

NATIONAL ASSEMBLY FOR WALES

LEGISLATION COMMITTEE REPORT

The Education (Transition to New Framework) (New Schools, Groups and Miscellaneous) Regulations 1999 (Amendment) (Wales) Regulations 2000

Background

The Education (Transition to New Framework) (New Schools, Groups and Miscellaneous) Regulations 1999 were made in preparation for the implementation, on 1 September 1999, of the new schools framework under the Schools Standards and Framework Act 1998.

In providing for the transfer of property to the new governing bodies, however, the Regulations provided for the transfer of certain property to the local education authority when, in fact, the intention had been that property other than land should in all cases vest in the new individual governing body of the school concerned.

The present Regulations accordingly rectify this by providing for property which has transferred to the local education authority to now be vested in the individual governing body of the school.

Since the earlier Regulations were Wales and England Regulations the same defect has arisen in England. Amending Regulations in the same form as those now under consideration have already been made in respect of the application of the 1999 Regulations in England – SI 1999 no.3297 made 8 December 1999, coming into force 31 December 1999.

As is indicated at the head of the Regulations, they are to be issued free of charge to all known recipients of the 1999 Regulations. This is in accordance with a procedure which is applied in cases where new legislation is made in consequence of an acknowledged error.

Standing Order 11.5

No points have been identified as matters in respect of which the Committee needs to invite the Assembly to pay special attention under Standing Order 11.5.

There are, however, some general observations which it is considered should be drawn to the attention of the Assembly.

General Observations

Title

Whilst it is normal practice for the title of an amending instrument to incorporate the title of the earlier instrument which is amended, it is not normal to include the year of the earlier instrument. Thus one would not have expected to see "1999" in the title of the present Regulations. It is noted, however, that in this respect the Regulations are in conformity with the amending regulations which have been made for England.

Regulation 1 – Heading

"interpretation" should have been inserted after "commencement".

Regulation 1(3)

"Regulations" should begin with a capital R to conform with regulation 2.

Schedule

There should be a reference to Regulation 2 in the margin.

It is noted that the existing regulation 54 has been replaced by a new regulation 54.

A legislative provision effecting the transfer of property will have had effect at a particular point in time, however. It may thus not be entirely appropriate to purport to re-enact such a provision.

Since the 1999 Regulations apply in both Wales and England, however, it is accepted that amendment made by the Wales amending Regulations needs to be in the same form as the amendment made for England, in order to maintain the integrity of the text of a provision which applies in both countries.

Footnote (b)

This refers to the 2000 Transfer of Functions Order which is SI 2000/253. Since HMSO wrongly gave this a W number, it may be that the W number will not appear in the annual volume and annual lists. In these circumstances it may be better not to include the W number in the footnote.

M. GERMAN OBE AM

Chair,

Legislation Committee

Date: 13 June 2000