

Subordinate Legislation Committee Y Pwyllgor Is-ddeddfwriaeth

Bae Caerdydd / Cardiff Bay
Caerdydd / Cardiff
CF99 1NA

16th December 2008

Mr William Arnold
Chief Executive
Law Commission
Steel House
11 Tothill Street
London
SW1H 9LJ

Dear Mr Arnold

Inquiry into the Scrutiny of Subordinate Legislation and Delegated Powers

The Subordinate Legislation Committee of the National Assembly for Wales is conducting an inquiry into the scrutiny of subordinate legislation and other legislation which falls within its remit. I am writing to invite you to respond with your views on post legislative scrutiny in relation to Welsh legislation.

Whilst the remit of our predecessor committee – the Legislation Committee of the Second Assembly – was limited to technical scrutiny of subordinate legislation, the present Committee has a wider remit. It is now able to scrutinise the “merits” of statutory instruments on other grounds, such as, whether any statutory instrument inappropriately implements European Union legislation or imperfectly achieves its policy objectives (Standing Order 15.3).

The Committee may also scrutinise the delegation of powers to Welsh Ministers in UK Bills as well as in Assembly Measures. The Committee may

Swyddfa Ddeddfwriaeth Gwasanaeth Seneddol y Cynulliad / APS Legislation Office
Ffôn / Tel 02920 89 898154
E-mail: Legislation.comm@wales.gsi.gov.uk

Croesewir gohebiaeth yn y Gymraeg a'r Saesneg
We welcome correspondence in both English and Welsh.

also consider regulatory reform orders which impact on areas within the Assembly's competence.

The Committee's inquiry focuses on these new areas – in particular the scrutiny of the "merits" of statutory instruments, and the delegation of powers in UK Bills - which will inform its future approach to its enhanced scrutiny remit. The letter of consultation for the inquiry is attached at Annex 1 for your information and sets out the terms of reference for the inquiry (the public consultation closed in September 2008).

During the course of our evidence gathering, one of the issues which has been raised is the matter of post legislative scrutiny. I understand that the Law Commission produced a report in October 2006 on Post Legislative Scrutiny (LC302). However, this focused mainly on scrutiny of Acts of Parliament.

The Committee would like to invite you to submit a written response to the following questions, which would inform the Committee's work in this area:

- Does the Law Commission have a policy regarding the review of Wales only laws (statutory instruments or Measures) or areas of law falling within the legislative competence of the Assembly or the executive competence of Welsh Ministers? If so, please explain.
- Further to your report on Post Legislative Scrutiny, are there any recommendations which the National Assembly for Wales should consider in particular with respect to how the National Assembly could undertake post legislative scrutiny?
- If the Assembly were to undertake post legislative scrutiny, what support could the Law Commission offer?

I would be grateful if you could respond by 20 January 2008, if possible. If you have any further questions, please do not hesitate to contact the Deputy Clerk, Olga Lewis on 02920 898154.

Yours sincerely,



Dr. Dai Lloyd AM
Chair
Enc.

Swyddfa Ddeddfwriaeth Gwasanaeth Seneddol y Cynulliad / APS Legislation Office
Ffôn / Tel 02920 89 898154
E-mail: Legislation.comm@wales.gsi.gov.uk

Croesewir gohebiaeth yn y Gymraeg a'r Saesneg
We welcome correspondence in both English and Welsh.