Advice to Assembly Members: Mr Peter Jones, Counsel to Assembly Committees

5.1 Counsel to Assembly Committees Mr Peter Jones gave a brief presentation about his new post in the Office of the Presiding Officer. Mr Jones stated that he would be available to all Members through the Subject Committees with any legal matters that they required clarification on.

5.2 Members welcomed Mr Jones and stated a wish for a further meeting to discuss aspects of the new post.

5.3 Mr Jones agreed to return to the Committee to discuss this matter. **Action Clerk**

Item 6: Any Other Business and Date of next meeting

5.1 The next meeting would be held on 14 May 2002.