

**CLA155**

## **Constitutional and Legislative Affairs Committee Draft Report**

**Title: The Natural Resources Body for Wales (Establishment) Order 2012**

**Procedure: Affirmative**

This draft order is being brought forward under powers contained in sections 13 and 15 of the Public Bodies Act 2011. It establishes a new statutory body, the Natural Resources Body for Wales and provides for its form, purpose, membership, procedure, financial governance and initial functions.

### **Technical Scrutiny**

The following point is identified for reporting under Standing Order 21.2 in respect of this draft instrument.

Article 13(5) contains a requirement in certain circumstances for the Body to make payment to Welsh Ministers. The words 'to them' are included in the English text, but the corresponding 'iddynt' is absent in the Welsh text. The intention is clear, so it would be appropriate to insert the missing word on publication to make the provision easier to follow.

[Standing Order 21.2(vi) – that the drafting appears to be defective.

### **Merits Scrutiny**

The following points are identified for reporting under Standing Order 21.3 (ii) in respect of this draft instrument – that it gives rise to issues of public policy likely to be of interest to the Assembly.

This is the first order under the Public Bodies Act 2011 (“the 2011 Act”) that the National Assembly for Wales has considered.

The Order establishes the new single body for the management of Wales’ natural resources. The new body has the working title *Natural Resources Body for Wales*. The Welsh Government state within the Explanatory Memorandum that the order establishes the body in a way that ensures that, prior to its having transferred to it the full range of appropriate functions, it will be able to undertake the preparatory work necessary to ensure the new body will be able to function fully from the first day it becomes responsible for all the environmental responsibilities that are to be transferred to it. The preparatory work will include setting up the internal structures of the Body and

preparing for the transfers of those functions, and of staff, property and other rights and liabilities in other legislation.

The Order is subject to a form of affirmative procedure in accordance with section 19 of the 2011 Act. In addition to the normal requirement of affirmative procedure – i.e. that the Order cannot be made unless the Assembly approves it, the 2011 Act requires that the Order be laid in draft for 40 non-recess days. At any time within 30 days of it being laid (which expires on 5<sup>th</sup> July 2012), the Assembly may resolve or a committee tasked with scrutinising the Order may recommend that the draft Order be laid for an additional 20 non-recess days (i.e. 60 in all) before it can be made. Any recommendation by a committee is subject to being overruled by a motion of the Assembly. In the event that the Assembly resolves or a committee recommendation stands, then the Order must be laid for a further 20 days to allow for further scrutiny, consultation etc. The Welsh Ministers will have to have regard to any representations, any resolutions of the Assembly and any recommendations of a Committee of the Assembly tasked with scrutinising the Order. If any material changes are made to the draft Order as a result, the revised draft Order would need to be re-laid before the Assembly, with a statement summarising the changes. The revised draft Order would then be subject to normal affirmative procedure in the Assembly.

The Constitutional and Legislative Affairs Committee referred the draft Order to the Environment and Sustainability Committee for consideration on 11 June 2012.

**Legal Advisers  
Constitutional and Legislative Affairs Committee**

**June 2012**

**The Government has responded as follows:**

**The Natural Resources Body for Wales (Establishment) Order 2012**

The Government accepts the technical reporting point and will correct the error on publication.