

Subordinate Legislation Committee

(SLC(3) 01-07)

SLC4

Subordinate Legislation Committee Report

Title: The Traffic Management (Guidance on Intervention Criteria) (Wales) Order 2007

As part of the process of enforcing the network management duties imposed by sections 16 and 17 of the Traffic Management Act 2004 ("the Act"), the Welsh Ministers may give an intervention notice if they consider that a local traffic authority in Wales may be failing properly to perform any of those duties. If they are satisfied that such a local traffic authority is failing properly to perform any of those duties they may make an intervention order making provision for, or in connection with, the appointment of a traffic director.

In accordance with section 27 of the Act, this Order sets out, in relation to Wales, guidance about the criteria which the Welsh Ministers propose to apply for the purpose of deciding whether to give an intervention notice or make an intervention order.

Procedure: Negative

Standing Order 15.2

The following points have been identified for reporting under Standing Order 15.2

1. The two texts of paragraph 7 of the Guidance are contradictory. The English text states that "Further action may not be necessary" whilst the Welsh states "Gall y bydd angen camau pellach" [Further action may be necessary]. Nevertheless, this is part of the explanatory introduction rather than an operative part of the guidance. In those unusual circumstances, this is drawn to the attention of the Committee, with the recommendation that the Welsh text be corrected on publication to declare "Gall na fydd angen camau pellach". [Standing Order 15.2 (vii)]
2. The expression "insignificant effect (or potential effect)" first appears in paragraph 18(6). This would normally be read as meaning that the effect or potential effect could be insignificant as the adjective precedes both nouns. The word order in Welsh "effaith ddi-nod (neu effaith bosibl)" suggests that only the actual effect can be insignificant as the adjective appears between the two nouns. If "insignificant" applies to both, the words in brackets would be better before "ddi-nod". The same issue arises in paragraph 49(c). [Standing Order 15.2(v)]
3. The reference to "two-tier areas" in paragraph 37(2) is unclear. It is understood that the intention was to ensure that all interested authorities liaise with one another in connection with network related projects, particularly when one authority acts as the agent of another. However, on first reading it might look like an inappropriate adaptation of a provision for England where they still have two tiers of local government. [Standing Order 15.2(v)]
4. In paragraph 46, "authorities of a description specified" has been translated as authorities specifically described. It is the description (such as authorities of a certain size), rather than the authorities by name, that is to be specified. The correct expression would be "awdurdodau o ddisgrifiad a bennir". [Standing Order 15.2 (vii)]
5. The words "unrhyw gamau cynllunio" in 51(ch) mean "any planning action" which suggests town and country planning. The English ("any planned action") appears to mean any proposed action, so the Welsh should be "unrhyw gamau a gynllunir" or "unrhyw gamau a gynlluniwyd". [Standing Order 15.2 (vii)]

Nevertheless, as this is guidance relating to the relationship between the Assembly Government and local authorities, these matters are not considered sufficiently serious to require corrective legislation.

Legal Advisers

Subordinate Legislation Committee

June 2007