

LEGISLATION COMMITTEE MEETING**MINUTES:**

Date: 5th December 2000
Time: 9:30 a.m.
Venue: Committee Room 1, National Assembly Building

Attendance:

Mick Bates (Chair)	(Liberal Democrat)
Rosemary Butler	(Labour)
Ron Davies	(Labour)
John Griffiths	(Labour)
Pauline Jarman	(Plaid Cymru)
Dr Dai Lloyd	(Plaid Cymru)
Owen John Thomas	(Plaid Cymru)

Officials

John Turnbull	Legal Adviser
Dylan Hughes	Assistant Legal Adviser
Huw Davies	Assistant Legal Adviser
Adrian Green	Committee Clerk
Julie Owen	Deputy Committee Clerk

Apologies for absence: Glyn Davies and Val Feld

The meeting was preceded by an informal briefing session given by Winston Roddick QC, the Counsel General, and Nerys Arch, Head of the Statutory Instrument Management Unit of the Office of the Counsel General, who have responsibility for overseeing the process of legislation.

Item 1: Minutes of the previous meeting and matters arising: LEG-29-2000 (min)

1.1 The Committee agreed the minutes of the meeting held on 28th November 2000.

Item 2: Chair's Report

2.1 The Chair stated that, as agreed, a paper on the role of the Legal Advisers to the Committee had been circulated as a paper to note but the Legal Advisers would be happy to

field any questions members may have had on it.

2.2 The Chair confirmed that as agreed at the previous meeting the letter date 14 November from the Deputy Presiding Officer setting out new measures for drawing the special attention of the Assembly to urgency legislation that was found to be reportable under Standing Order 11.5 had been placed on the Intranet and internet alongside the minutes of the meeting.

2.3 The Chair reminded members that at the previous meeting they had discussed the possibility of visiting the House of Commons to meet members of the Joint Committee on Statutory Instruments, probably during the spring. In the meantime it was suggested that the Clerk from that Committee might visit the Assembly and give a presentation to members. Contact had been made and it was hoped that a suitable date could be arranged after Christmas.

Item 3: Committee Correspondence

3.1 The Chair stated that he had received a response dated 22 November from Edwina Hart, Minister for Finance, Local Government and Communities to a letter sent by his predecessor, Mr Mike German AM, on 12 October regarding the **The Local Government (Best Value) (Reviews and Performance Plans)(Wales) Order 2000 (LC45)**.

3.2 The Committee had originally discussed the Order on 1 February 2000. However this had not proceeded to a plenary session and had been replaced by an extended version containing two articles relating to the final date for publishing best value performance plans and auditors reports. This version had been made under the urgency procedure on 22 March 2000. Members had agreed that there were matters to raise with the Assembly Minister under Standing Order 11.4. The main issues were:

- the date on which performance plans should be published had been moved to 30 June, three months after the start of the year to which the plan related. This was considered to be a possible unusual or unexpected use of the enabling power (Standing Order 11.5(i))
- the date for the completion of auditors reports had changed to seven months after the start of the financial year. Again this was considered to be a possible unusual or unexpected use of the enabling power (Standing Order 11.5(i)).
- although the order had been made on 22 March 2000 it had not been submitted to the Committee as required under Standing Order 22.26.
- although the Order was made on 22 March and came into force on 1 April it was not published until 28 July.

3.3 In her response Ms Hart stated that:

- *she did not agree that the action taken in relation to the publication and audit dates for Best Value Performance Plans represented an unusual or unexpected use of the*

enabling powers;

- *it was open to Parliament to set a date without providing any discretion;*
- *the direct consequence of changing the date for formal publication of performance plans was that the deadline for the audit of those plans was extended by the same period.*
- *the Assembly had responded to the concerns of local authorities that to publish plans by 31 March would not allow authorities to collect and publish information which was accurate or robust.*
- *the failure to submit the order to the Legislation Committee was an oversight on the part of officials. Arrangements had been put in place to ensure that this would not happen again.*
- *Corrected proofs had been promptly passed to the printers. However delays were unacceptable and the problems will be addressed.*

3.4 In view of the conflict between the need on the one hand to produce a plan for the best value performance of a local authority for a financial year and on the other to collect information for that plan from the preceding financial year, Members concluded that on balance there was probably not an unusual or unexpected use of the powers.

3.5 However, during discussion Members stated that although they recognised the need to supply "accurate and robust" information, they recommended that the legislation be looked at again with the view to possibly shortening the time-scale to produce and audit these reports.

3.6 The Committee resolved to invite the Assembly to pay special attention to the Order under Standing Order 11.5 due to the failure to submit the Order to the Committee and the failure to publish the Order within a reasonable time. Further details are included in the Committee's report to the Assembly on this draft order which is attached as LC45(Report).

3.7 Rosemary Butler stated during the discussion that she had been a Member of the Assembly Cabinet at the time this Order had been made. Although Members had previously been advised that due to the specialist nature of the Legislation Committee there was no requirement to declare interests, it was agreed that in this particular instance, the fact should be recorded in the minutes.

Item 4: Assembly Orders for Consideration

LC142: The Mink Keeping (Wales) Order 2000

4.1 Mr Turnbull presented his report to the Committee.

4.2 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 some general observations mainly relating to the explanatory note which they felt should be recorded in their Report.

4.3 The Committee's report to the Assembly on this draft order is attached as LC142 (Report).

LC143: The Food Safety (General Food Hygiene)(Butchers' Shops)(Amendment) (Wales) Regulations 2000

4.4 Mr Turnbull presented his report to the Committee.

4.5 Having considered the Legal Adviser's report, members agreed that there was a matter to raise under Standing Order 11.5. However as this was a typographical or minor drafting error it could be amended under SO22.12A by a Memorandum of Corrections. The Committee would accordingly indicate in their Report that it was subject to this particular error being corrected by means of a Memorandum of Corrections. There were a number of general observations that the Committee felt should be recorded in their Report.

4.6 The Committee's report to the Assembly on this draft regulation is attached as LC143 (Report).

LC144: The Dairy Produce Quotas (Amendment)(Wales) No 2 Regulations 2000

4.7 Mr Turnbull presented his report to the Committee. The regulations had been made under the urgency procedure.

4.8 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 some general observations which they felt should be recorded in their Report.

4.9 The Committee's report to the Assembly on this regulation is attached as LC144 (Report).

LC145 - The National Health Service (Optical Charges Payments) Amendment (No 2) Regulations 2000

4.10 Mr Turnbull presented his report to the Committee. The regulations had been made under the urgency procedure.

4.11 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. There were no observations.

4.12 The Committee's report to the Assembly on this regulation is attached as LC145 (Report).

Item 5 Any Other Business and Date of next meeting

5.1 The next meeting would be held on 19 December 2000.

Reports Attached

- LC45
- LC142
- LC143
- LC144
- LC145