

Constitutional and Legislative Affairs Committee Draft Report

CLA(4)-27-14

CLA457 – The Local Government Byelaws (Wales) Act 2012 (Amendment) Order 2014

This Order amends Parts 1 and 2 of Schedule 1 to the Local Government Byelaws (Wales) Act 2012 (“the Act”) and is made under sections 9 and 16 of the Act. Article 2 of this Order adds to the list of byelaws that the relevant types of authorities may make without confirmation by amending Table 1 in Part 1 of Schedule 1 to the Act. This Order also adds to the list of enactments byelaws under which may provide for fixed penalty notices to be offered. Article 3 amends Table 2 in Part 2 of Schedule 1 to the Act in order to do so.

The sections of the Act to which the Schedules will apply are not currently in force. The Committee understands that it is intended that they come into force early in 2015, so as to permit local authorities to prepare for the operation of those sections knowing the full range of byelaw-making powers to which they will apply.

Procedure: Affirmative

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.

The Order refers to various Local Acts that permit the making of byelaws. Paragraph 2 of the Explanatory Memorandum explains that during the consultation on this Order, no concerns were expressed regarding the

accessibility of those Acts. Some of them are available on the legislation.gov.uk website of the National Archives, but others are not.

The Committee **recommends** that the Welsh Government works with the National Archives and local authorities to ensure that all Local Acts that relate to Wales are available on this website, particularly those referred to in Public General Acts of the National Assembly.

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

Legal Advisers

Constitutional and Legislative Affairs Committee

October 2014

Government's response:

The Local Government Byelaws (Wales) Act 2012 (Amendment) Order 2014

The proposal to add to Schedule 1 of the Local Government Byelaws (Wales) Act 2012 the byelaw-making powers in the local Acts referred to in the Order responds to representations made in the course of the Assembly's scrutiny. In evidence submitted to the Assembly's Committee for Communities, Equality and Local Government in the course of the Assembly's scrutiny of the Bill, it was suggested that the Welsh Ministers should consider whether other Acts should be added to Schedule 1. In particular, the Council of the City and County of Swansea argued that the Swansea City Council (Tawe Barrage) Act 1986 should be added to Schedule 1, and in its report the Committee recommended that the Minister should consider doing so. In response to this, the then Minister for Local Government agreed to consider adding further Acts to Schedule 1 and Welsh Government officials carried out a further review of local Acts.

The draft Order was itself consulted on as part of a formal 12 week consultation by the Welsh Government and the consultees included local government bodies and the public. None of the consultation responses expressed any concern about the accessibility of the local Acts the Order refers to. This draft Order itself will of course be as accessible to the public as all other subordinate legislation laid before the Assembly and made by the Welsh Ministers.

All legislation from 1988 onwards is published on the legislation.gov.uk website, as is most legislation that predates then. There are however exceptions as this process has highlighted. Publication of legislation is the responsibility of the National Archive but the Welsh Ministers accept the recommendation that the Welsh Government should work with the Archive, and with local authorities, to seek to ensure that all local Acts that relate to areas in Wales are available on legislation.gov.uk (particularly those referred to in Public General Acts of the Assembly).