

STANDING ORDER 21 – Constitutional and Legislative Affairs	
Committee or Committees	No amendment to sub-heading necessary
21.1 In proposing the remits of committees under Standing Order 16.2 or 16.3, the Business Committee must ensure that responsibility for the functions in Standing Order 21 is assigned to a committee or committees (referred to within Standing Order 21 as “a responsible committee”).	No amendment necessary
Functions	No amendment to sub-heading necessary
<p>21.2 A responsible committee must consider all statutory instruments or draft statutory instruments required by any enactment to be laid before the Assembly and report on whether the Assembly should pay special attention to the instrument or draft on any of the following grounds:</p> <ul style="list-style-type: none"> (i) that there appears to be doubt as to whether it is intra vires; (ii) that it appears to make unusual or unexpected use of the powers conferred by the enactment under which it is made or to be made; (iii) that the enactment which gives the power to make it contains specific provisions excluding it from challenge in the courts; (iv) that it appears to have retrospective effect where the authorising enactment does not give express authority for this; 	No amendment necessary

<ul style="list-style-type: none"> (v) that for any particular reason its form or meaning needs further explanation; (vi) that its drafting appears to be defective or it fails to fulfil statutory requirements; (vii) that there appear to be inconsistencies between the meaning of its English and Welsh texts; (viii) that it uses gender specific language; (ix) that it is not made or to be made in both English and Welsh; (x) that there appears to have been unjustifiable delay in publishing it or laying it before the Assembly; or (xi) that there appears to have been unjustifiable delay in sending notification under section 4(1) of the Statutory Instruments Act 1946 (as modified). 	
<p>21.3 A responsible committee may consider and report on whether the Assembly should pay special attention to any statutory instrument or draft statutory instrument required by any enactment to be laid before the Assembly on any of the following grounds:</p> <ul style="list-style-type: none"> (i) that it imposes a charge on the Welsh Consolidated Fund or contains provisions requiring payments to be made to that Fund or any part of the government or to any local or public authority in consideration of any licence or consent or of any services to be rendered, or prescribes the amount of any such charge or payment; 	<p>No amendment necessary</p>

<ul style="list-style-type: none"> (ii) that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Assembly; (iii) that it is inappropriate in view of the changed circumstances since the enactment under which it is made or is to be made was itself passed or made; (iv) that it inappropriately implements European Union legislation; or (v) that it imperfectly achieves its policy objectives. 	
<p>21.4 A responsible committee must make any report under Standing Order 21.2 or 21.3 in respect of any statutory instrument or draft statutory instrument no later than 20 days after the instrument or draft has been laid.</p>	<p>No amendment necessary</p>
<p>21.5 In calculating for the purposes of Standing Order 21.4 any period of days, no account is to be taken of any time during which the Assembly is dissolved or is in recess for more than 4 days.</p>	<p>No amendment necessary</p>
<p>21.6 Standing Orders 21.2 and 21.3 do not apply to proposed or draft Legislative Competence Orders <u>Orders in Council to be made, in accordance with Standing Order 25, under section 109 of the Act</u> under Standing Order 25 or subordinate legislation subject to Special Assembly Procedure under Standing Order 28.</p>	<p>Amend this Standing Order The amendment to this Standing Order ensures that any committee or committees responsible for constitutional and legislative affairs are not required by Standing Orders to consider the technical aspects of any proposed or draft Orders to be made under section 109 (“section 109 Orders”). This replicates the provision which was in place during the Third Assembly excluding Legislative Competence Orders from this technical scrutiny. If it transpires that section 109 Orders are</p>

	routinely technical in nature in the future, this exclusion may require reconsideration.
<p>21.7 A responsible committee may consider and report on:</p> <ul style="list-style-type: none"> (i) any other subordinate legislation laid before the Assembly other than that subject to Special Assembly Procedure under Standing Order 28; (ii) the appropriateness of provisions in proposed Assembly Measures <u>Bills</u> and in Bills for Acts of the United Kingdom Parliament that grant powers to make subordinate legislation to the Welsh Ministers, the First Minister or the Counsel General; (iii) consequences for legislation subject to the consideration of the Assembly of draft orders under Part 1 of the Legislative and Regulatory Reform Act 2006; (iv) the exercise of commencement powers by the Welsh Ministers; (v) any legislative matter of a general nature within or relating to the competence of the Assembly or Welsh Ministers; or (vi) draft legislation which is the subject of consultation. 	<p>Amend this Standing Order</p> <p>This is a linguistic change to replace “proposed Measures” with “Bills” to reflect Part 4 provisions of the Government of Wales Act 2006.</p>
<p>21.8 A responsible committee may consider draft European Union legislation relating to matters within the legislative competence of the Assembly or to the functions of the Welsh Ministers and of the Counsel General in order to consider whether it complies with the principle of subsidiarity.</p>	No amendment necessary
<p>21.9 If a responsible committee considers that draft European Union legislation does not comply with the principle of subsidiarity it may make written representations, on behalf of the Assembly,</p>	No amendment necessary

<p>to the relevant committee of the House of Commons or the House of Lords with a view to having those representations incorporated into a reasoned opinion to be submitted by that committee to the relevant European Union authorities.</p>	
21.10 If a responsible committee makes written representations in accordance with Standing Order 21.9, it must lay a copy of those written representations before the Assembly.	No amendment necessary
21.11 A responsible committee may, to enable its functions under Standing Order 21.9 to be exercised during any non-sitting week, delegate those functions to the chair of the responsible committee who must, if they are exercised, report that fact to the responsible committee as soon as possible.	No amendment necessary