

Constitutional and Legislative Affairs Committee

Meeting Venue:
Committee Room 2 – Senedd

Meeting date:
19 November 2012

Meeting time:
14:30

Cynulliad
Cenedlaethol
Cymru

National
Assembly for
Wales



For further information please contact:

Gareth Williams
Committee Clerk
029 2089 8008/8019
CLA.Committee@wales.gov.uk

Agenda

- 1. Introduction, apologies, substitutions and declarations of interest**
- 2. Instruments that raise no reporting issues under Standing Order 21.2 or 21.3**

Negative Resolution Instruments

CLA186 – The Mobile Homes (Written Statement) (Wales) Regulations 2012
Negative Procedure. Date made 24 October 2012. Date laid 29 October 2012.
Coming into force date 19 November 2012.

CLA187 – The Materials and Articles in Contact with Food (Wales) Regulations 2012

Negative Procedure. Date made 27 October 2012. Date laid 30 October 2012.
Coming into force date 20 November 2012

Affirmative Resolution Instruments

None

Other Procedure Instruments

CLA188 – The Scallop Dredging Operations (Tracking Devices) (Wales) Order

2012

Laying Only. Date made 30 October 2012. Date laid 31 October 2012. Coming into force date 1 November 2012

3. Instruments that raise issues to be reported to the Assembly under Standing Order 21.2 or 21.3

Negative Resolution Instruments

None

Affirmative Resolution Instruments

None

4. Papers to note (Pages 1 – 8)

CLA(4)-22-12 – Report of the Meeting 5 November 2012

CLA181 – The Play Sufficiency Assessment (Wales) Regulations 2012

Papers:

CLA(4)-23-12(p1) – Letter from the Chair to the Minister dated 24 October 2012

CLA(4)-23-12(p2) – The Minister's response dated 7 November 2012

CLA(4)-23-12(p3) – CLA181 – Report

Date of the next meeting

26 November 2012

5. Motion under Standing Order 17.42 to resolve to exclude the public from the meeting for the following business:

A Committee may resolve to exclude the public from a meeting or any part of a meeting where:

(vi) the Committee is deliberating on the conclusions or recommendations of a report it proposes to publish

6. Report on the Public Audit (Wales) Bill (Pages 9 – 24)

Papers:

CLA(4)-23-12(p4) – Letter from the Chair to the Minister for Finance and Leader of the House dated 9 October 2012

CLA(4)-23-12(p5) – The Minister's response dated 25 October 2012

CLA(4)-23-12(p6) – Draft Report

Transcript

View the [meeting transcript](#).

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Constitutional and Legislative Affairs Committee

Report: CLA(4)-22-12 : 5 November 2012

The Committee reports to the Assembly as follows:

Instruments that raise no reporting issues under Standing Order 21.2 or 21.3

Negative Resolution Instruments

CLA185 – The Collaboration Between Education Bodies (Wales) Regulations 2012

Procedure: Negative.

Date made: 22 October 2012.

Date laid: 23 October 2012.

Coming in to force date: 16 November 2012

Affirmative Resolution Instruments

None

Instruments that raise reporting issues under Standing Order 21.2 or 21.3

Negative Resolution Instruments

None

Affirmative Resolution Instruments

None

Super Affirmative Resolution Instruments

CLA184 – The Public Bodies (Water Supply and Water Quality) (Inspection Fees) Order 2012

Procedure: Super Affirmative.

Date made: not stated.

Date laid: not stated.

Coming into force date: in accordance with article 1

The Committee agreed the Report under S.O.21.3 on this statutory instrument, which is attached as Annex 1.

Other Business

Enterprise and Regulatory Reform Bill: Supplementary Legislative Consent Memorandum

The Committee considered a supplementary Legislative Consent Memorandum (LCM) in respect of the Enterprise and Regulatory Reform Bill, which is currently before Parliament. The LCM provided a general power to Welsh Ministers to include 'sunset' and review provisions in subordinate legislation.

The Committee agreed that they were content with the Memorandum, although it noted that in response to a previous report on the 'merits' of a statutory instrument, the Welsh Government had indicated an ambivalence about the use of review provisions. The Committee agreed to report to the Assembly accordingly.

Public Service Pensions Bill: Legislative Consent Memorandum

The Minister had offered her apologies for not being able to attend the meeting for personal reasons.

The Committee considered the Minister's response to the Chair's letter of 24 October 2012. The Committee was generally content with the Minister's clarification of issues raised in the Chair's letter.

In relation to pensions for members of the Welsh Language Tribunal, under the Welsh Language (Wales) Measure 2011, the Committee noted the Welsh Government's view that there was no need to restore any competence that had previously existed under Schedule 5 to the Government of Wales Act 2006, but which had now been excepted under Schedule 7 to that Act. This was because the power to make 'incidental' provisions under sections 108(3) to (5) of the Act was still available.

The Committee noted the willingness of the Government to extend the timescale for consideration of the LCM to allow the Assembly Commission to consider it in relation to the Assembly Members' pension scheme and that the Bill itself was still at a relatively early stage of parliamentary consideration. The Committee further noted that the Supreme Court's consideration of the Local Government Byelaws (Wales) Bill would have a bearing on whether pensions for members of the Welsh Language Tribunal could be established as an incidental provision.

The Committee agreed that they were content with the Memorandum, subject to any views of the Assembly Commission in relation to the Assembly Members' pension scheme. However, the Committee agreed that the matter should be given further consideration once the Supreme Court's judgement in relation to the Local Government Byelaws (Wales) Bill was known. The Committee agreed to report to the Assembly accordingly.

Committee Correspondence

CLA178 – The Bluetongue (Wales) (Amendment) Regulations 2012

The Committee noted the response of the Minister for Environment and Sustainable Development, John Griffiths AM, to the Chair's letter of 11 October regarding the merits points under S.O. 21.3 (ii) in respect of The Bluetongue (Wales) (Amendment) Regulations 2012 (CLA178).

The Committee agreed that there remained a lack of clarity about the area of the exclusion zones given that the EU Directive set out a minimum area, which could be increased by Ministers without the need for further legislation. The Committee agreed to respond to the Minister, welcoming his intention to amend the legislation to include reference to the surveillance zone distances at the next review of the regulations, but asking for further clarification about how the surveillance zone areas would be published in the meantime..

David Melding AM

Chair, Constitutional and Legislative Affairs Committee

5 November 2012

Annex 1

Constitutional and Legislative Affairs Committee

(CLA(4)-22-12)

CLA184

Constitutional and Legislative Affairs Committee Report

**Title: The Public Bodies (Water Supply and Water Quality)
(Inspection Fees) Order 2012**

Procedure: Super-affirmative

This Order provides for fees to be payable by a relevant water supplier for the carrying out of certain functions under the Water Industry Act 1991 by an inspector appointed by the Welsh Ministers under that Act.

Technical Scrutiny

No points are identified for reporting under Standing Order 21.2 in respect of this instrument

Merits Scrutiny

The following points are identified for reporting under Standing Order 21.3 in respect of this instrument.

Although the subject matter (the calculation of inspection and related fees) is of the sort more commonly found in statutory instruments subject to the negative procedure, this instrument is subject to a super-affirmative procedure by virtue of section 19 of the Public Bodies Act 2011.

Orders to the same effect are being made for England and Wales, but because the enabling powers are different, two orders are being used rather than a combined order. This has the advantage that the legislation applicable to Wales is made bilingually.

[that it is of political or legal importance or gives rise to issues likely to be of interest to the Assembly – Standing Order 21.3(ii)]

David Melding AM

Chair, Constitutional and Legislative Affairs Committee

5 November 2012

**Y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol
Constitutional and Legislative Affairs Committee**

Gwenda Thomas AM
Deputy Minister for Children and Social Services
Welsh Government
5th Floor
Tŷ Hywel
Cardiff Bay

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24 October 2012

Dear Minister

CLA181 - The Play Sufficiency Assessment (Wales) Regulations 2012

The Constitutional and Legislative Affairs Committee considered the above Statutory Instrument at its meeting on 22 October 2012 and agreed that I should bring to your attention the Committee's report made under Standing Order 21.3 on the merits of the Instrument.

The Committee agreed to invite the Assembly to pay special attention to this Instrument on the grounds "that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Assembly" (Standing Order 21.3(ii)).

The Committee's report was laid in the Table Office on 23 October 2012 and is attached for information. I would be grateful if you could consider the report and let the Committee have your response in due course.

I am copying this report to the First Minister for information and have also arranged for the report and this letter to be drawn to the attention of Assembly Members.

Yours sincerely

**David Melding AM
Chair**

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Gwenda Thomas AC / AM
Y Dirprwy Weinidog Plant a Gwasanaethau Cymdeithasol
Deputy Minister for Children and Social Services



Llywodraeth Cymru
Welsh Government

Eich cyf/Your ref CLA181
Ein cyf/Our ref SF/GT/3472/12

David Melding, AM
Chair
Constitutional and Legislative
Affairs Committee
National Assembly for Wales
Cardiff Bay
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7th November 2012

Dear David,

CLA181 - The Play Sufficiency Assessment (Wales) Regulations 2012

Thank you for your letter of 24 October, on behalf of the Constitutional and Legislative Affairs Committee, concerning the Play Sufficiency Assessment (Wales) Regulations 2012.

I have considered the Committee's report and would like to thank you for the comments made. I acknowledge the comment that a, "clear definition of 'play' that includes both structured and free play", needs to be included within the Regulations and Statutory Guidance. As you will be aware these Regulations are underpinned by the Children and Families (Wales) Measure 2010. In Section 11(6) of the Measure, 'Play' is defined as including "any recreational activity".

The Welsh Government's Play Policy 2002, stated that:

"Play encompasses children's behaviour which is freely chosen, personally directed and intrinsically motivated. It is performed for no external goal or reward".

My officials have engaged and consulted widely with stakeholders in drafting the Play Sufficiency Assessment (Regulations) 2012 and associated Statutory Guidance to incorporate these definitions and clearly set out the requirements for freely chosen play and structured recreational activities in the required assessments. The consultation Summary Report sets out our response to this issue.

Yours sincerely,

Gwenda Thomas AC / AM
Y Dirprwy Weinidog Plant a Gwasanaethau Cymdeithasol
Deputy Minister for Children and Social Services

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Constitutional and Legislative Affairs Committee

(CLA(4)-21-12)

CLA181

Constitutional and Legislative Affairs Committee Report

Title: The Play Sufficiency Assessment (Wales) Regulations 2012

Procedure: Negative

These Regulations which are made under section 11(1) of the Children and Families (Wales) Measure 2010:-

- set out the required content of a local authority's assessment of the sufficiency of play opportunities in its area;
- set out the individuals and groups that a local authority must consult;
- require an action plan to be prepared as part of the assessment by each local authority;
- provide for the frequency of the assessments, and the manner in which the results of the assessments must be published.

Technical Scrutiny

No points are identified for reporting under Standing Order 21.2 in respect of this instrument

Merits Scrutiny

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

- In November 2010, the Children and Young People Committee of the third Assembly published the report of its Inquiry *into 'safe places to play and hang out'*. In the report's first recommendation, the Committee urged the Welsh Government:

*"...to complete its review of the standards and guidance for play at the earliest opportunity.... The guidance should include a clear definition of 'play' that includes **both structured and free play**.... [Our emphasis].*

- The Welsh Government subsequently accepted the Committee's recommendation and made clear that:

“Greater clarification will be provided on the meaning of ‘play’ and the term will be sufficiently broad to include both ‘structured’ and ‘free play’.”

- Paragraph 8.2 of the Explanatory Memorandum (EM) refers to the Welsh Government consultation on the draft regulations and indicates that a significant proportion (as many as 56%) of those responding may want greater clarity in the regulations, and were *“primarily concerned about the relation between freely chosen play and adult led recreational activities.”*
- The EM states that *‘the summary report responds to this concern in more detail’*, that *“the Regulations and the Statutory Guidance have been amended accordingly”* and that *“A summary of the amendments...has been made available on the Welsh Government’s web site.”*
- At the time of the Committee’s meeting the summary report was unavailable on the Welsh Government website. Although, copies of the report were made available at the meeting, this did not provide the Committee with sufficient time to be able to assess whether the Welsh Government has fully addressed the recommendation in the Children and Young People’s Report or the concerns raised by respondents to the consultation on the draft regulations.
- The Committee was also mindful of its role in drawing attention to subordinate legislation that addressed concerns and recommendations made by Assembly Committees.

Simon Thomas AM

Acting Chair, Constitutional and Legislative Affairs Committee

22 October 2012

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