

John Griffiths AC /AM  
Gweinidog yr Amgylchedd a Datblygu Cynaliadwy  
Minister for Environment and Sustainable Development



Llywodraeth Cymru  
Welsh Government

Ein cyf/Our ref JG/05638/11

David Melding AM  
Chair – Constitutional and  
Legislative Affairs Committee  
National Assembly for Wales  
Cardiff Bay  
Cardiff  
CF99 1NA  
David.melding@wales.gov.uk

21 July 2011

*Dear David,*

### **CS11 – The Water Industry (Schemes for the Adoption of Private Sewers) Regulations 2011**

Thank you for your letter of 27 June drawing my attention to the report of the Committee on Statutory Instruments which considered the Water Industry (Schemes for Adoption of Private Sewers Regulations 2011 ('the Regulations') on 22 June 2011.

I note that the Committee has reported under Standing Order 21.3 on the grounds that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Assembly. The attached report goes on to include reports on both 'technical' and 'merits' matters.

Taking the technical report first, the Committee noted that the Regulations have not been made bilingually. The Government response indicated that, as the Regulations are subject to approval in Parliament, it was not considered reasonable or practicable for them to be made bilingually. This accords with long standing practice. While there may be instances where Parliament has considered Instruments made which have included elements in the Welsh language, for instance in relation to the prescription of forms, I am not aware of any instances in which general Statutory Instruments which apply to both England and Wales have been made bilingually.

In this instance, it is of relevance that even if these Regulations had been made by the Welsh Ministers acting alone, they would have made cross-border provision because of the way ministerial powers are devolved in relation to the water industry, meaning that the

Bae Caerdydd • Cardiff Bay  
Caerdydd • Cardiff  
CF99 1NA

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English Enquiry Line 0845 010 3300  
Llinell Ymholiadau Cymraeg 0845 010 4400  
Correspondence: John.Griffiths@wales.gsi.gov.uk

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approval of Parliament would still have been required in accordance with the Government of Wales Act 2006..

I should emphasise that where Welsh Ministers have the power to make legislation for Wales the assumption will always be that, unless there are good reasons to do otherwise, that power will be exercised via a Wales-only Statutory Instrument. It is, however, considered an efficient use of resources for Welsh Ministers to retain the option to make composite orders where the subject matter makes it appropriate to do so. This might be the case, for example, in circumstances where a common enforcement regime is necessary, or where consistency of approach is needed.

Turning to the merits point, I am grateful that the Committee has highlighted the significance of these Regulations, and have acknowledged the error in the Explanatory Memorandum. I have nothing further to add to the Government response which was noted in your report.

Yours,



**John Griffiths AC / AM**

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