

DRAFT SI REPORT

Constitutional and Legislative Affairs Committee

(CLA(4)-11-11)

CLA49

Constitutional and Legislative Affairs Committee Draft Report

Title: The Audit and Assessment Reports (Wales) (Amendment) Order 2011

Procedure: Negative

This Order amends the Audit and Assessment Reports (Wales) Order 2010 by providing that, in respect of financial years beginning on or after 1 April 2011, the date by which the report is to be sent the Welsh Ministers and the Welsh improvement authority concerned is to be 31 January in the financial year during which the audit was carried out or to which the assessment relates.

Technical Scrutiny

No points are identified for reporting under Standing Order 21.2 in respect of this instrument.

Merits Scrutiny

The Assembly is invited to pay special attention under Standing Order 21.3(ii) in respect of this instrument – (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.

The Audit and Assessment Reports (Wales) Order 2010 was made in English only despite being extremely short, and was the subject of an adverse report by the then Constitutional Affairs Committee for that reason. A copy of that report is annexed.

The current Order is made bilingually, but because it has been drafted as an amending order, the amendment to the 2010 Order is in English only and the substantive law is still in English only. Had the current Order revoked and replaced the 2010 Order, it would have replaced an English statement of the law with a bilingual item of legislation.

This example highlights the importance of having bilingualism rather than translation at the core of the legislative process. It also shows the need to have regard to earlier reports by this Committee and its predecessors when drafting legislation on the same subject.

**Legal Advisers
Constitutional and Legislative Affairs Committee**

November 2011

ANNEX

Constitutional Affairs Committee

CA(3)-01-11

CA508: The Audit and Assessment Reports (Wales) Order 2010

Procedure: Negative

Section 19 of the Local Government (Wales) Measure 2009 requires the Auditor General for Wales to issue an audit and assessment report in respect of a Welsh improvement authority. This Order amends section 19(3)(a) of the Measure in respect of the financial year beginning 1 April 2010 by extending the date by which the Auditor General for Wales must send copies of any report to the Welsh Ministers and the Welsh improvement authority concerned. The deadline is changed from 30 November 2010 to 31 January 2011.

Technical Scrutiny

Under Standing Order 15.2 the Assembly is invited to pay special attention to this instrument:-

1. The Order has been made in English only. The Explanatory Memorandum contains the following statement: "The Minister for Social Justice and Local Government has further determined in this particular circumstance that it is not reasonable or practicable for the order to be made in English and Welsh.". However, the Order, including the Explanatory Note is only 392 words long, which is just over half the length of the accompanying letter which explains the breach of the 21 day rule, which letter has been translated. Moreover, save for the standard terminology used in Statutory Instruments, the terminology used in the Order is that used in the letter. In those circumstances it not apparent why it should be considered either not reasonable or practicable to make the Order bilingually.

[Standing Order 15.2(ix)]

Merits Scrutiny

No points are identified for reporting under Standing Order 15.3 in respect of this instrument.

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The Government has responded as follows:

It is the Welsh Assembly Government's view that in this instance it was not reasonable or practicable to translate The Audit and Assessment Reports (Wales) Order 2010 given the time constraints faced in making the Order. The comments regarding the accompanying letter are noted. However, the Order required legal translation and checking which was not possible to accommodate within the given time frame.