

LEGISLATION COMMITTEE MEETING

MINUTES:

Date: 17 December 2002

Time: 9:30 a.m.

Venue: Committee Room 1, National Assembly Building

Attendance:

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

Officials

John Turnbull	Legal Adviser
Huw Rowlands	Legal Adviser
Olga Lewis	Committee Clerk
Simon Thwaite	Deputy Committee Clerk

Apologies for absence: Karen Sinclair

Item 1: Minutes of the previous meeting and matters arising: LEG-27-2002(min)

1.1 The Committee agreed the minutes of the meeting held on 10 December 2002.

Item 2: Chair's Report

2.1 The Chair welcomed a new member to the Committee, Jonathan Morgan.

2.2 The Chair expressed his gratitude to Glyn Davies, whose work as a Member of the Committee had been greatly appreciated. The Chair also wished to convey the good wishes of the Committee to him and members of his family at this trying time for them.

2.3 The Chair had been informed that some of the Labour members might soon change. The Chair took this opportunity to remind Members briefly that when a Member resigns from a committee he or she must send a short signed letter of resignation to the Presiding Officer.

Item 3: Assembly Orders for Consideration

LC587 - The Local Health Boards (Constitution, Membership and Procedures) (Wales) Regulations 2003

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

3.2 A concern was expressed that if the Committee needed further explanation on the Regulations because the precise meaning was unclear, those responsible for the implementation of the Regulations will experience similar difficulties.

3.3 The Legal Adviser explained that the question in relation to regulation 5 was whether paragraph (4) was intended to read as it did, or whether it was intended to be confined to non-officer members. It had been confirmed that it was intended to read as drafted, and in

these circumstances there was no defect in the drafting. It did seem appropriate, however, that the Committee should report under the ground in SO 11.5(v) (which was a reporting ground which the Joint Committee on Statutory Instruments also had) that the regulations had needed the explanation which had now been given. Similarly in relation to regulation 8(2) it had been confirmed that the provision was intended to read as it did, and again it seemed appropriate for this to be reported as having needed explanation.

3.4 A concern was expressed that human rights and employment legislation might be overridden by the dismissal provisions in regulation 8. The Legal Adviser stated that the regulations could not override employment law. Action under regulation 8 could thus only be taken if grounds existed for determination of employment.

3.5 The Committee were concerned that the coming into force date and, more particularly, the printed signature had been inserted into the regulations prematurely. The Legal Adviser confirmed that, in accordance with normal practice, these entries should have been left blank and this was included in the observations in the report. The Legal Adviser further explained that the standard procedure for all statutory instruments throughout the United Kingdom was for one copy to be signed and for the published copies then to have the signature reproduced in printed form rather than facsimile form.

3.6 The Committee accordingly invites the Assembly to pay special attention to the regulations on the following grounds.

- There is an apparent drafting defect in the enabling powers.
- Regulations 5(3) and 8(2) have needed the further explanation which has now been provided.

3.7 The Committee additionally made a number of observations which they felt should be recorded in the report.

3.8 The Committee's report to the Assembly on the Regulations is attached as LC587 (Report).

LC588 - The Local Health Boards (Establishment) (Wales) Order 2003

3.9 Mr Turnbull presented the report to the Committee. The Order will be made under the Standard Procedure.

3.10 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 a number of observations which they felt should be recorded in their report.

3.11 The Committee's report to the Assembly on the Order is attached as LC588 (Report).

LC589 - The Local Health Boards (Functions) Regulations 2003

3.12 Mr Turnbull presented the report to the Committee. The Regulations will be made under the Standard Procedure.

3.13 Having considered the Legal Advisers report Members concluded that there were matters to raise under Standing Order 11.5. The Committee invites the Assembly to pay special attention to apparent drafting defects concerning the inclusion of the second half of

regulation 3(2) and regulation 3(3). These would be capable of correction by a memorandum of corrections.

3.14 The Committee made an observation which they felt should be recorded in the report.

3.15 The Committee's report to the Assembly on the Regulations is attached as LC589 (Report).

LC590 - The Health, Social Care and Well-being Strategies (Wales) Regulations 2003

3.16 Mr Turnbull presented the report to the Committee. The Regulations will be made under the Standard Procedure.

3.17 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.

3.18 The Committee made an observation which they felt should be recorded in the report.

3.19 The Committee's report to the Assembly on the Regulations is attached as LC590 (Report).

LC591 - The Countryside Access (Dedication of Land as Access Land) (Wales) Regulations 2003

3.20 Mr Rowlands presented the report to the Committee. The Regulations will be made under the Accelerated Procedure.

3.21 Having considered the Legal Advisers report Members concluded that there were matters to raise under Standing Order 11.5. The Committee invites the Assembly to pay special attention to apparent drafting defects in regulation 3(l) and regulation 8. These would be capable of correction by a memorandum of corrections.

3.22 The Committee also made a number of observations which they felt should be recorded in their report.

3.23 The Committee's report to the Assembly on the Regulations is attached as LC591 (Report).

LC592 - The Countryside Access (Exclusion or Restriction of Access) (Wales) Regulations 2003

3.24 Mr Rowlands presented the report to the Committee. The Regulations will be made under the Accelerated Procedure.

3.25 Having considered the Legal Advisers report Members concluded that there were matters to raise under Standing Order 11.5. The Committee invites the Assembly to pay special attention to apparent drafting defects in regulation 2(1), regulation 7, regulation 9(3), regulation 9(4), regulation 12(1)(e) and regulation 13(1). These would be capable of correction by a memorandum of corrections.

3.26 The Committee also made two observations which they felt should be recorded in their report.

3.27 A query was raised as to why these regulations had only been circulated in English. It was explained that due to the volume of Legislation being translated at the moment there was a delay in receiving translated copies from the translation service and these Regulations had been submitted to the Committee in English only. It was decided that the Clerk would contact the Business Unit to ensure that the Regulations were always submitted in two languages, regardless of the pressures. **Action: Clerk**

3.28 The Committee's report to the Assembly on the Regulations is attached as LC592 (Report).

LC593 - The Products of Animal Origin (Third Country Imports) (Wales) (Amendment) Regulations 2002

3.29 Mr Rowlands presented the report to the Committee. The Regulations had been made under the Executive Procedure.

3.30 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 observations.

3.31 The Committee's report to the Assembly on the Regulations is attached as LC593 (Report).

Item 4: Any Other Business and Date of Next Meeting

4.1 The next meeting would be held on 14 January 2003.