

To: Committee on Statutory Instruments
From: Committee Clerk

Date: June 2011

Agenda Item: Item 3, 3.1 and 3.2

Paper Reference: CSI (4)-01-11(p2)

Statutory Instruments not scrutinised during the third Assembly

Purpose

1. To provide background for Committee Members on consideration of Statutory Instruments laid during the third Assembly that were not scrutinised by the then Constitutional Affairs Committee.

Background

2. The Government laid a number of Statutory Instruments late in the third Assembly at a time when the Constitutional Affairs Committee was unable to scrutinise them in the usual way. The Committee agreed, therefore, to issue an omnibus “merits” report on these Instruments to draw attention to the instruments concerned.

3. The previous Committee’s report is attached for information. With Business Committee approval, this has subsequently been circulated to all incoming Assembly Members for information. Committee Members will wish to note that all the instruments concerned have now come into force and have also passed the final date when the Assembly could have annulled them.

Issue

4. The Committee on Statutory Instruments will wish to consider what action to take in respect of these instruments. All have been considered by the Committee’s legal advisors and by the Committee Clerk and in most cases no issues arise under either Standing Order 21.2 or Standing Order 21.3.

5. However, some of the instruments (CA581, CA582, CA583 and CA593) did raise issues that may have led to reports to the Assembly if the previous Committee had been given sufficient time to consider them. The specific issues of concern, together with the Government’s response, are set out in the draft reports that have been circulated with the instruments concerned.

Recommendation

6. Committee Members are invited to consider:

- the statutory instruments identified by the Constitutional Affairs Committee;
- whether a report should be issued in line with the draft reports drawn up by officials; and
- whether any other actions are required (for example, writing to Ministers to draw attention to concerns)

Steve George
Committee Clerk

Statutory Instruments not considered by the Constitutional Affairs Committee before the dissolution of the Assembly.

Each of the following instruments was laid before the Assembly at a point that did not allow them to be properly considered by the third Assembly's Constitutional Affairs Committee.

In the fourth Assembly, the responsible Committee is not likely to be established until the 20-day deadline for reporting on the instruments has passed. The 40-day deadline¹, within which the Assembly is able to annul the instruments, may also have passed before the incoming Committee can consider these instruments.

In these circumstances, the instruments would not have been subject to any Assembly scrutiny procedure and the opportunity for Assembly Members to table motions to annul any of the instruments may be lost.

The Constitutional Affairs Committee has, therefore, agreed to report under Standing Order 15.3 that the National Assembly should pay special attention to these statutory instruments as giving rise to an issue of public policy likely to be of interest to the Assembly, namely that they may, because of when they were laid, by-pass the usual scrutiny arrangements for Statutory Instruments.

CA581 *The Waste (Miscellaneous Provisions) (Wales) Regulations 2011*

Explanation of Purpose:	See explanatory notes
Procedure:	Negative Procedure
Date made:	28 March 2011
Date laid:	28 March 2011
Coming into force:	29 March 2011
Final date for annulment:	14 June 2011

CA582 *The Social Care Charges (Means Assessment and Determination of Charges) (Wales) Regulations 2011*

Explanation of Purpose:	See explanatory notes
Procedure:	Negative Procedure
Date made:	24 March 2011
Date laid:	29 March 2011
Coming into force:	11 April 2011
Final date for annulment:	15 June 2011

CA583 *The Social Care Charges (Direct Payments) (Means Assessment and Determination of Reimbursement or Contribution) (Wales) Regulations 2011*

¹ Final dates for annulment have been calculated based on known recess dates at 31 March 2011

Explanation of Purpose: See explanatory notes
Procedure: Negative Procedure
Date made: 24 March 2011
Date laid: 29 March 2011
Coming into force: 11 April 2011
Final date for annulment: 15 June 2011

CA587 *The Child Measurement Programme (Wales) Regulations 2011*

Explanation of Purpose: See explanatory notes
Procedure: Negative Procedure
Date made: 28 March 2011
Date laid: 30 March 2011
Coming into force date: 1 August 2011
Final date for annulment: 16 June 2011

CA588 *The Public Health Wales National Health Service Trust
(Membership and Procedure) (Amendment) Regulations 2011*

Explanation of Purpose: See explanatory notes
Procedure: Negative Procedure
Date made: 29 March 2011
Date laid: 30 March 2011
Coming into force date: 23 June 2011
Final date for annulment: 16 June 2011

CA589 *The Tax Credits (Approval of Child Care Providers) (Wales)
(Amendment) Scheme 2011*

Explanation of Purpose: See explanatory notes
Procedure: Negative Procedure
Date made: 28 March 2011.
Date laid: 30 March 2011.
Coming into force date: 1 April 2011
Final date for annulment: 16 June 2011

CA590 *The Beef and Veal Labelling (Wales) Regulations 2011*

Explanation of Purpose: See explanatory notes
Procedure: Negative Procedure
Date made: 29 March 2011
Date laid: 30 March 2011
Coming into force date: 21 April 2011
Final date for annulment: 16 June 2011

CA591 *The Vegetable Seed (Wales) (Amendment) Regulations 2011*

Explanation of Purpose: See explanatory notes

Procedure: Negative Procedure
Date made: 29 March 2011
Date laid: 30 March 2011
Coming into force date: 22 April 2011
Final date for annulment: 16 June 2011

CA592 *The Non-Domestic Rating (Small Business Relief) (Wales) (Amendment) Order 2011*

Explanation of Purpose: See explanatory notes
Procedure: Negative Procedure
Date made: 29 March 2011
Date laid: 30 March 2011
Coming into force date: 22 April 2011
Final date for annulment: 16 June 2011

CA593 *The Reporting of Prices of Milk Products (Wales) Regulations 2011*

Explanation of Purpose: See explanatory notes
Procedure: Negative Procedure
Date made: 29 March 2011
Date laid: 31 March 2011
Coming into force date: 21 April 2011
Final date for annulment: 17 June 2011

CA594 *The Care Homes (Wales) (Miscellaneous Amendments) Regulations 2011*

Explanation of Purpose: See explanatory notes
Procedure: Negative Procedure
Date made: 29 March 2011
Date laid: 31 March 2011
Coming into force date: 1 June 2011
Final date for annulment: 17 June 2011