

Constitutional and Legislative Affairs Committee

Meeting Venue:

Committee Room 2 – Senedd

Meeting date:

9 February 2015

Meeting time:

14.30

Cynulliad
Cenedlaethol
Cymru

National
Assembly for
Wales



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Agenda

MeetingTitle

1 Introduction, apologies, substitutions and declarations of interest

2 Evidence in relation to the Inquiry into Making Laws in the Fourth Assembly (Pages 1 – 17)

(indicative time 2.30pm – 3.15pm)

Queen's Printer

Carol Tullo, Director, Information Policy and Services

John Sheridan, Head of Legislation Services

Malcolm Todd, Head of Information Policy

CLA(4)–05–15 – Paper 1 – Written Evidence

CLA(4)–05–15 – Research Service Briefing

3 Instruments that raise no reporting issues under Standing Order 21.2 or 21.3 (Pages 18 – 19)

CLA(4)-05-15 – Paper 2 – Statutory instruments with clear reports

Negative Resolution Instruments

CLA488 – The Education (Student Support) (Wales) Regulations 2015

Negative procedure; Date made: 27 January 2015; Date Laid 28 January 2015;
Coming into force date: 19 February 2015

CLA489 – The Prohibition of Keeping or Release of Live Fish (Specified Species) (Wales) Order 2015

Negative procedure; Date made: 28 January 2015; Date laid: 2 February 2015;
Coming into force date: 27 February 2015

4 Evidence in relation to the Inquiry into Making Laws in the Fourth Assembly (Pages 20 – 27)

(indicative time 3.30pm – 4.00pm)

Welsh Language Commissioner

Meri Huws, Welsh Language Commissioner
Dyfan Sion, Director of Policy and Research

CLA(4)-05-15 – Paper 3 – Written Evidence

CLA(4)-05-15 – Research Service Briefing

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

(vi) the committee are deliberating on the contents, conclusions or recommendations of a report it proposes to publish or is preparing to take evidence from any person;

**Constitutional and Legislative Affairs Committee
Inquiry into Making Laws in the Fourth Assembly
ML19 – The Queen’s Printer - The National Archives**



Making Laws in the Fourth Assembly - Evidence from The National Archives

Role of the National Archives

We provide public access to legislation to the people of Wales. As part of the official responsibilities for legislation that sit within The National Archives, we publish all Acts of the National Assembly for Wales and Wales Statutory Instruments, in print and online at www.legislation.gov.uk. To do this we work closely and collaboratively with the Welsh Government, to ensure high quality public access to all legislation that extends or applies to Wales. This collaboration includes continuous service improvements for users.



Figure 1, the legislation.gov.uk homepage for Wales

Official publishing

We manage the process for publishing new Acts of the National Assembly for Wales, new Wales Statutory Instruments (WSIs) and associated documents that we receive from the National Assembly and the Welsh Government. We provide tools for drafting lawyers of WSIs, with associated training, support and typesetting service to achieve the two column layout of the instruments in paginated form. We manage the registration of all Wales Statutory Instruments and the conversion of legislation documents to re-usable open data. The processes for handling legislation documents are highly controlled and auditable. This ensures the accuracy and integrity of the documents published on the legislation.gov.uk website, as open data for other legal publishers to use, or the printed version.

Revising legislation

We also have an editorial role. For primary legislation we produce revised versions, showing how one piece of legislation is amended by another, from what date, and where the change is applicable. We know from our research that it is very important to users of

legislation.gov.uk that they can see a current view of the legislation that is relevant to where they are. This is especially important in Wales, where legislation that formerly applied to both England and Wales has been amended, in one way for Wales, in another for England. Textbooks and some other online services may provide only an England only view, with footnotes for Wales. By contrast legislation.gov.uk gives complete parity to all parts of the UK, retaining the whole picture. This means that, for any Act, users can read a specific version of the text that is the law in Wales. Over the last two years we have worked collaboratively with the Welsh Government, to bring the revised legislation on legislation.gov.uk up to date, working on its priorities.

What is the legal basis for publishing legislation for Wales?

Acts of the National Assembly for Wales

The Queen’s Printer of Acts of Parliament is responsible, on behalf of the Crown, for superintending the publication of Acts of the National Assembly for Wales. The current post holder, Carol Tullo, was appointed by Her Majesty The Queen in 1997, under Letters Patent, by virtue of royal prerogative powers. She is a civil servant at The National Archives. The Queen’s Printer also holds the positions of Controller of Her Majesty’s Stationery Office, Queen’s Printer for Scotland and Government Printer for Northern Ireland.

Browse Legislation: Wales

Legislation.gov.uk carries most types of UK Legislation including Welsh Legislation. The list below is a breakdown of the types of legislation held on this site that are either exclusively applicable to Wales or contain legislation that may pertain to Wales. From this page you can select any legislation type to continue browsing.

Exclusively or primarily applies to Wales	May contain legislation that applies to Wales
▶ Acts of the National Assembly for Wales	▶ UK Public General Acts
▶ Measures of the National Assembly for Wales	▶ UK Local Acts
▶ Wales Statutory Instruments	▶ Acts of the English Parliament 1267-1706
▶ Wales Draft Statutory Instruments	▶ Acts of the Parliament of Great Britain 1707-1800
	▶ UK Statutory Instruments
	▶ UK Statutory Rules and Orders 1900-1948
	▶ UK Draft Statutory Instruments



Figure 2, Browsing Wales legislation on legislation.gov.uk

Welsh Statutory Instruments

The Queen’s Printer has statutory responsibility for superintending the publication of Wales Statutory Instruments. The Government of Wales Act 2006 amended section 1 of the Statutory Instruments Act 1946. This states that any orders, rules, regulations or other subordinate legislation made under powers granted to Welsh Ministers by any Act, must be exercised by way of statutory instrument, and that the other provisions of the Act, including regarding publication, must also apply. The 1946 Act and the Statutory Instrument Regulations 1947 (S.I. 1948 No. 1) set out the various powers and duties on the Queen’s Printer for the numbering, printing and publication of statutory instruments, including Wales Statutory Instruments. This includes the publication of various issue lists, as well as an Annual Edition, with tables of effect and indexes.

Wales Statutory Instruments

Your search for Wales Statutory Instruments has returned more than 200 results.

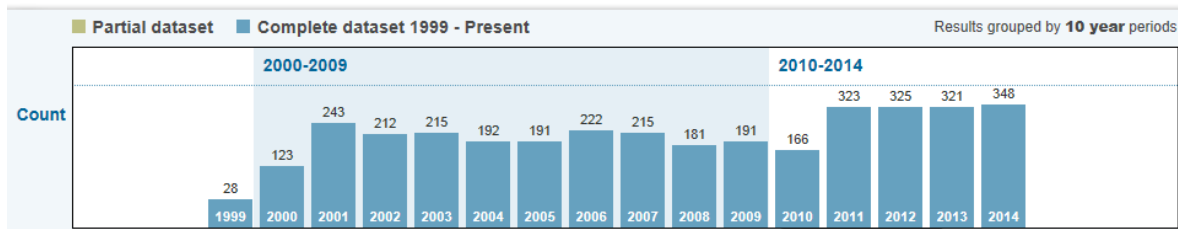


Figure 3, All Wales Statutory Instruments are available from legislation.gov.uk

The various functions of the Queen's Printer and Her Majesty's Stationery Office are carried out from within The National Archives. The Queen's Printer for Scotland, who is required to be the Queens Printer of Acts of Parliament by virtue of section 92 of the Scotland Act 1998, has a separate reporting line to Scottish Ministers.

The Documentary Evidence Act 1882 provides special legal protection and status for all our publications, including Welsh Acts and WSIs.

Contractual arrangements

Day to day, the services for legislation publishing, including the hosting and operation of legislation.gov.uk, are provided under contract. The current contractor, The Stationery Office Ltd, delivers various services to The National Archives under three interlocking contracts superintended by the Queens Printer, Her Majesty's Stationery Office (HMSO) and the Office of the Queen's Printer for Scotland (OQPS). These were tendered in 2010 and came into operation on the 1st February 2011. The three contracts have been published and are publicly available. They include (not redacted) full details of the commercial arrangements with the contractor (the fees charged etc.) as well as the various service specifications.

When was this decided?

Government of Wales Act 2006

The constitutional arrangements for publishing legislation for Wales were last reviewed during the passage of the Government of Wales Act 2006. The options were debated in Parliament. Speaking for the government at that time, Lord Davies of Oldham said,

"...ultimate responsibility for the publication of legislation in the UK rests with the Queen's Printer, acting under Royal Letters Patent on behalf of the Crown. The Controller of Her Majesty's Stationery Office is designated as Queen's Printer of Acts of the UK Parliament, Queen's Printer for Scotland and Government Printer for Northern Ireland, and has responsibility for the arrangements under which all UK legislation is published.

Resting that responsibility in one body ensures coherence in that all UK legislation is available to all in a consistent form and from a single location. [This amendment] would cut straight across that arrangement. Under the arrangement, the Queen's Printer will continue to have responsibility for the publication of statutory instruments made by the Welsh Ministers, as existing statutory arrangements relating to the publication of subordinate legislation made as statutory instruments will continue.

The Crown will have a general obligation to ensure publication of Assembly measures and Acts, and it is intended that administrative arrangements will be made with the Queen's Printer regarding their numbering, printing and publication. It is expected that the Queen's Printer will adopt a similar approach to the publication of measures and Acts of the Assembly as currently occurs for all other UK legislation; namely, publication in print and on the internet via the official legislation website, followed by production of a printed annual volume. The Queen's Printer will also ensure that users such as commercial legal publishers are able to access the legislation in appropriate formats.”¹

How long have these responsibilities been with The National Archives?

Legislation Services department

The current Legislation Services department at The National Archives was created in 2011. It is a multidisciplinary, product orientated team of 23 people, with a wide range of specialist legal, technical, digital, publishing, project management, contract management and procurement expertise. Responsibilities for legislation publishing moved to The National Archives in 2006, when the Office of Public Sector Information, which included Her Majesty's Stationery Office (HMSO) and the legislation team, was transferred from the Cabinet Office. In 2009, the Statutory Publications Office, which operated the Statute Law Database transferred to The National Archives, from the Ministry of Justice. This database was an early attempt to capture an up to date statute book. It is only comparatively recently that all the responsibilities for managing and publishing both updated legislation and legislation as enacted have been together in one department and operated by one product orientated team. Prior to its transfer to The National Archives, HMSO was a management unit of the Cabinet Office. It was established after the privatisation of the trading operations of the then Her Majesty's Stationery Office in 1996.

What is the background to the development of legislation.gov.uk?

Previous services

Legislation.gov.uk was launched in July 2010, replacing three predecessor services which had developed early online legislation services, www.opsi.gov.uk, www.statutelaw.gov.uk and www.oqps.gov.uk. The intention was to bring together, for the first time, legislation as it was enacted and made, with revised versions of the legislation, showing changes to the law over time, including the territorial extent of different amended versions.

legislation.gov.uk

Legislation.gov.uk consists of more than 6.5 million web pages, from over one hundred and fifty thousand documents - the official versions of legislation as it is originally enacted or made, revised versions of primary legislation and associated documents such as Explanatory Notes, Explanatory Memoranda and Impact Assessments. It is one of the largest government websites in Europe. The oldest piece of legislation available on the website is The Statute of Marlborough, dating from 1267.

¹ Hansard 6 June 2006 : Columns 1220 and 1221

We had three aims in the development of the new service:

1. to deliver a high quality public service for people who need to consult, cite, and use legislation on the web;
2. to make the statute book available as open data, for people to take, use, and re-use for whatever purpose or application they wish. Re-users of legislation data include commercial legal publishers as well as start-up entrepreneurs developing iPad and iPhone applications;
3. to enable and accelerate the introduction of a new, collaborative operating model for creating and maintaining revised versions of legislation, called Expert Participation.

Legislation as open data

Underneath the website is one of the world's most sophisticated platforms for managing legislation documents and data. The website provides a window to the government's legislation database, and is supported by publishing and editorial systems to maintain the content. There is an open Application Programming Interface, or API, that makes legislation available in many different data formats. These include HTML for the web, PDF for print, and various data formats, including the Crown Legislation Markup Language and also Akoma Ntoso, an emerging international standard format for legislation documents. We have recently completed a project to make all the legislation available in HTML5, the latest version of HTML, designed for the era of tablets, phones and richer, more interactive websites. This means that the underlying content is freely available for all to re-use, for example commercial publishers can develop tailored services and people can comment on the law and copy the data into social media and blogs.

Who uses legislation on the web?

User surveys and user satisfaction levels

To understand how best to provide the legislation.gov.uk service, we conduct regular research into who is using legislation online and why. We first surveyed users of legislation in 2008 and have done so regularly since. We also conduct regular in depth interviews, with small selections of users. The most recent survey, run in November and December 2014, showed 73% of users were either very satisfied or satisfied with legislation.gov.uk, with over 1,200 survey respondents. The main criticism is that the legislation is not fully up to date. This determines why an up to date statute book is the main goal, for both The National Archives and the Welsh Government.

User personas

We have developed a set of personas, or fictional characters, to represent the needs and interests of the typical users of legislation online. These encapsulate users' motivations and tasks. The personas have been used to inform all website design and development decisions.

From our research we know that most people using legislation.gov.uk are at work and using it for a work purpose. The level of usage during working days is an order of magnitude greater (20 times) than at weekends or public holidays. The majority of users are not lawyers and therefore lack access to one of the commercial services. In studies, the parity given to

legislation made by the devolved administrations on legislation.gov.uk, has been particularly valued by users from Wales, Scotland and Northern Ireland, where the commercial services can be less comprehensive.

Meeting the needs of the layperson

Rather than just meeting the needs of the trained lawyer, we aim to serve a much wider group of people who need to know, cite, or use legislation. This ranges from, perhaps the HR professional, to public servants such as police officers or head teachers, to citizens defending their rights. Typically, users are people who just need to know what a piece of legislation says and so search for it through a search engine, such as Google. Our primary persona for legislation.gov.uk, we call Mark Green. He is an Environmental Health Officer, who is using the service because he is giving evidence as an expert witness in court. He wants to cite and quote specific sections and regulations, as part of presenting himself as a credible witness to the court. He uses legislation.gov.uk because it is easy to find the legislation he needs. Mark is not a lawyer, but is familiar with the law in his professional area.

How easy is it to access legislation for Wales?

Easy access to Welsh legislation on the web

It is very easy to find and access legislation for Wales using Google, Bing or another search engine. The legislation sought may be provisions in a Welsh Act, Measure or Statutory Instrument. For many users in Wales, they may also need to consult UK legislation that extends or applies to Wales. There is no difference for users, in terms of ease of search from a search engine, between these legislation types.



Figure 4, Searching for the Government of Wales Act on Google. legislation.gov.uk is often the first result, by design.

People typically find legislation on legislation.gov.uk from a general web search (on average about 60% of visits to legislation.gov.uk). [Legislation.gov.uk](http://legislation.gov.uk) has been optimised for this pattern of search. For example we make extensive use of the sitemaps protocol, to aid both indexing and prioritisation of similar pages from the website by the search engine. [Legislation.gov.uk](http://legislation.gov.uk) benefits from being operated as a free public service. As the main open and free source of UK legislation on the web it is widely cited from many other places, such as other government websites, community resources such as Wikipedia or blogs, as well as news websites. Thanks to a very high number of external links, a page on legislation.gov.uk will generally be returned in the first one or two results when searching for any piece of legislation on one of the major search engines. Users typically arrive at the item of legislation they were searching for, rather than to the home page, deep linked in to the document

directly by the search engine. The user interface design supports this, with the table of contents for each document becoming a mini home page for that piece of legislation.

Users lack knowledge about how legislation works

In our research with users, we have found that most of the people accessing legislation on the web, including a surprising number of lawyers, lack knowledge about how legislation works. People reading legislation online assume the document they are looking at is current, in force and applies to where they live. Often that is not the case. This is a particular challenge for people in Wales, where UK Acts that apply to England and Wales, may have been amended in different ways. One of the benefits of the legislation.gov.uk platform is that it provides a comprehensive solution to these challenges. Any piece of primary legislation can be searched and viewed so the user can see how the law stands in Wales and how it compares to other parts of the UK.

An important part of our role is to present legislation on the web in a way that makes the context and status of each document clear and accessible. Legislation is complicated to understand; for example, an Act may have multiple sections, each with different amendments that apply to different places, with different commencement dates, or the Act may have prospective provisions.

With legislation.gov.uk we have tried to develop a user interface that makes the status of each piece of legislation apparent, so people know whether the document they are viewing is current and in force, and where it applies.

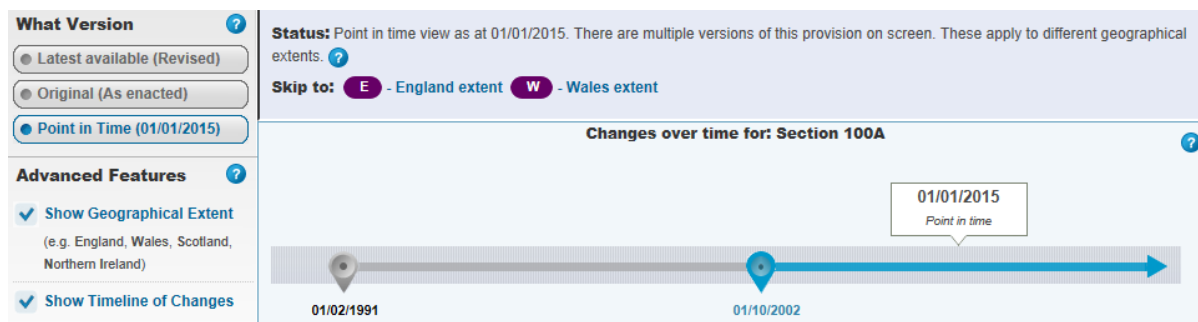


Figure 5, indicating to the user where there are different versions of a UK Act for England and Wales, with the timeline on. The example is from the Local Government Act 1972. Unlike some other services we give parity to the Wales extent.

For advanced users there is a timeline which can be turned on to see how the legislation has changed and to navigate through an Act at particular points in time.

What have we done to support access to legislation in the Welsh language?

We recognise the importance of Welsh as a language of law in Wales. Legislation is made and published in English and Welsh. There is also an option to use the whole of legislation.gov.uk in English or Welsh. To make it clear to users where there is and is not Welsh language legislation, the English only content has not been translated into Welsh, unless it has been made as law.

Deddfwriaeth Newydd

Man cyhoeddi swyddogol deddfwriaeth newydd ei deddfu

Mynnwch y wybodaeth ddiweddaraf am ddeddfwriaeth newydd ei deddfu ar gyfer y Deyrnas Unedig, yr Alban (hefyd, a ddylai'r drefn gael ei newid?), Cymru a Gogledd Iwerddon fel maent yn cael eu cyhoeddi ar y safle hwn, trwy ddewis dyddiad isod neu ddefnyddio'r porthiant tanysgrifio rhad ac am ddim.

Y nod yw cyhoeddi deddfwriaeth ar y safle hwn ar yr un pryd neu o leiaf cyn pen 24 awr, o'i chyhoeddi ar ffurf brintiedig.

Gall unrhyw ddogfen sy'n arbennig o gymhleth o ran ei maint neu ei hargraffwaith gymryd mwy o amser i'w pharatoi.

Rhestrir deddfwriaeth newydd felly yn ôl dyddiad cyhoeddi yn hytrach na'r dyddiad y cafodd ei deddfu.

Heddiw	26 Ion	23 Ion	22 Ion	21 Ion	20 Ion	19 Ion	16 Ion	15 Ion	14 Ion								
<p>Pob Deddfwriaeth Newydd ATOM FEED ?</p> <table border="1"> <thead> <tr> <th>Y Deyrnas Unedig</th> <th>Yr Alban</th> <th>Cymru</th> <th>Gogledd Iwerddon</th> </tr> </thead> <tbody> <tr> <td>Dim wedi ei gyhoeddi</td> <td>2 Offerynnau Statudol yr Alban</td> <td>Dim wedi ei gyhoeddi</td> <td>Dim wedi ei gyhoeddi</td> </tr> </tbody> </table>										Y Deyrnas Unedig	Yr Alban	Cymru	Gogledd Iwerddon	Dim wedi ei gyhoeddi	2 Offerynnau Statudol yr Alban	Dim wedi ei gyhoeddi	Dim wedi ei gyhoeddi
Y Deyrnas Unedig	Yr Alban	Cymru	Gogledd Iwerddon														
Dim wedi ei gyhoeddi	2 Offerynnau Statudol yr Alban	Dim wedi ei gyhoeddi	Dim wedi ei gyhoeddi														

Figure 6, the new legislation page on the Welsh language version of legislation.gov.uk

User testing Welsh language options

We have conducted in depth user testing into the needs and expectations of Welsh language users of legislation.gov.uk, in co-operation with the Welsh Government. This guided us with the implementation of the Welsh language version of legislation.gov.uk. We tested an interactive dual language view, for legislation that is in English and Welsh, with an option to see both texts side by side, or to bring one or other to the fore. This is something we would like to develop as it was popular with users

Why is legislation.gov.uk not up to date?

Background

The task of comprehensively revising legislation for the whole of the UK is complicated and has been a long standing problem. Previous attempts (the Statutes in Force initiative starting in 1967, the Statute Law Database starting in 1990) have struggled and failed to keep up with the pace of change. In recent times, complex amendments, with variations in extent and commencement, some Acts having dozens of commencement orders, sometimes amending previous commencements, have increased the difficulty of the task. In 2009, when the responsibilities transferred, The National Archives inherited both a large debt of unapplied amendments and an operating "deficit", with more amendments being made each year than could be processed by the in-house editorial team.

What are we doing to bring legislation.gov.uk up to date?

We are aiming to bring the primary legislation up to date by the end of 2015. Commitment 10, of the UK National Action Plan for the Open Government Partnership reiterates this target.

Expert Participation

Over the last three and a half years we have operated an Programme that enables us to , bring expert additional external resources to bear to help with, and accelerate the editorial work for revising legislation. Even if the scope of interest is only a portion of the entire statute book (as in the case of the Welsh Government, with legislation that extends to Wales), the editorial team needs to read and process legislation from across the whole of the UK, in case, say a UK Act has been amended for England, leaving the previous version still in force for Wales.

Collaboration with the Office of the Legislative Counsel

This has strongly motivated the Welsh Government's collaboration with The National Archives, and others, through the Expert Participation Programme to meet our target of a completely up to date legislation.gov.uk . The programme has been successful. All the complicated background research has been done. We have radically changed our processes and tools to optimise efficiency. In particular we have separated tasks which require a high level of knowledge, experience and training (understanding and recording that one piece of legislation changes another, and figuring out when that change comes into effect and for which parts of the UK), from easier to do tasks (copying and pasting the amending words into a new version of the legislation document). Our new processes and tools also enable the final stage of update to be done between 5 and 10 times faster than in the old way. Since 2012 two officials in the Legislative Counsel's Office have been working on this programme. For example, they have applied over 1,400 amendments or effects to Welsh legislation since the beginning of December 2014, as well as undertaking several other editorial tasks. Together we are bringing the revised Wales legislation up to date on the website.

Red Meat Industry (Wales) Measure 2010

2010 nawm 3 ▶ SCHEDULE 2 ▶ PART 1 ▶ Maximum rate of production component

Table of Contents
Content
Explanatory Notes ?
More Resources ?

◀ Previous: Paragraph
Next: Crossheading ▶
Plain View
Print Options

What Version ?

- Latest available (Revised)
- Original (As enacted) - English
- Original (As enacted) - Welsh

Advanced Features ?

- Show Geographical Extent
(e.g. England, Wales, Scotland, Northern Ireland)
- Show Timeline of Changes

Opening Options ?

- Open whole Measure
- Open Measure without schedules
- Open Schedules only

More Resources ?

- [Original Print PDF - English](#)
- [Original Print PDF - Welsh](#)
- [Original Print PDF - Mixed Language](#)

[View more >](#)

Changes over time for: Cross Heading: Maximum rate of production component ?

01/04/2012

Changes to legislation: There are currently no known outstanding effects for the Red Meat Industry (Wales) Measure 2010, Cross Heading: Maximum rate of production component. ?

Maximum rate of production component W

5 The production component in respect of each animal cannot exceed the maximum rates set out in the following table— W

[F1 Animal	Maximum rate of production component per animal
Cattle	£ 6.91
Calves	£ 0.50
Sheep	£ 1.00
Pigs	£ 1.67]

Annotations: ?

Amendments (Textual)

F1 Sch. 2 para. 5 Table substituted (1.4.2012) by The Red Meat Industry (Wales) Measure 2010 (Amendment) Order 2011 (No. 2946), arts. 1, 2(1)

Commencement Information

I1 Sch. 2 para. 5 in force at 1.4.2012 by S.I. 2011/2802, art. 2(2) (with arts. 3, 4)

Figure 7, The Red Meat Industry (Wales) Measure 2010, updated on legislation.gov.uk by editors from the Office of the Legislative Counsel in December 2014, as part of The National Archives' Expert Participation Programme

Statistics

Visits to legislation.gov.uk for Wales legislation over the last quarter

	Oct	Nov	Dec
Acts of the National Assembly for Wales	60,584	73,256	251,162
Measures of the National Assembly	76,447	87,462	268,650
Wales Statutory Instruments	513,998	448,130	666,851
Total	651,029	608,848	1,186,663

Table 1, visits to Wales legislation on legislation.gov.uk for the period October 2014 to December 2014.

Top ten

Rank	Legislation	Visits per month (peaks)
1	Welsh Language (Wales) Measure 2011	54,945
2	Local Government (Wales) Measure 2011	46,990
3	Social Services and Well-being (Wales) Act 2014	46,436
4	Housing (Wales) Act 2014	38,974
5	School Standards and Organisation (Wales) Act 2013	35,701
6	Housing (Wales) Measure 2011	24,248
7	Public Audit (Wales) Act 2013	24,103
8	Mobile Homes (Wales) Act 2013	23,785
9	Children and Families (Wales) Measure 2010	20,723
10	Local Government (Democracy) (Wales) Act 2013	19,063

Table 2, top ten most visited pieces of Wales legislation on legislation.gov.uk for the period October 2014 to December 2014.

Usage of the English and Welsh language versions of legislation.gov.uk

English version	Welsh version
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Acts of the National Assembly for Wales	312,825	81%	72,177	19%
Measures of the National Assembly	350,502	81%	82,057	19%
Wales Statutory Instruments	1,487,340	91%	141,639	9%

Table 3, visits to Wales legislation on legislation.gov.uk by the language version of the website for the period October 2014 to December 2014.

Carol Tullo

Controller of Her Majesty's Stationery Office and Queen's Printer
 Director, Information Policy & Services

John Sheridan

Head of Legislation Services

29th January 2015

By virtue of paragraph(s) vi of Standing Order 17.42

Document is Restricted

Agenda Item 3

Constitutional and Legislative Affairs Committee
Statutory Instruments with Clear Reports
9 February 2015

CLA488 – The Education (Student Support) (Wales) Regulations 2015

Procedure: Negative

These Regulations are required in order to underpin the higher education student support system for students (fee grants, fee loans, maintenance grants and maintenance loans) who are ordinarily resident in Wales and are taking designated higher education courses in respect of academic years beginning on or after 1 September 2015. These Regulations replace the existing Education (Student Support) (Wales) Regulations 2013, as amended.

CLA489 – The Prohibition of Keeping or Release of Live Fish (Specified Species) (Wales) Order 2015

Procedure: Negative

Article 3(1) prohibits the keeping or release in Wales, without a licence issued under the Import of Live Fish (England and Wales) Act 1980, of any species of live non-native freshwater fish, or the live eggs of any such fish, belonging to the taxonomic orders listed in the table in Part 1 of the Schedule.

This Order does not apply to inland waters, though corresponding provisions for those waters were made in the Keeping and Introduction of Fish (Wales) Regulations 2014. It was not possible to include all the provisions in one instrument because the enabling Acts specified the use of regulations and an order respectively.

Agenda Item 4

Constitutional and Legislative Affairs Committee Inquiry into Making Laws in the Fourth Assembly ML10 – Welsh Language Commissioner

(This response was received in the medium of Welsh and has been translated by the Assembly Commission)

Meri Huws
Welsh Language Commissioner

Gareth Williams
Clerk
Constitutional and Legislative Affairs Committee
National Assembly for Wales
Cardiff Bay
CF99 1NA

27/06/2014

Dear Mr Williams

Committee Inquiry: Making Laws in the Fourth Assembly

The Welsh Language Commissioner welcomes the opportunity to comment on the inquiry.

The Commissioner's primary aim is to promote and facilitate the use of the Welsh language. This is done by highlighting the fact that the Welsh language has equal status in Wales, and by imposing duties on organisations to comply with standards. In turn, this will lead to establishing rights for Welsh speakers. The Commissioner's work is based on two principles:

- the Welsh language should be treated no less favourably than the English language;
- persons in Wales should be able to live their lives through the medium of Welsh if they choose to do so.

Over time, new powers to impose and enforce duties on organisations to comply with standards will come into force through subordinate legislation. Until that happens, the Commissioner will continue to review statutory Welsh language schemes through the powers she inherited under the Welsh Language Act 1993.

The Commissioner's role was created by the Welsh Language (Wales) Measure 2011. The Commissioner may investigate failures to implement language schemes, interference with the freedom to use the Welsh language in Wales and, in future, complaints regarding the failure of organisations to comply with standards.

One of the Commissioner's priorities is to scrutinise the development of Welsh language policies. Therefore, the Commissioner's main role is to provide comment in line with this remit, acting as an independent advocate on behalf of Welsh speakers in Wales who might be affected by the proposed amendments. This approach was adopted to avoid any potential compromise in terms of the

Commissioner's regulatory functions, or if the Commissioner wished to formally review an organisation's performance in line with the provisions set out in the Measure.

The Welsh Language Commissioner has recently held discussions with Carwyn Jones, the First Minister, regarding the law-making process, and consideration of the Welsh language during that process.

The discussions arose because of concerns that the Welsh language does not seem to be a central consideration in legislation, and many Bills are published without any reference to the language. It was discussed that the Welsh Language (Wales) Measure 2011 should not be solely relied upon to answer all of the Welsh language's legal needs.

A paper was submitted which included an analysis of the present situation and recommendations on how to strengthen consideration of the Welsh language in legislation and ensure consistency of approach. The recommendations made are the basis for this response. In his response to the report, the First Minister explained that the Welsh Government is developing a framework to ensure that the Welsh language is considered at an early stage when making new policies and that new Bills and public consultations will be part of that regime.

Developing and explaining policies

The Welsh Language Commissioner recently published a Standards Report in relation to Welsh Ministers, which comes to the conclusion that Welsh Ministers should ensure that regulations provide for policy making standards to be specifically applicable to Welsh Ministers¹.

Welsh Ministers have already committed to take every opportunity to ensure that Welsh Government legislation and subordinate legislation support the Welsh language². Following on from this, the Welsh Language Commissioner reported that Welsh Ministers should specify a particular standard in regulations for their legislative functions and subordinate legislation made in Wales, whilst also considering any legislation made jointly or concurrently with the UK Government³.

When developing new policy and legislation, we recommend that the principles of the Welsh Language (Wales) Measure 2011 should be followed, by considering:

- what effects, if any, the legislation would have on opportunities for other persons to use the Welsh language, or treat the Welsh language no less favourably than the English language;
- how legislation might be developed so that it had positive effects, or increased positive effects, on opportunities for other persons to use the Welsh language, or treat the Welsh language no less favourably than the English language;
- how legislation might be developed so that it did not have adverse effects, or so that it had decreased adverse effects, on opportunities for other persons to use the Welsh language, or treat the Welsh language no less favourably than the English language.

When it comes to public consultation, the current methods do not encourage respondents to consider broader issues, such as the Welsh language. This leads to a situation where only organisations and individuals who have a direct interest in the Welsh language refer to the language.

¹ Welsh Language Commissioner's Standards Report – Section 64 Welsh Language (Wales) Measure 2011, Welsh Ministers, Page 26.

² Section 4.1, Welsh Government Welsh Language Scheme 2011-2016

³ Welsh Language Commissioner's Standards Report – Section 64 Welsh Language (Wales) Measure 2011, Welsh Ministers, Page 42.

When conducting consultations, respondents should be encouraged to consider the above principles in order to ensure that the commitments of the Welsh Language Scheme, and standards in relation to the Welsh language in due course, are fully implemented.

Assembly Scrutiny

At present, when it comes to considering the Welsh language in legislation, the scrutiny process is not effective. The National Assembly for Wales' committees each have their own subject areas. The subject-based nature of scrutiny limits the ability of committees to consider cross-cutting issues, such as the Welsh language.

The Commissioner has requested that the Welsh Affairs Committee and the Joint Committee on Human Rights in Westminster should consider the requirements of the Welsh Language Act 1993 and the Welsh Language (Wales) Measure 2011 when scrutinising UK legislation. Likewise, the paper submitted to the First Minister included a recommendation to formalise the internal arrangements for considering the extent to which the Welsh language should be included in draft legislation. In other words, although the Communities, Equality and Local Government Committee is responsible for scrutiny of the Welsh Language, different legislation is scrutinised by different committees. A regime is needed to ensure that each committee gives full consideration to the Welsh language when scrutinising legislation.

Using the Joint Committee on Human Rights as an example, the committee employs a Legal Adviser to consider all UK Government Bills to see whether they are significant enough to be considered by the members of the Joint Committee. The criteria in terms of the Bill's significance include issues such as the number of people affected by the Bill and their level of vulnerability. Other considerations include the Bill's political and public effects, the press coverage it has attracted, and the extent to which the Bill promotes and protects human rights, or whether it has the potential to promote and protect those rights but does not do so. The Joint Committee will also report whether the issue has been previously addressed by the committee, but the UK Government has failed to incorporate any of the recommendations made.

By sifting and scrutinising each Bill in such a way, reporting can take place at an earlier stage of its passage through Parliament, strengthening the impact of any reports issued by the Joint Committee. We would question whether the Assembly has the legal resource to work in such a way, with regards to consideration of the Welsh language in particular.

Drafting Techniques

In considering drafting techniques, and specifically bilingual drafting and translation, the Welsh Government will need to look carefully at its capacity to draft bilingual legislation in future and invest strategically in order to meet this demand.

The tender process for the Welsh Government's Translation and Interpretation Framework revealed that very few freelance translators who applied had the necessary skills and experience to meet the needs of the Government and the wider public sector. The Government needs to ensure that it is not overly dependent on the translation profession to meet the need for bilingual drafting of legislation. Rather, the Welsh Government should innovate in this field, ensuring that officials are trained and equipped in the legal and linguistic skills in order to ensure drafting of the highest standard in both languages. The use of technology should also be considered, in order to further facilitate this work, to ensure consistency and quality as well as financial savings.

A Living Language: A Language for Living notes that the Welsh Language Commissioner is responsible for "coordinating developments with regard to Welsh language terminology". In light of

this responsibility, the Commissioner conducted a survey of current activity in the field to scrutinise the gaps in provision. One of the matters that came to light in the course of this research was the importance of selecting a standard terminology for the Welsh and English versions of Bills from the outset, in order to facilitate the process of dealing with a particular subject area. This is particularly true in a legislative context. It should be ensured that time is allocated at the start of the drafting process in order to select or coin standard terminology by conducting standardising projects that draw on the linguistic expertise and specialist knowledge of relevant departments.

Furthermore, it is important to ensure an effective method of sharing this information with the media and other stakeholders that may wish to discuss the Bill. This will ultimately ensure consistency and avoid the use of multiple terms that confuse the public and others. The Welsh Government should lead the way by ensuring that standard terminology – and any other language resources developed – are shared with internal and external stakeholders in the most accessible way possible, in order to promote and facilitate the use of Welsh in this area.

Thank you for the opportunity to comment on the inquiry into Making Laws in the Fourth Assembly.

Yours sincerely,

Meri Huws

Welsh Language Commissioner

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