

LEGISLATION COMMITTEE MEETING**MINUTES:**

Date: 16 October 2001
Time: 9:30 a.m.
Venue: Committee Room 1, National Assembly Building

Attendance:

Mick Bates (Chair)	(Liberal Democrat)
Rosemary Butler	(Labour)
Glyn Davies	(Conservative)
Ron Davies	(Labour)
John Griffiths	(Labour)
Pauline Jarman	(Plaid Cymru)
Dr Dai Lloyd	(Plaid Cymru)
Owen John Thomas	(Plaid Cymru)

Officials

John Turnbull	Legal Adviser
Olga Lewis	Committee Clerk
Julie Owen	Deputy Committee Clerk

Apologies for absence: None

Item 1: Minutes of the previous meeting and matters arising: LEG-20-2001(min)

1.1 The Committee agreed the minutes of the meeting held on date 17 July 2001.

Item 2: Chair's Report

2.1 The Chair reminded members that during July he had attended an International Conference on Regulation Reform, Management and Scrutiny of Legislation hosted by the New South Wales Parliament, where he had delivered a presentation entitled "Regulatory Reform - A Welsh Perspective". A copy of the Chair's report on the Conference had been circulated to members. It was suggested that discussion of the report be delayed until a later meeting when there would be a less congested agenda.

2.2 The Chair drew members attention to an article entitled "Sun, Sea, Sand and...Subordinate Legislation", written by Dylan Hughes, a solicitor in the Office of the Counsel General (who had

previously acted as Assistant Legal Adviser to the Committee) who had also attended the Conference. A copy of the article which was published in "Wales Law Today", had been circulated for members information.

2.3 The Chair reminded members that a copy of the Committee's draft Annual Report had been circulated for their comments. It was agreed that discussion of the report be delayed until a later meeting.

2.4 The Chair informed members that Mr Gwyn Griffiths of the Office of the Counsel General had offered to address the Committee on the mechanics of drafting urgent foot and mouth disease statutory instruments. It was agreed that Mr Griffiths would attend the next meeting of the Committee.

2.5 The Chair informed the Committee that he had received a request from Mr Gaston Denayer, the Secretary General for the Flemish Parliament, asking if the Committee would meet with their delegation to discuss the work of the Assembly. The Flemish delegation would consist of three civil servants, including the manager of the Legislative Secretariat and approximately six Members of the Flemish Parliament. A meeting had been arranged for 3:30 pm on Thursday 25th October. Members were invited to attend.

2.6 The Chair informed members that during the summer he and John Turnbull had met with Mr Irchiro Kozaki of the Legislative Bureau of the House of Representatives in Japan, to discuss the work of the Committee.

Item 3: Assembly Orders for Consideration

LC323: The Welfare of Farmed Animals (Wales) Regulations 2001

3.1 Mr Turnbull presented his report to the Committee. The Regulations had been made under the Executive Procedure.

3.2 The Committee agreed that it did not need to invite the Assembly to pay special attention to the regulations on any grounds specified in Standing Order 11.5 nor did they have any general observations.

3.3 The Committee's report to the Assembly on the Regulations is attached as LC323 (Report).

LC324: The Air Quality Limit Values (Wales) Regulations 2001

3.4 Mr Turnbull presented his report to the Committee. The Regulations had been made under the Executive Procedure.

3.5 Having considered the Legal Adviser's report, Members concluded that there were matters to raise under Standing Order 11.5.

- Regulation 2 refers to a "zone" which is defined by reference to a map that was published on 1 August 2001. As the regulations came into force on 19 July 2001 this meant that there were 14 days in which the regulations would not have been capable of implementation.
- Regulation 5(1) requires each zone to be classified in relation to each of the relevant pollutants. In these circumstances the intended additional effect of Regulation 5(7) is not understood.
- Regulation 11(6) requires the map of zones "and any revision of it" to be made available to the public. Given that the map of zones is intended to be a map published on a particular date, it was not understood how there could be any revision.
- The regulations identified in the schedule headings do not appear to be correct. It seems that they should be as follows –
 - Schedule 1 – Regulations 3(1), 8(2), 9(1) and (3) and 11(4) and (5).
 - Schedule 7 – Regulation 9(4).

3.6 The Committee therefore agreed to invoke the procedure set out in Standing Order 11.4. This provides that before reporting to the Assembly that it should pay special attention to any legislation, the Chair must first notify the relevant Assembly Secretary of the Committee's intention to make such a report and give the Assembly Secretary an opportunity of responding either orally or in writing. **Action: Legal Adviser/Clerk.**

LC325: Foot & Mouth Disease (Marking of Meat, Meat Products, Mince Meat and Meat Preparations (W) (No.2) Regulations 2001

3.7 Mr Turnbull presented the report to the Committee. The Regulations had been made under the Executive Procedure.

3.8 The Committee agreed that it did not need to invite the Assembly to pay special attention to the regulations on any grounds specified in Standing Order 11.5 nor did they have any general observations.

3.9 The Committee's report to the Assembly on the Regulations is attached as LC325 (Report).

LC327: The Transport of Animals (Cleansing and Disinfection) (Wales) Order 2001

3.10 Mr Turnbull presented his report to the Committee. The Order had been made under the Executive Procedure.

3.11 The Committee agreed that it did not need to invite the Assembly to pay special attention

to the Order on any grounds specified in Standing Order 11.5 nor did they have any general observations.

3.12 The Committee's report to the Assembly on the Order is attached as LC327 (Report).

LC328: Foot & Mouth Disease (Ascertainment of Value) (Wales) (No.5) Order 2001

3.13 Mr Turnbull presented the report to the Committee. The Order had been made under the Executive Procedure.

3.14 The Committee agreed that it did not need to invite the Assembly to pay special attention to the Order on any grounds specified in Standing Order 11.5 nor did they have any general observations.

3.15 The Committee's report to the Assembly on the Order is attached as LC328 (Report).

LC329: The Seeds (Fees) (Amendment) (Wales) Regulations 2001

3.16 Mr Turnbull presented his report to the Committee. The Regulations had been made under the Executive Procedure.

3.17 Having considered the Legal Adviser's report, Members concluded that there were matters to raise under Standing Order 11.5.

- The Regulations contain several references to "the Minister". However it would appear that "Minister" functions have transferred to the Assembly.

3.18 The Committee therefore agreed to invoke the procedure set out in Standing Order 11.4. This provides that before reporting to the Assembly that it should pay special attention to any legislation, the Chair must first notify the relevant Assembly Secretary of the Committee's intention to make such a report and give the Assembly Secretary an opportunity of responding either orally or in writing. **Action: Legal Adviser/Clerk.**

LC330: The Specified Risk Material (Amendment) (Wales) Regulations 2001

3.19 Mr Turnbull presented his report to the Committee. The Regulations had been made under the Executive Procedure.

3.20 Having considered the Legal Adviser's report, Members concluded that there were matters to raise under Standing Order 11.5. The Regulations were made under the Food Safety Act 1990 and the Animal Health Act 1981, however the powers which are cited in relation to the Animal Health Act were order making powers not regulation making powers. Thus the Regulations were not within the enabling powers of the 1981 Act. Also, the order making powers under the Animal Health Act continue to be subject to the requirement that such orders be made jointly with the Minister of Agriculture.

3.21 The Committee therefore agreed to invoke the procedure set out in Standing Order 11.4. This provides that before reporting to the Assembly that it should pay special attention to any legislation, the Chair must first notify the relevant Assembly Secretary of the Committee's intention to make such a report and give the Assembly Secretary an opportunity of responding either orally or in writing. **Action: Legal Adviser/Clerk.**

LC331: The Processed Animal Protein (Wales) Regulations 2001

3.22 Mr Turnbull presented his report to the Committee. The Regulations had been made under the Executive Procedure.

3.23 Having considered the Legal Adviser's report, Members concluded that there were matters to raise under Standing Order 11.5.

- Regulation 2(1) – "the BSE (No. 2) Order", does not appear to be used in the regulations.
- Regulation 2(1) defined "swill" as having the same meaning as in the Animal By-Products Order 1999. However the definition of "swill" in the 1999 Order was revoked in relation to Wales by SI 2001/1735 (W.122).
- Regulation 3(2)(c) - Given the concerns in relation to the definition of "swill" the query is raised as to how this provision (which does not appear in the corresponding England regulations) is to be interpreted.
- Regulation 10(7)(d)(ii) - was worded in terms of the material being conveyed directly to a plant "in the member State of destination", although that Regulation 10(5) – (7) is concerned with imports into Wales.

3.24 The Committee therefore agreed to invoke the procedure set out in Standing Order 11.4. This provides that before reporting to the Assembly that it should pay special attention to any legislation, the Chair must first notify the relevant Assembly Secretary of the Committee's intention to make such a report and give the Assembly Secretary an opportunity of responding either orally or in writing. **Action: Legal Adviser/Clerk.**

3.25 The Committee requested that a note be provided clarifying the permitted use of "swill". **Action: Legal Adviser/Clerk.**

LC332: The Foot-and-Mouth Disease (Amendment) (Wales) (No. 9) Order 2001

3.26 Mr Turnbull presented the report to the Committee. The Order had been made under the Executive Procedure.

3.27 The Committee agreed that it did not need to invite the Assembly to pay special attention

to the Order on any grounds specified in Standing Order 11.5 nor did they have any general observations.

3.28 The Committee's report to the Assembly on the Order is attached as LC332 (Report).

LC333: The National Assembly for Wales (Elections: Nomination Papers)(Welsh Form) Order 2001

3.29 Mr Turnbull presented the report to the Committee. The Order had been made under the Executive Procedure.

3.30 The Committee agreed that it did not need to invite the Assembly to pay special attention to the Order on any grounds specified in Standing Order 11.5 nor did they have any general observations.

3.31 The Committee's report to the Assembly on the Order is attached as LC333 (Report).

LC334: The Local Elections (Declaration of Acceptance of Office) (Amendment) (Wales) Order 2001

3.32 Mr Turnbull presented the report to the Committee. The Order had been made under the Executive Procedure.

3.33 The Committee agreed that it did not need to invite the Assembly to pay special attention to the Order on any grounds specified in Standing Order 11.5 nor did they have any general observations.

3.34 The Committee's report to the Assembly on the Order is attached as LC334 (Report).

LC335: The National Assembly for Wales (The Agricultural Holdings (Units of Production) (Wales) Order 2001

3.35 Mr Turnbull presented his report to the Committee. The Order had been made under the Executive Procedure.

3.36 The Committee agreed that it did not need to invite the Assembly to pay special attention to the Order on any grounds specified in Standing Order 11.5. However, the Committee did make a number of general observations which they felt should be recorded in their report.

3.37 The Committee's report to the Assembly on the Order is attached as LC335 (Report).

LC336: The Agricultural Holdings (Units of Production) (Wales) (No 2) Order 2001

3.38 Mr Turnbull presented his report to the Committee. The Order had been made under the Executive Procedure.

3.39 Having considered the Legal Adviser's report, Members concluded that there were matters to raise under Standing Order 11.5.

- Schedule - there is a reference to "Christmas turkeys" in the English text but the Welsh text referred only to "turkeys".
- Notes to the Schedule - In the final paragraph of note (2) in the Welsh text "anarddwysáu" and "estyniad" are combined as one word. This is in contrast to the earlier paragraphs of note (2), and the Agricultural Holdings (Units of Production) (Wales) Order 2001, which use "anarddwysáu". It also contrasts with the English text which uses "extensification" in all cases.

3.40 The Committee therefore agreed to invoke the procedure set out in Standing Order 11.4. This provides that before reporting to the Assembly that it should pay special attention to any legislation, the Chair must first notify the relevant Assembly Secretary of the Committee's intention to make such a report and give the Assembly Secretary an opportunity of responding either orally or in writing. **Action: Legal Adviser/Clerk.**

LC337: The Foot-and-Mouth Disease (Amendment) (Wales) (No.10) Order 2001

3.41 Mr Turnbull presented his report to the Committee. The Order had been made under the Executive Procedure.

3.42 Having considered the Legal Adviser's report, Members concluded that there were matters to raise under Standing Order 11.5.

- **Article 2(6)** - The text of Article 29A(2) as inserted for Wales by SI 2001/1874 (W.134) was different from that inserted for England by SI 2000/1862. The amendment which was purported to be made by Article 2(6) appeared to be relevant to the text of Article 29A(2) which had effect in England rather than the text which had effect in Wales.
- Article 4 referred to "the provisions of Parts III or IIIA of the 1983 Order as amended by this Order". However the present Order did not appear to amend Part IIIA.

3.43 The Committee therefore agreed to invoke the procedure set out in Standing Order 11.4. This provides that before reporting to the Assembly that it should pay special attention to any legislation, the Chair must first notify the relevant Assembly Secretary of the Committee's intention to make such a report and give the Assembly Secretary an opportunity of responding either orally or in writing. **Action: Legal Adviser/Clerk.**

3.44 The Committee requested that a note be provided clarifying matters regarding "recognised packs of hounds" and how the other packs would be affected by the Order. **Action: Legal Adviser/Clerk.**

LC339: The Agricultural Holdings (Units of Production) (Wales)(No.3) Order 2001

3.45 Mr Turnbull presented his report to the Committee. The Order had been made under the Executive Procedure.

3.46 Having considered the Legal Adviser's report, Members concluded that there were matters to raise under Standing Order 11.5.

- Schedule - there is a reference to "Christmas turkeys" in the English text but the Welsh text referred only to "turkeys".
- Notes to the Schedule - In the final paragraph of note (2) in the Welsh text "anarddwysáu" and "estyniad" are combined as one word. This is in contrast to the earlier paragraphs of note (2), and the Agricultural Holdings (Units of Production) (Wales) Order 2001, which use "anarddwysáu". It also contrasts with the English text which uses "extensification" in all cases.

3.47 The Committee therefore agreed to invoke the procedure set out in Standing Order 11.4. This provides that before reporting to the Assembly that it should pay special attention to any legislation, the Chair must first notify the relevant Assembly Secretary of the Committee's intention to make such a report and give the Assembly Secretary an opportunity of responding either orally or in writing. **Action: Legal Adviser/Clerk.**

LC340: The National Health Service (Optical Charges and Payments) and (General Ophthalmic Services) (Amendment) (No.3) (Wales) Regulations 2001

3.48 Mr Turnbull presented his report to the Committee. The Regulations had been made under the Executive Procedure.

3.49 The Committee agreed that it did not need to invite the Assembly to pay special attention to the regulations on any grounds specified in Standing Order 11.5 nor did they have any general observations.

3.50 The Committee's report to the Assembly on the Regulations is attached as LC340 (Report).

Item 4: Any Other Business and Date of next meeting

4.1 Mr Turnbull reminded members that at the meeting on 3rd July they had discussed "*The Local Government Elections (Wales) Order 2001*" (LC310). The Plenary session in which the Order was due to be considered was postponed as a mark of respect following the death of Val Feld AM. Thus the coming into force date will need to be amended. It was proposed that this be done by Memorandum of Corrections. The Committee formally recorded that they were content with this course of action.

4.2 The next meeting would be held on 23 October 2001.