

Handling of statutory instruments under Standing Order 21.2 and Standing Order 21.3 until further notice

Background

Standing Orders 21.2 and 21.3 provide that the Legislation, Justice and Constitution (LJC) Committee is the responsible committee that is required to consider and report on technical points in statutory instruments (SIs) (e.g. defective drafting), and also, where it chooses to do so, certain merits points (e.g. political and/or public interest).

On 27 March and 3 April 2020, Business Committee, in accordance with Standing Order 34.22(i), agreed to disapply Standing Orders 21.2 and 21.3 in whole and to put in a place a temporary process for the handling of SIs. These decisions were part of a broader package of measures introduced to respond to the rapidly-developing Covid-19 public health emergency.

These decisions do not affect the ability of Assembly Members to table a motion to annul an instrument subject to the negative procedure (Standing Order 27.2) nor the requirement for the Assembly to vote to approve (or not) an instrument subject to the affirmative procedure (Standing Order 27.5).

Temporary process

Following the disapplication of Standing Orders 21.2 and 21.3, the Business Committee agreed the following temporary process for handling SIs until further notice:

- (i) Assembly lawyers will prepare an Advice Note for Assembly Members in the same way as previously done for LJC Committee;
- (ii) the Llywydd will lay the Legal Advice Note for Assembly Members as a document under SO 15.2;
- (iii) the laid Legal Advice Note will be emailed to all Members with brief details of the SI);
- (iv) for negative procedure instruments, any Member can table a motion to annul. If such a motion is tabled, and scheduled for debate by the Business Committee, the Legal Advice Note for Assembly Members will be included on the Plenary agenda as a supporting document for the debate;
- (v) for affirmative procedure instruments, the Legal Advice Note for Assembly Members will be included on the Plenary agenda as a supporting document for the debate, and a vote will take place on

a motion tabled by the Welsh Government under Standing Order 27.5.

For any questions about the process please contact:

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