

ENVIRONMENT, PLANNING AND TRANSPORT COMMITTEE

Date: Wednesday 13 June 2001
Time: 2.00 to 5.00 pm
Venue: Committee Room 2, National Assembly Building

REPORT BY MINISTER FOR ENVIRONMENT

CADW

Conference on 18 May 2001 on Access for the Disabled to Historic Buildings

The aim of the conference was to consider ways of making historic buildings more accessible for all (and bearing in mind the 2004 deadline of the Disability Discrimination Act for service providers to remove physical barriers to premises where reasonable).

The conference was organised by Disability Wales and Cardiff University and I delivered a keynote address. The conference was well attended and included people with disabilities, local access groups, local authorities, architects and others.

The conference recognised that it was not always easy to adapt historic buildings to make them fully accessible and that listed buildings need specific consent from local authorities for alterations. The Cadw consultation paper suggests innovative approaches to ensure access for all.

A series of case studies at the conference were used to illustrate ways of securing appropriate solutions, wherever possible. The conference revealed there was still a certain amount of cynicism based on past difficulties in being able to access buildings, but Cadw and I stressed the need for co-operation and partnerships with disability groups to move this forward.

The conference and the consultation exercise helped to continue the dialogue. We will build on this in the preparation of Cadw guidance document for owners of historic buildings and local

authorities in considering applications for listed building consent.

Cadw has put out a consultation paper on giving advice on achieving physical access to historical buildings and has invited responses by 15 June.

FORESTRY COMMISSION

On 25 May, I visited Betws y Coed to re-open Geirionydd woods, a favorite destination for local people, tourists and outdoor pursuits. The woods and picnic site are managed by the Forestry Commission on behalf of the National Assembly. Re-opening the woods in time for the Whitsun Bank holiday was a huge boost to the area following the foot-and-mouth outbreak. Access restrictions on all Forestry Commission land in north Wales have been lifted following risk assessments and consultation with neighboring farmers and local authorities.

COUNTRYSIDE

Foot and mouth – Access to the Countryside

I recently wrote to all the local authorities urging them to restore access to the countryside in line with latest expert veterinary advice. The Chief Veterinary Officer for Wales has advised that access to rights of way and other parts of the countryside can largely be restored. The only exceptions are within three kilometres of infected premises and in the Brecon / Talgarth area where recent cases of infection have occurred.

As a result of the advice we have seen the restrictions being lifted in 16 local authorities areas including, Conwy, Gwynedd, Blaenau Gwent, Caerphilly, Denbighshire, Merthyr Tydfil, Wrexham. Other authorities such as Pembrokeshire, Monmouthshire and Carmarthenshire are gradually restoring access over the next few weeks, and others such as Ceredigion have decided to continue with their risk assessment process. The Vale of Glamorgan cabinet does not meet until the 12th of June.

I visited both North and Mid Wales on the 25th of May to reopen a foot path through Bron-y-Buckley Nature Reserve in Welshpool and visit the newly reopened Llyn Geirionydd, in Llanrwst Forest District, near Betws-y-Coed.

Members of Brecon Beacons National Park Authority

The process of filling a vacancy on the Brecon Beacons National Park Authority is under way. The advertisement will appear in various newspapers from this week. I am looking to appoint a member who has experience or expertise in planning matters.

National Park Officer for Brecon Beacons National Park

Mr Chris Gledhill took up his post as National Park Officer for Brecon Beacons National Park in early May. Mr Gledhill replaces Martin Fitton, who has left to take up a job as Chief Executive of the Association of National Park Authorities.

Transfer from Habitat Regulations Sub-Expenditure Group (SEG) to Environment Agency SEG

In accordance with Standing Order 19, I wish to consult the Committee on the proposed transfer of £295,000 from the Habitat Regulations Sub-Expenditure Group (SEG) to the Environment Agency SEG. The budget in the Habitat Regulations SEG has been allocated to support the review of authorisations or consents that are likely to have a significant effect on Natura 2000 sites designated under the EC Birds and Habitats Directives. The resources being transferred to the Environment Agency SEG will be used for the Agency's consents review programme. The transfer is to enable these funds to be paid as grant-in-aid to the Environment Agency Wales in 2001-02. The Finance Minister has approved the proposed transfer. Both SEGs are within the Environment, Planning and Transport Main Expenditure Group.

ENVIRONMENTAL PROTECTION

European Blue Flag Award

On 5 June Tidy Britain Group (Keep Wales Tidy in Wales) announced the UK results of the European Blue Flag scheme for clean water and sound environmental management.

This year 18 Welsh beaches (and 4 marinas) have been awarded a Blue Flag. At 18, Wales still has a high proportion of the UK's total of 55 Blue Flag beaches. That said, this year's results are disappointing in comparison to last year's record achievement when 22 Welsh beaches (and 7 marinas) received the award. Blue Flag beaches from last year, not achieving awards this year are: Aberystwyth North (Ceredigion), Borth (Ceredigion), Pwllheli (Gwynedd), Amroth (Pembrokeshire), Langland Bay (Swansea). This reflects the failure of these bathing waters to achieve the stringent EC guideline standards last year (all bathing waters in Wales, with only one exception, met the EC's mandatory standards last year). On the plus side, Penmaenmawr beach (Conwy) is a new Blue Flag winner.

Where there has been an apparent deterioration in water quality at EC identified bathing waters, the Environment Agency Wales investigates the reasons. Dwr Cymru's investment programme to be completed during the next five years should improve the position further and

bring about a greater consistency in water quality performance.

PLANNING

Technical Advice Notes

The draft Technical Advice Note (TAN) for Waste was issued for consultation in December 2000. We are currently discussing consultation replies with key respondents. The TAN is being developed in conjunction with forthcoming draft Wales Waste Strategy.

The draft policy framework for Dredging in the Bristol Channel was issued for consultation on 16 May and there is ongoing work to monitor the coastline of South Wales in relation to aggregates dredging licences.

The draft TAN for Aggregates will be ready to issue for consultation in the next couple of months.

Research Projects

A research project into the sustainable use of slate waste in Gwynedd is to be completed shortly with a dissemination seminar to be held on 29 June.

New research projects on the Comparative Assessment of Supply Options of Sand and Gravel in South Wales and Flood Risk Assessment are out to tender and are to be awarded in the next couple of weeks.

TRANSPORT

Transport Act 2000 Commencement Order

The Commencement Order No1 for the Transport Act 2000 was discussed in Business Committee on 22nd May. The Business Committee decided that it needed to be considered by the EPT committee and that there should be a plenary debate on 19th July. The Assembly is already aware of the main parts of the Act affecting Wales due to the delegation debate which took place in plenary on 20th March 2001.

Listed in Annexes 1a and 1b to my Report are the commencement order and explanatory note as to the powers that are being commenced at this time. All the powers have been touched upon in discussion in the Committee during the course of the review on public transport and

other occasions. They include, local transport plans and bus strategies, concessionary fares, quality bus partnerships, inter ticketing, work place and congestion charging.

The Explanatory Note (Annex 1a) sets out the provisions included in the order. They come into effect on 1 August 2001 for everything listed, apart from sections 145 (1) (2) and (3) and section 161 which amends schedule 11 paragraphs 15 – 20 relating to travel concessions which come into effect on 1 April 2002. The date is still to be determined for road user charging and workplace parking levy schemes.

The Commencement Order (Annex 1b) relates to detailed provisions, which need to be read with the Transport Act 2000.

I recommend that the Committee reports to the Business Committee that it supports the proposals to make the Commencement Order.

In the light of the discussions that took place in plenary on 20 March it would be helpful if the order could be made as soon as possible (it was originally intended to go through on the accelerated procedure without debate on 19 June 2001).

Consultation on the Transport Framework

The Consultation on the Transport Framework concluded on 18 May.

We have received some 107 replies to the consultation, including the majority of transport authorities and operators. This is a very encouraging response, which broadly endorses the policy set out in the Framework. Officials are currently analysing the responses so that we can develop the Framework and publish the final version this Summer. The Committee will be given the opportunity to discuss it in draft form before publication (slot booked for the 27 June meeting: members will recall endorsing an early draft on 29 November 2000).

Publication of the Framework will enable a clear policy context for the development of the trunk road programme which will be announced soon afterwards.

Rail

On 25 May I spoke at a well-attended Railfreight Awareness Day in Llandudno, that was organised by the North and Mid Wales Railfreight Working Group, which includes the WDA, Railtrack and the region's local authorities.

Trunk Road Compensation Payments

At the EPT Committee meeting on 21 March members raised concerns about some cases of

compensation to people affected by the Assembly's road schemes, and I offered to provide information to the committee on the arrangements. The note by the Roads Administration Division explains the background and is at Annex 2 of my report. Officials will be available to answer any questions members may have.

SUE ESSEX

Minister for Environment

ANNEX 1a

Explanatory Note of Transport Act 2000 Parts II and III

The Assembly has the power to commence Parts II and III of the Transport Act 2000 in Wales. This commencement order:

- Imposes a duty on local authorities to prepare and publish local transport plans and bus strategies. As part of these duties, local authorities should include a specific bus strategy for carrying out the bus function of local operators (Sections 108 to 112) (Schedule 11).
- Provides powers to local authorities to bring forward bus quality partnership schemes (Sections 114 to 118) (Schedule 10) together with powers to vary such schemes (Sections 120 & 121).
- Gives the Assembly powers to make regulations about existing provisions in relation to quality partnership schemes (section 119) and regulations to make further provision in relation to quality partnership schemes (Section 122).
- Gives the Assembly powers to issue guidance to local authorities on elements of quality partnerships (Section 123).
- Gives the Assembly powers to make regulations in respect of quality contract schemes and transitional provisions relating to them (Sections 128, 130 -134) ***[Quality contracts need Assembly approval before they can be implemented]***.

- Local Authorities are able to require bus operators to co-operate in the provision of joint ticketing and places a duty on the local transport authorities to secure the provision of bus passenger information in their area. (Sections 135 – 143) (Schedule 10).
 - Gives the Assembly the power to make regulations for Local Authorities to bring in bus lane penalties. (Section 144).
 - Places on a statutory basis the commitment by central government to a national (England and Wales) concessionary fare i.e. that all pensioners and disabled people should be entitled to travel off-peak at a discount of at least 50% on buses, using a free pass (Sections 145 & 146).
 - Gives the Assembly the power to issue guidance relating to disabled persons and make certain regulations relating to arrangements with concessionary schemes under the Transport Act 1985 (Sections 145 – 146).
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- Gives the Assembly power to amend sections 145 and 146 and in particular power to extend concessionary schemes to different eligible groups, extended time periods and including travel on any public passenger transport service or such service of a specified description (Section 147) ***[Regulations are in preparation to introduce mandatory free travel for elderly and disabled people from 1 April 2002].***
 - Creates an offence for failing to apply with S.145 (Section 148) ***[a bus operator commits an offence if he fails to comply with the obligation of mandatory travel concessions].***
 - Sets out procedures for reimbursement of concessionary fares for operators (Sections 149 & 150) ***[regulations are in preparation for this].***
 - Amendment to the Transport Act 1985 in relation to the tendering for subsidised services (Section 152) ***[To enable an authority issuing an invitation to tender to take account of economy, efficiency and effectiveness, bus strategy, reduction or limitation of traffic congestion, noise or air pollution].***
 - Brings into effect a competition test in relation to the exercise of functions relating to quality partnerships schemes, ticketing schemes and subsidised local services (Section 153 and Schedule 10) ***[To ensure that Partnerships do not contravene competition legislation on fair trading].***
 - Gives the Assembly the power to make grants to bus service operators (Section 154) ***[Enables replacement grant for Bus Fuel Duty Rebate].***
 - Gives the Assembly the power to specify to the Traffic Commissioner the level of penalty to be set in Wales that is to be levied on bus operators who run unreliable services (Section 155).

- Provides for the giving of grants to transport authorities for securing the establishment, continuance or improvement of public transport services (Section 156).
- Makes provision for the repayment of grants towards bus fuel duty (Section 158).
- Governs the procedure for making regulations and orders under Part II (Section 160).
- Schedule 11 makes minor and consequential amendments relating to Part II (Section 161).
- Part III gives the Assembly the power to make regulations for road user charging and work place parking levy schemes ***[Any proposals from Local Authorities will have to have Assembly approval]***.
- Section 191 of Part III is **NOT** at this time being commenced and will be the subject of a further order at a later date. This will delay the bringing into force of Schedule 12 which starts the clock on the hypothecation of monies raised by the charging schemes.

ANNEX 1b

Draft Transport Act 2000 (Commencement Order No. 1) (Wales) Order 2001

**CYNULLIAD CENEDLAETHOL
CYMRU**

NATIONAL ASSEMBLY FOR WALES

OFFERYNNAU STATUDOL

STATUTORY INSTRUMENT

2001 Rhif (Cy.) (C.)

2001 No. (W.) (C.)

TRAFNIDIAETH, CYMRU

TRANSPORT, WALES

Gorchymyn Deddf Trafnidiaeth 2000
(Cychwyn Rhif 1) (Cymru) 2001

The Transport Act 2000 (Commencement
No.1) (Wales) Order 2001

NODYN ESBONIADOL

EXPLANATORY NOTE

*(Nid yw'r nodyn hwn yn rhan o'r
Gorchymyn)*

(This note is not part of the Order)

Mae'r Gorchymyn hwn yn dod â rhai darpariaethau o Rannau II a III o Ddeddf Trafnidiaeth 2000 i rym yng Nghymru.

This Order brings into force in Wales certain provisions of Parts II and III of the Transport Act 2000.

Mae'r darpariaethau sy'n dod i rym ar 1 Awst 2001 yn cynnwys:

Adrannau 108 i 113, sy'n gosod dyletswydd ar yr awdurdodau lleol i baratoi cynlluniau trafndiaeth lleol a strategaethau bysiau;

Adrannau 114 i 123, sy'n gwneud darpariaeth i'r awdurdodau trafndiaeth lleol wneud cynlluniau partneriaeth ansawdd gwasanaeth bysiau;

Adrannau 124 i 134, sy'n gwneud darpariaeth i'r awdurdodau trafndiaeth lleol wneud cynlluniau contractau ansawdd gwasanaethau bysiau, ond dim ond i'r graddau sy'n galluogi'r Cynulliad Cenedlaethol i wneud rheoliadau sy'n perthyn i'r cynlluniau hynny;

Adrannau 135 i 138, sy'n galluogi'r awdurdodau lleol i wneud cynlluniau ynglŷn â thocynnau bysiau ar y cyd a thrwodd;

Adrannau 139 i 144, sy'n gosod dyletswydd ar yr awdurdodau lleol i benderfynu sut i sicrhau bod y cyhoedd yn derbyn gwybodaeth am wasanaethau bysiau lleol;

Adrannau 145 i 150 sy'n gwneud darpariaeth ar gyfer consesiynau teithio gorfodol ar fysiau lleol i rai hen neu anabl (ond heb gynnwys yr hawl i'r consesiwn ei hun);

The provisions which come into force on 1 August 2001 include:

Sections 108 to 113, which place a duty on local authorities to prepare local transport plans and bus strategies;

Sections 114 to 123, which make provision for local transport authorities to make bus service quality partnership schemes;

Sections 124 to 134, which make provision for local transport authorities to make bus service quality contracts scheme, but only to the extent which enables the National Assembly to make regulations relating to such schemes;

Sections 135 to 138, which enable local authorities to make schemes for joint and through bus ticketing;

Sections 139 to 144, which place a duty on local authorities to decide how to ensure that the public receive information about local bus services;

Sections 145 to 150 which make provision for mandatory concessionary travel on local buses for the elderly or disabled (but not including the right to the concession itself);

Adrannau 152 i 159 (gyda rhai eithriadau), sy'n ymwneud â grantiau ar gyfer trafniadaeth gyhoeddus leol a phrofion cystadleuaeth ynglŷn ag arfer pwerau sy'n perthyn i wasanaethau bysiau;

Adrannau 160, 161 a 162, sy'n ymwneud â'r pwerau i wneud rheoliadau, mân ddiwygiadau i'r gyfraith a dehongli;

Pennod I o Ran III o'r Ddeddf sy'n darparu ar gyfer cynlluniau codi tâl ar ddefnyddwyr ffyrdd, ond dim ond i'r graddau sy'n galluogi'r Cynulliad Cenedlaethol a'r Arglwydd Ganghellor i wneud rheoliadau sy'n perthyn i'r cynlluniau hynny;

Pennod II o Ran III o'r Ddeddf sy'n darparu ar gyfer ardollau parcio manau gwaith, ond dim ond i'r graddau sy'n galluogi'r Cynulliad Cenedlaethol a'r Arglwydd Ganghellor i wneud rheoliadau sy'n perthyn i'r cynlluniau hynny;

Pennod III o Ran III o'r Ddeddf sy'n gwneud darpariaethau cyffredinol ac atodol yn perthyn i godi tâl ar ddefnyddwyr ffyrdd ac ardollau parcio manau gwaith ond ac eithrio Atodlen 12 sy'n cynnwys darpariaethau ariannol;

Sections 152 to 159 (with some exceptions), which relate to grants for local public transport and competition tests relating to the exercise of functions relating to bus services;

Sections 160, 161 and 162, which relate to the powers to make regulations, minor amendments to the law and interpretation;

Chapter I of Part III of the Act which provides for road user charging schemes, but only to the extent which enables the National Assembly and the Lord Chancellor to make regulations relating to such schemes ;

Chapter II of Part III of the Act which provides for workplace parking levies, but only to the extent which enables the National Assembly and the Lord Chancellor to make any necessary regulations;

Chapter III of Part III of the Act which makes general and supplementary provisions relating to road user charging and workplace parking levies but with the exception of Schedule 12 which includes financial provisions;

Mae'r darpariaethau sy'n dod i rym ar 1 Ebrill 2002 yn cynnwys:

Y darpariaethau o Adran 145 sy'n rhoi'r hawl i'r consesiynau teithio;

Rhai diwygiadau llai i'r gyfraith o dan Adran 161.

The provisions which come into force on 1 April 2002 include:

The provisions of Section 145 which confer the right to the travel concessions;

Some minor amendments to the law under Section 161.

OFFERYNNAU STATUDOL

2001 Rhif (Cy.) (C.)

TRAFNIDIAETH, CYMRU

Gorchymyn Deddf Trafnidiaeth 2000
(Cychwyn Rhif 1) (Cymru) 2001

Wedi'i wneud 2001

Mae Cynulliad Cenedlaethol Cymru yn gwneud y Gorchymyn canlynol drwy arfer y pwerau a roddwyd iddo gan adrannau 275(2) a 276(2) o Ddeddf Trafnidiaeth 2000(a):

Enwi, dehongli a chymhwyso

STATUTORY INSTRUMENTS

2001 No. (W.) (C.)

TRANSPORT, WALES

The Transport Act 2000 (Commencement No.1) (Wales) Order 2001

Made 2001

The National Assembly for Wales makes the following order in exercise of the powers conferred on it by sections 275(2) and 276(2) of the Transport Act 2000(a):

Citation, commencement and application

1. - (1) Enw'r Gorchymyn hwn yw Gorchymyn Deddf Trafnidiaeth 2000 (Cychwyn Rhif 1) (Cymru) 2001.

(2) Yn y Gorchymyn hwn ystyr "y Ddeddf" yw Deddf Trafnidiaeth 2000.

(3) Mae'r Gorchymyn hwn yn gymwys i Gymru.

Darpariaethau yn dod i rym

2. Daw darpariaethau'r Ddeddf a bennir yn Atodlen 1 i'r Gorchymyn hwn i rym, yn ddarostyngedig i'r cyfyngiadau a bennir yn yr Atodlen honno, ar 1 Awst 2001.

3. Daw darpariaethau'r Ddeddf a bennir yn Atodlen 2 i'r Gorchymyn hwn i rym ar 1 Ebrill 2002.

Llofnodwyd ar ran Cynulliad Cenedlaethol Cymru o dan adran 66 (1) o Ddeddf Llywodraeth Cymru 1998 **(b)**.

XX Mehefin 2001

Llywydd y Cynulliad Cenedlaethol

1. - (1) This Order may be cited as the Transport Act 2000 (Commencement No.1) (Wales) Order 2001.

(2) In this Order "the Act" means the Transport Act 2000.

(3) This Order applies to Wales.

Provisions coming into force

2. The provisions of the Act specified in Schedule 1 to this Order come into force, subject to the limitations specified in that Schedule, on 1 August 2001.

3. The provisions of the Act specified in Schedule 2 to this Order come into force on 1 April 2002.

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998**(b)**.

XX June 2001

Presiding Officer of the National Assembly

ATODLEN 1

Erthygl 2

DARPARIAETHAU SY'N DOD I RYM
AR 1 AWST 2001

1. Adrannau 108 i 123.
2. Adrannau 128(4), 130(8), 131(2), (3) a (4), 132(6), 133 a 134
3. Gweddill darpariaethau adrannau 124 i 132 ond mewn perthynas yn unig â'r pwerau i wneud rheoliadau o dan y darpariaethau a bennir ym mharagraff 2 o'r Atodlen hon.
4. Adrannau 135 i 144.

SCHEDULE 1

Article 2

PROVISIONS WHICH COME INTO
FORCE ON 1 AUGUST 2001

1. Sections 108 to 123.
2. Sections 128(4), 130(8), 131(2), (3) and (4), 132(6), 133 and 134.
3. The remaining provisions of Sections 124 to 134 but only in relation to the powers to make regulations under the provisions specified in paragraph 2 of this Schedule.
4. Sections 135 to 144.

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|---|---|
| 5. Adran 145 ac eithrio is-adrannau (1), (2) a (3). | 5. Section 145 with the exception of sub-sections (1), (2) and (3). |
| 6. Adrannau 146 i 150. | 6. Sections 146 to 150. |
| 7. Adran 152. | 7. Section 152. |
| 8. Adran 153 ac eithrio i'r graddau y mae'n perthyn i baragraff 1(1)(a) a (2)(a) o Atodlen 10 i'r Ddeddf ac i'r geiriau "a quality partnership scheme or" ym mharagraff 12 (2) o'r Atodlen honno. | 8. Section 153 except to the extent that it relates to paragraph 1(1)(a) and (2)(a) of Schedule 10 to the Act and to the words "a quality partnership scheme or" in paragraph 12(2) of that Schedule. |
| 9. Adran 154(1) i (5). | 9. Section 154(1) to (5). |
| 10. Adrannau 155 i 160. | 10. Sections 155 to 160. |
| 11. Adran 161 ac eithrio i'r graddau y mae'n perthyn i baragraffau 15 i 20 o Atodlen 11 i'r Ddeddf. | 11. Section 161 except to the extent that it relates to paragraphs 15 to 20 of Schedule 11 to the Act. |
| 12. Adran 162. | 12. Section 162. |
| 13. Adrannau 163(2)(b), 168(3), 172(1), 173(1), (2), (3) a (4), 174(1), (2) a (5), 175(1) ac 176 (2). | 13. Sections 163(2)(b), 168(3), 172 (1), 173(1), (2), (3) and (4), 174(1), (2) and (5), 175(1) and 176(2). |

14. Gweddill Pennod I o Ran III (ac eithrio adran 166) ond mewn perthynas yn unig â'r pwerau i wneud rheoliadau o dan y darpariaethau a bennir ym mharagraff 13 o'r Atodlen hon.

15. Adrannau 178(2)(b), 182(5), 183(3), 187(1) a 189(1), (2), (3) (b) a (4).

16. Gweddill Pennod II o Ran III (ac eithrio adran 181) ond mewn perthynas yn unig â'r pwerau i wneud rheoliadau o dan y darpariaethau a bennir ym mharagraff 15 o'r Atodlen hon.

17. Pennod III o Ran III (ac eithrio adrannau 191 ac 199).

14. The remainder of Chapter I of Part III (except for section 166) but only in relation to the powers to make regulations under the provisions specified in paragraph 13 of this Schedule.

15. Sections 178(2)(b), 182(5), 183(3), 187(1) and 189(1), (2), (3)(b) and (4).

16. The remainder of Chapter II of Part III (except for section 181) but only in relation to the powers to make regulations under the provisions specified in paragraph 15 of this Schedule.

17. Part III Chapter III (except for sections 191 and 199).

ATODLEN 2

Erthygl 3

DARPARIAETHAU SY'N DOD I RYM
AR 1 EBRILL 2002

1. Adran 145(1), (2) a (3).

SCHEDULE 2

Article 3

PROVISIONS WHICH COME INTO
FORCE ON 1 APRIL 2002

1. Section 145(1), (2) and (3).

2. Adran 161 i'r graddau y mae'n perthyn i baragraffau 15 i 20.

2. Section 161 to the extent that it relates to paragraphs 15 to 20.

Footnotes (will appear at the bottom of the relevant page of the printed version)

(a) 2000 p. 38

(a) 2000 c. 38

(b) 1998 p. 39

(b) 2000 c. 38

ANNEX 2

COMPENSATION FOR TRUNK ROAD SCHEMES

1. In designing new roads or improving existing ones the aim is to minimise the impact on local communities. Nevertheless most schemes will involve taking some land or property or causing some disturbance or possibly damage to nearby homes and premises. This creates the need to compensate the people who are affected in this way.
2. The main categories of compensation are
 - where we acquire land or rights by compulsory purchase
 - where traffic on the new road affects land or property.

We also pay compensation where the plans for a road scheme blight the value of property. People have a right to require us to buy their property in some circumstances ("statutory blight") but we also buy some properties under discretionary powers.

Problems

1. Having one's land – or particularly one's home – compulsorily purchased can be a traumatic event. People are naturally concerned to get the best settlement they can, without excessive delay. For our part we aim to deal sympathetically and speedily with

cases but we must also ensure that we take proper care of public expenditure.

2. Members will be aware of cases of complaint of two kind – dissatisfaction with the outcome (usually the amount of compensation) and complaints about delays.

Compulsory Purchase

3. Although there are occasionally instances where it is possible to acquire land entirely by agreement, it is normally necessary to use compulsory purchase for all but the very smallest schemes, because of the numbers of interests involved. For example for the Brynmawr-Tredeggar section of the Heads of the Valleys Road there were over 150 owners.
4. Owners will first become aware of the possibility that their property will be affected when the outline route is published. This can be a number of years before construction takes place. Firm indication that property will be acquired is given when the compulsory purchase order is published in draft. No compulsory purchase order can be made unless it is first publicly advertised, and also notified to each landowner to be affected, and if any landowner objects to the order there is provision for the Assembly to hold a public inquiry before an independent inspector appointed by the Lord Chancellor's Department. The inspector ensures that at the inquiry any interested person has the opportunity of making a case against the order. Following the inquiry, the inspector presents recommendations to the Assembly for decision so that each order is exposed to full democratic scrutiny.
5. In some cases, although land may not be needed for the scheme, the contractors will need rights of access over land to carry out the work, or to inspect structures. The procedures used for these acquisitions are similar to those used for compulsory purchase.
6. The Assembly negotiates the amount of compensation in accordance with a compensation code set out in the statute. In 2000-01 we paid £5m in total for compulsory purchase for highways. Monetary compensation will not always be seen as adequate compensation for the loss of a home or land. However, we make every effort to ensure that the system is fair and in monetary terms puts the individual into the position of being no worse off. The landowner has the opportunity to appoint a valuer to assist in securing an appropriate market value for their property. If they are displaced from their home they will also receive a Home Loss payment, usually 10% of the market value. We try to complete compulsory purchases with the minimum of delay, but given the nature of the negotiation process, compensation is usually not agreed until well after we have taken possession and for this reason there is provision for payment in advance of up to 90% of the price estimated as likely to be agreed. We paid £1.5 million in such payments in the last financial year. Any remaining balance is paid with interest, when the negotiation process is completed.

COMPENSATION WHERE LAND, PROPERTY OR RIGHTS ARE NOT ACQUIRED

7. A substantial element of the Assembly's expenditure on compensation – over £3.7 million – was paid last year to owners who were affected in one way or another by highways schemes. Most of these (2,700 in the last financial year) arise where the value of the property is affected by traffic using the highway. The arrangements for this are set out in Part I of the Land Compensation Act 1973.
8. Claims of this kind arise from adverse effects such as noise, artificial lighting and dust. Claimants have the opportunity to be represented by surveyors whose fees are paid by the Assembly if the claim is met. If agreement cannot be reached on the amount to be paid, the claimant can refer the case to the Lands Tribunal who will act as arbitrator.
9. For claims of this kind we take measures from an early stage to ensure that people in the local community are aware of the availability of compensation. Copies of a leaflet explaining the scheme are delivered to all households within 300 metres of the road, and in some cases beyond this distance, before the start of the works. Also, advertisements publicising the right to compensation payments are published in the press at the time the road opens to traffic, and again at the date when the claims can be presented, ie one year after the road is opened.

Effects of Execution of Works

10. The Assembly has an obligation under Section 10 of the Compulsory Purchase Act 1965 where legal rights are infringed to pay for depreciation in the value of a property arising from the execution of highway works. This might happen for example when the contractors damage a property or when the works block the access to a business. Very few cases arise.

BLIGHT

Statutory Blight

11. Where a property becomes unsaleable because it is on land blighted by highways proposals the owner may require the Assembly to buy it under the provisions of the Town and Country Planning Act 1990. If accepted, the case is then dealt with in the same terms as for a compulsory purchase.

Discretionary Purchase

12. The Assembly also has discretionary powers to acquire property which, while not on blighted land, is or will be seriously affected by a roads scheme. For these purchases, elements of the compulsory purchase compensation procedures are applied, and the price to be paid is the unaffected market value (ie ignoring the effects of the scheme). We have very few of these cases.

HOW WE DEAL WITH CASES

Helping people through the System

13. In the case of the larger schemes we arrange public exhibitions in the neighbourhood where plans of the proposals are displayed and Assembly staff are available to deal with enquiries. In the same way, Assembly staff are on hand during inquiries to offer help on compensation and other issues.
14. The Assembly produces a number of leaflets which outline individuals' rights when affected by highway schemes and related matters. These are:

Your Home and Compulsory Purchase

Your Home and Nuisance from Public Development

Your Business and Public Development

The Farmer and Public Development

Insulation Against Traffic Noise – The Noise Insulation Regulations 1975

Land Compensation – your rights explained

Compulsory Purchase Orders – A Guide to Procedure

We make these widely available throughout the development of highways projects. (They are being placed on the Assembly's Internet site.) As general guidance provided by the Assembly carries no legal authority, we advise people affected to seek professional advice on their rights to compensation.

15. Staff are readily available in the office to give guidance on claims, and we deal with a very large volume of telephone enquiries, particularly on claims under Part I of the Land Compensation Act.

Processing Claims

16. Negotiations of all claims for statutory compensation, of whatever type, are carried out on the Assembly's behalf by professional valuers, Debenham Tie Leung (DTZ). Claimants usually employ agents, (valuers and solicitors), to act for them and we pay the reasonable costs of employing them when compensation is payable. There are time targets for those parts of the processing of claims which the Assembly carries out itself,

but we have not so far found it practicable to set a meaningful target for the process of negotiating with property owners the value of claims, because for this we are in the hands of the claimants and their agents. Assembly Members have cases referred to them by constituents where unacceptable delay is alleged, usually delay in agreeing the amount of compensation, and in some instances the fault lies with us. But frequently the cause of delay is beyond the control of the Assembly's staff, and by its nature the process of negotiation can be a protracted one.

17. In the case of Part I claims for reduction in property values, there have been delays in the past due to the massive fluctuations in numbers that have occurred. Numbers of applications vary considerably from year to year, depending upon what schemes are completed and the numbers of property owners deciding to make claims. In 1994 210 claims were made, with 294 being dealt with in-house or by the agents at 1 April in that year. In 1998, 3,400 applications were made, with the numbers in-house rising to 5,054 in early 1999. Extra staff were assigned to the claims section of Roads Administration Division when numbers increased, and the number in hand has been brought down to a total of 1,049 at present. Sometimes delays can be caused by backlogs of cases at the claimants' agents. In some cases we make an offer to the applicant or their agent and get no reply. In such cases DTZ send reminders and if three or four reminders produce no result, DTZ refer the cases back to us. We then write to the applicant, indicating that if no reply is received the application will be regarded as abortive and the papers left on file. If the application remains unresolved, a further and final reminder is given when the time approaches at which the applicant's right to compensation will effectively lapse under the Limitations Act 1980 ie six years from the claim date. At present we have no cases awaiting attention for more than a few days in the Assembly's offices.

Assessment of Compensation Payments

18. When we advertise the availability of Part I compensation we encourage people who are interested to contact the Assembly if they require further information. In all cases the Directorate sets the greatest importance on the fullest possible exchange of views between its valuers and the agents representing claimants. The Assembly's valuers are instructed to give full consideration to the evidence so that any inconsistencies or differences in approach can be resolved wherever possible. Given the nature of the negotiation there are bound to be instances where agreement cannot be reached, and when this happens the case can be referred to the Lands Tribunal. However, references of this kind are rare and in the overwhelming majority of cases, resolution is achieved by negotiation between the parties' representatives.

