



Constitutional and Legislative Affairs Committee

Report: CLA(4)-21-12 : 22 October 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

CLA180 – The Local Government (Performance Indicators) (Wales) Order 2012

Procedure: Negative.

Date made: 2 October 2012.

Date laid: 8 October 2012.

Coming in to force date: in accordance with article 1(3).

CLA182 – The National Health Service (Primary Dental Services) (Amendments Related to Units of Dental Activity) (Wales) Regulations 2012

Procedure: Negative.

Date made: 9 October 2012.

Date laid: 11 October 2012.

Coming into force date: 1 November 2012

CLA183 – The Sea Fish (Specified Sea Areas) (Prohibition of Fishing Method) (Wales) Order 2012

Procedure: Negative.

Date made: 10 October 2012.

Date laid: 11 October 2012.

Coming into force date: 1 November 2012

Affirmative Resolution Instruments

None

Instruments that raise reporting issues under Standing Order 21.2 or 21.3

Negative Resolution Instruments

CLA181 – The Play Sufficiency Assessment (Wales) Regulations 2012

Procedure: Negative.

Date made: 6 October 2012.

Date laid: 8 October 2012.

Coming into force date: 2 November 2012

Affirmative Resolution Instruments

None

Other Business

Public Service Pensions Bill: Legislative Consent Memorandum

The Committee considered the Legislative Consent Memorandum for the Public Service Pensions Bill – Clauses Relating to Restrictions to be Applied to New Schemes. Advice from the Committee's Legal adviser suggested that the LCM might raise wider issues about the Assembly's Legislative Competence. The Committee agreed to write to the Minister for Finance and Leader of the House Jane Hutt AM, as the responsible Minister setting out these concerns with a view to the Minister attending the Committee's next meeting to answer any outstanding concerns on the matter.

Subsidiarity monitoring report (May 2012 – August 2012)

The Committee noted the second subsidiarity monitoring report, covering the proposals received between May and August 2012.

Subordinate legislation made by Welsh Ministers under Assembly Measures

The Committee noted the paper on subordinate legislation made by Welsh Ministers under Assembly Measures that was published by Research Service in October 2012. The Committee also noted that consideration of this matter had been mistakenly reported in the report of the Committee's meeting on 8 October 2012.

Committee Correspondence

CLA169 – The National Health Service (Dental Charges) (Wales) (Amendment) Regulations 2012

The Committee noted the response of the Minister for Health and Social Services, Lesley Griffiths AM, to the Chair's letter dated 26 September regarding the accuracy of the Explanatory Memorandum to the National Health Service (Dental Charges) (Wales) (Amendment) Regulations 2012 [CLA169].

CLA171 – The Waste (England and 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 dated 27 September regarding the merits points reported on the Waste (England and Wales) (Amendment) Regulations 2012 [CLA171].

Simon Thomas AM

Acting Chair, Constitutional and Legislative Affairs Committee

22 October 2012

Annex 1

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