Y Pwyllgor Deddfwriaeth, Cyfiawnder a'r Cyfansoddiad

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Legislation, Justice and Constitution Committee

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Jack Sargeant MS
Minister for Culture, Skills and Social Partnership

11 October 2024

Dear Jack,

SL(6)516 - The Listed Buildings and Conservation Areas (Procedure and Interest Rate) (Wales) Regulations 2024

We considered your response to our report on the above regulations on 7 October 2024.

Our report identified eight technical reporting points highlighting issues with the drafting of the Regulations. Overall, we do not consider the response to be satisfactory, particularly in relation to reporting points 4, 5 and 6.

Reporting point 4 identifies a problem with the drafting of the text in paragraph 6 of Schedule 2 to the Regulations. While the point we raise is accepted, the government response says that "any confusion … can be addressed in practice." In our view, such an approach is sub-optimal and inconsistent with good legislative practice: it is the regulations that set out the law and we do not consider it appropriate for legislation to require resolution through practice in order for its meaning to be clearly understood.

Reporting point 5 identified an issue with the definition of 'concurrent application' in the modifications made by paragraph 6 of Schedule 4. This term has been defined for the purposes of modified regulation 8, but is also used in modified regulation 6. While accepting this point, the government considers that it would be clear in context that the term is intended to have the same meaning in both modified regulations. We disagree: if a term is defined for the purposes of a single regulation, then it will suggest to those interpreting this legislation that, if the same term is used in a different regulation, then it is intended to have a different meaning.

Finally, on reporting point 6, we noted that the location of an amendment made by the modifications in paragraph 6 of Schedule 4 is unclear. Again, we disagree with the government's response, which,

while accepting the point, suggests that the effect would be sufficiently clear. In our view, there is a clear risk of confusion, not least because if the amendment applies as the government says it does, there will be two paragraphs numbered '(4)' in the modified regulation, which we believe would cause unnecessary confusion.

We would therefore be grateful if the government could explain why it is not proposing to amend the regulations in question to remove the potential for confusion that currently exists and which we identity above and in our report.

We look forward to receiving your response by 31 October 2024.

Yours sincerely,

Mike Hedges
Chair