National Assembly for Wales  
Constitutional and Legislative Affairs Committee  

Statutory Instruments laid during recess and before the dissolution of the Fourth Assembly  

Purpose  

1. This paper asks the Committee to approve reporting arrangements for any Statutory Instruments laid too late in the fourth Assembly to be considered by this Committee.

Background  

2. It is possible that Statutory Instruments will be laid after the deadline for publishing papers for the Committee’s final meeting on 14 March 2016.

3. The Government can table Statutory Instruments up until 5 April, the day before dissolution.

4. It is unlikely that the Committee’s successor Committee in the Fifth Assembly will be able to consider these instruments within the 20-day reporting deadline. It is also possible that the successor Committee may be unable to consider them until after the 40-day annulment period has passed. Therefore these instruments will effectively bypass the usual scrutiny.

Consideration  

5. Legal advisers have been able to report on all instruments tabled by the Welsh Government before Thursday, 10 March (the day committee papers are published).

6. To ensure statutory instruments tabled from 11 March until 5 April are drawn to the attention of the new Assembly Members in the Fifth Assembly, it is proposed that a merits report is laid before the Fourth Assembly, on 5 April 2016.

7. The report will detail all SIs laid during recess before dissolution and specify that the instruments are subject to a merits report in accordance with Standing Order 21.3(ii), namely, that the Assembly should pay special attention to the statutory instrument in that it gives rise to issues of public policy likely to be of interest to the Assembly.

8. It is proposed that the Chair lays this report (see a proposed report at Annex 1) on behalf of the Committee.

9. It is also proposed that the report is drawn to the attention of all incoming Members to the Fifth Assembly, an approach agreed by Business Committee at its meeting last week.
10. Having had these SIs drawn to their attention at the start of the Fifth Assembly, Assembly Members will then have the right to table motions proposing that the Assembly annuls SIs made by the Welsh Ministers (provided that such motions are debated by the Assembly within 40 days of the SI being laid). Laying dates and the date on which the 40 day period expires will be included in the paper referred to in paragraph 8 above.

**Action**

11. The Committee is asked to agree the approach at paragraphs 8 and 9 above.
Annex 1

Proposed “standard” merits report to be used for all instruments received too late to have been properly considered by the Constitutional and Legislative Affairs Committee before the dissolution of the Fourth Assembly.

Each of the following instruments was laid before the Assembly at a point that did not allow them to be properly considered by the Fourth Assembly’s Constitutional and Legislative Affairs Committee.

In the Fifth Assembly, the responsible Committee is not likely to be established until the 20-day deadline for reporting on the instruments has passed. The 40-day deadline, within which the Assembly is able to annul the instruments, may also have passed before the incoming Committee can consider these instruments.

In these circumstances, the instruments would not have been subject to any Assembly scrutiny procedure and the opportunity for Assembly Members to table motions to annul any of the instruments may be lost.

Therefore the Constitutional and Legislative Affairs Committee has agreed to report under Standing Order 21.3 that the National Assembly should pay special attention to these statutory instruments as giving rise to an issue of public policy likely to be of interest to the Assembly. Namely that they may, because of when they were laid, by-pass the usual scrutiny arrangements for Statutory Instruments.

•[Names of each instrument with brief explanation of purpose, coming into force date and deadline for the Assembly to agree a motion to annul.]"