



Constitutional and Legislative Affairs Committee

Report: CLA(4)-22-12 : 5 November 2012

The Committee reports to the Assembly as follows:

Instruments that raise no reporting issues under Standing Order 21.2 or 21.3

Negative Resolution Instruments

CLA185 - The Collaboration Between Education Bodies (Wales) Regulations 2012

Procedure: Negative.

Date made: 22 October 2012.

Date laid: 23 October 2012.

Coming in to force date: 16 November 2012

Affirmative Resolution Instruments

None

Instruments that raise reporting issues under Standing Order 21.2 or 21.3

Negative Resolution Instruments

None

Affirmative Resolution Instruments

None

Super Affirmative Resolution Instruments

CLA184 - The Public Bodies (Water Supply and Water Quality) (Inspection Fees) Order 2012

Procedure: Super Affirmative.

Date made: not stated.

Date laid: not stated.

Coming into force date: in accordance with article 1

The Committee agreed the Report under S.O.21.3 on this statutory instrument, which is attached as Annex 1.

Other Business

Enterprise and Regulatory Reform Bill: Supplementary Legislative Consent Memorandum

The Committee considered a supplementary Legislative Consent Memorandum (LCM) in respect of the Enterprise and Regulatory Reform Bill, which is currently before Parliament. The LCM provided a general power to Welsh Ministers to include ‘sunset’ and review provisions in subordinate legislation.

The Committee agreed that they were content with the Memorandum, although it noted that **in response to a previous report on the ‘merits’** of a statutory instrument, the Welsh Government had indicated an ambivalence about the use of review provisions. The Committee agreed to report to the Assembly accordingly.

Public Service Pensions Bill: Legislative Consent Memorandum

The Minister had offered her apologies for not being able to attend the meeting for personal reasons.

The Committee considered **the Minister’s response to the Chair’s letter** of 24 October 2012. The Committee was generally content with the **Minister’s clarification of issues raised in the Chair’s letter.**

In relation to pensions for members of the Welsh Language Tribunal, under the Welsh Language (Wales) Measure 2011, the Committee **noted the Welsh Government’s view that there** was no need to restore any competence that had previously existed under Schedule 5 to the Government of Wales Act 2006, but which had now been excepted under Schedule 7 to that Act. This was because the power to make **‘incidental’ provisions under sections 108(3) to (5)** of the Act was still available.

The Committee noted the willingness of the Government to extend the timescale for consideration of the LCM to allow the Assembly **Commission to consider it in relation to the Assembly Members’** pension scheme and that the Bill itself was still at a relatively early stage of parliamentary consideration. The Committee further noted **that the Supreme Court’s consideration of the Local Government** Byelaws (Wales) Bill would have a bearing on whether pensions for members of the Welsh Language Tribunal could be established as an incidental provision.

The Committee agreed that they were content with the Memorandum, subject to any views of the Assembly Commission in relation to the **Assembly Members' pension scheme**. However, the Committee agreed that the matter should be given further consideration once the **Supreme Court's judgement in relation to the** Local Government Byelaws (Wales) Bill was known. The Committee agreed to report to the Assembly accordingly.

Committee Correspondence

CLA178 - The Bluetongue (Wales) (Amendment) Regulations 2012

The Committee noted the response of the Minister for Environment and Sustainable Development, John Griffiths AM, **to the Chair's letter** of 11 October regarding the merits points under S.O. 21.3 (ii) in respect of The Bluetongue (Wales) (Amendment) Regulations 2012 (CLA178).

The Committee agreed that there remained a lack of clarity about the area of the exclusion zones given that the EU Directive set out a minimum area, which could be increased by Ministers without the need for further legislation. The Committee agreed to respond to the Minister, welcoming his intention to amend the legislation to include reference to the surveillance zone distances at the next review of the regulations, but asking for further clarification about how the surveillance zone areas would be published in the meantime..

David Melding AM
Chair, Constitutional and Legislative Affairs Committee

5 November 2012

Annex 1

Constitutional and Legislative Affairs Committee

(CLA(4)-22-12)

CLA184

Constitutional and Legislative Affairs Committee Report

Title: The Public Bodies (Water Supply and Water Quality)
(Inspection Fees) Order 2012

Procedure: Super-affirmative

This Order provides for fees to be payable by a relevant water supplier for the carrying out of certain functions under the Water Industry Act 1991 by an inspector appointed by the Welsh Ministers under that Act.

Technical Scrutiny

No points are identified for reporting under Standing Order 21.2 in respect of this instrument

Merits Scrutiny

The following points are identified for reporting under Standing Order 21.3 in respect of this instrument.

Although the subject matter (the calculation of inspection and related fees) is of the sort more commonly found in statutory instruments subject to the negative procedure, this instrument is subject to a super-affirmative procedure by virtue of section 19 of the Public Bodies Act 2011.

Orders to the same effect are being made for England and Wales, but because the enabling powers are different, two orders are being used rather than a combined order. This has the advantage that the legislation applicable to Wales is made bilingually.

[that it is of political or legal importance or gives rise to issues likely to be of interest to the Assembly – Standing Order 21.3(ii)]

David Melding AM
Chair, Constitutional and Legislative Affairs Committee

5 November 2012