

Nid yw ar gael trwy gyfrwng y Gymraeg

Date: Wednesday 11 June 2003
Venue: Committee Room 3, National Assembly for Wales
Title: Draft Protocol for the Committee's Scrutiny of Proposed Primary and Secondary Legislation

Purpose

1. The Committee is invited to consider the attached draft protocol for handling the scrutiny of proposed legislation.

Background

2. The Health and Social Services Committee of the First Assembly agreed that when it examined proposed secondary legislation it would focus discussion on amendments proposed and notified in advance by members. The attached draft is based on the protocol set out in the letter of the 12 March from Kirsty Williams, the Chair, to Jane Hutt, the Minister.

Action

3. If agreed the protocol will be applied to the Committee's consideration of proposed legislation, unless in exceptional circumstances there is agreement to waive it.

Committee Secretariat
June 2003

HEALTH AND SOCIAL SERVICES COMMITTEE

PROTOCOL FOR HANDLING SCRUTINY OF PROPOSED PRIMARY AND SECONDARY LEGISLATION

PRIMARY LEGISLATION

1. The UK Government now publishes some bills in draft for public consultation before they are introduced formally to Parliament. The time scale for consultation should give the Committee the opportunity to examine the provisions of the draft bill in some detail, and to be able to invite representatives of organisations and individuals who would be affected by the proposals to give written and / or oral evidence to the Committee.
2. When bills are not published in draft, the text will not be published until the bill receives its first reading in Parliament. If the Assembly is to influence the Parliamentary process it would normally need to do so before the bill enters the committee stages. In these cases therefore it is proposed that the committee adopts the procedure set out below for secondary legislation.
3. The Committee's conclusions and recommendations will be reported formally to the Minister by the Chair, with a request that the Minister passes them on to the UK Government through the Secretary of State for Wales.

SECONDARY LEGISLATION

4. In accordance with para 5.5 of the report of the Assembly Review of Procedure (*February 2002*), the Committee needs to be aware at an early stage of proposed subordinate legislation. The Minister will provide a rolling schedule of proposed secondary legislation with her regular report to the Committee.
5. Wherever possible, especially with secondary legislation resulting from new primary legislation, the Committee should have the opportunity of looking at the proposals in the form of a *proposed* draft Order before the formal Standing Order 22 procedure starts.
6. Draft, or *proposed* draft, Orders coming before the Committee should have the proposed explanatory memorandum to assist the Committee's understanding of the Assembly Government's intentions. The Committee should have adequate time to examine the proposals and, so that it uses its time effectively in Committee, **members should give prior notice of any amendments, or other comments or queries they propose**. This will enable the Minister to prepare a response to them in time for the meeting. The following is a model timetable:

Date of Committee meeting..... Wednesday or
Thursday 29 May

Proposed draft Order circulated to Committee members..... Friday 17 May

Amendments proposed by Members notified to the Minister and
Committee Clerk Midday, Friday 24 May

7. Discussion on the proposed draft during the meeting on 29 May would be limited to notified amendments.

8. Following the meeting the Chair of the Committee will write to the Minister setting out the Committee's recommendations.

9. Within an agreed timescale, the Minister should respond formally to the Committee, setting out which amendments he / she is disposed to accept and the reasons for rejecting any amendments the Committee has recommended. This will help members' consideration of the drafts subsequently put forward formally under Standing Order 22.

10. It would be helpful to members if the process for notifying members of a draft Order under Standing Order 22.1 were strengthened by the Minister notifying Committee members specifically, through the Clerk, when draft Orders that the Committee has considered as proposed drafts are published under Standing Order 22.1. It is important that Committee members are able to examine any alterations that may have been made in the interim as a result of consultation or changes in the Assembly government's policy. Members may then decide whether to seek an opportunity to discuss the changes.

11. Should it be decided under Standing order 22.5 that the Orders should return to the Committee, a similar process would apply with members giving prior notice of any proposed amendments to the Minister and the Clerk by midday on the Friday before the meeting.

Agreed by the Committee on 11 June 2003