

Y Gwir Anrh/Rt Hon Carwyn Jones AC/AM
Prif Weinidog Cymru/First Minister of Wales



Llywodraeth Cymru
Welsh Government

Ein cyf/Our ref: FM/05340/11

David Melding AM
Chair - Constitutional & Legislative Affairs Committee
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28 July 2011

Dear David,

Statutory Instruments laid before or during the dissolution of the Third Assembly

I am writing in response to your letter of 7 July following the meeting of the Committee on Statutory Instruments which took place on 22 June.

You expressed the Committee's concern that a number of items of subordinate legislation were laid too late in the Assembly term for them to be considered by the then Constitutional Affairs Committee. In particular, you refer to Social Care Charges and the Regulation of Care Homes

I am grateful that the Committee was able to consider the Social Care Charges (Review of Charging Decisions) (Wales) Regulations 2011 at its final meeting on 30th June.

Those regulations, along with the Social Care Charges (Direct Payments) (Means Assessment and Determination of Reimbursement or Contribution) (Wales) Regulations 2011, and the Social Care Charges (Means Assessment and Determination of Charges) (Wales) Regulations 2011, were the subject of a letter to the Presiding Officer, dated 29 March explaining why it was necessary that they did not to comply with the '21-day rule' (copy attached for convenience).

In respect of the Care Homes (Wales) (Miscellaneous Amendments) Regulations 2011, the Committee acknowledged the significance of these regulations, given public concern about the management and operation of care homes providing services for adults. The Welsh Government, mindful that Standing Orders would allow for the new Assembly to consider and, if they so wished, annul the regulations, determined that the balance of public interest lay in making and laying the regulations prior to dissolution

It is perhaps inevitable that, towards the end of an Assembly term, any Government will be in the position of seeking to ensure that its legislative priorities have been delivered, and that the lacuna created by the pre-election period does not disadvantage the people of Wales. It is, of course, not possible to lay any documents while the Assembly is dissolved. This may mean bringing subordinate legislation forward which, in other circumstances, would have been laid during that period.

The Assembly's Standing Orders do, of course, explicitly provide for a period of 20 days for the committee to produce a report, and 40 days within which the Assembly may resolve to annul an instrument, to straddle a period of dissolution. I acknowledge that, at the time of laying some of these items there existed the possibility that the 40 day period would expire before the new Assembly's Committee structure was established. However, this did not prejudice the ability of the new Assembly to establish interim arrangements for the scrutiny of those SIs, should that prove necessary. Furthermore, a paper was considered by Business Committee on 29 March which indicated that consideration should be given to suspending Standing Orders to enable the 20 day requirement to be set aside where necessary, should there be a delay in establishing the relevant committee under the 4th Assembly (that paper is attached for ease of reference).

I trust this is helpful

Yours sincerely,

A handwritten signature in black ink, appearing to be 'CARWYN JONES', written in a cursive style.

CARWYN JONES