

NATIONAL ASSEMBLY FOR WALES

MEMORANDUM OF CORRECTIONS PURSUANT TO STANDING ORDER 22.13

The Local Government And Housing Act 1989 (Electronic Communications) (Wales) Order 2001

DRAFT FOR THE CONSIDERATION OF THE LEGISLATION COMMITTEE

Background

This Order was considered by the Business Committee on 30 January 2001, laid before the National Assembly on 1 February 2001 and considered by the Legislation Committee on 13 February 2001.

Typographical and drafting errors were identified by the Legal Advisers to the Legislation Committee prior to the Committee's meeting and amendments suggested in consequence.

The amendments were reported upon and agreed by the Legislation Committee in its meeting on 13 February 2001, for consideration by the National Assembly as follows:

Amendments

1. Preamble

For:

"The National Assembly for Wales makes the following Order in exercise of the powers conferred on it by sections 8 and 10 of the Electronic Communications Act 2000(a) and with the consent of the Secretary of State:",

substitute:

"The National Assembly for Wales considers that the authorisation of the use of electronic communications by this Order for any purpose, is such that the extent (if any) to which records of things done for that purpose will be available will be no less satisfactory in cases where use is made of electronic communications than in other cases. It therefore makes this Order in exercise of the powers given to it by sections 8 and 10(2), (3)(d), (3)(e), (4) and (5) of the

Electronic Communications Act 2000 **(a)** with the consent of the Secretary of State:"

Reason for the amendment

Section 8(3) of the Electronic Communications Act 2000 ("the Act") requires the National Assembly to be satisfied as to the availability of the records (as referred to in the amended text above). A recital of this fact is required and had previously not been included. In addition the specific subsections and paragraphs of section 10 of the Act that are relied upon had not been recited as required.

2. Heading and Article 1

Insert the "1st April 2001" as the coming into force date in both cases.

Reason for the amendment

The date had not been included on the copy laid before the National Assembly.

3. Heading

In the Welsh text of the heading, for "Wediiu wneud" substitute "Wedi'i wneud".

Reason for amendment

Typographical error.

4. Article 2

Renumber the existing text as paragraph (1) and insert:

" (2) References to the Secretary of State in the amendments referred to in paragraph (1) are to be construed as references to the National Assembly for Wales."

Reason for amendment

In Wales the functions of the "Secretary of State" under the Local Government and Housing Act 1989 are exercisable by the National Assembly for Wales by virtue of the National Assembly for Wales (Transfer of Functions) Order 1999. For the avoidance of any doubt that new functions conferred upon the "Secretary of State" by these amendments (to the extent that they are new "functions") are functions of the National Assembly for Wales, it has been

suggested that a specific provision be included within the body of the Order.

5. Schedule

Paragraph 4 of the Schedule should be renumbered paragraph 3.

Reason for the amendment

Typographical error.

Edwina Hart AM

Minister for Finance, Local Government and Communities

14 February 2001

CYNULLIAD CENEDLAETHOL CYMRU

MEMORANDWM CYWIRIADAU YN UNOL Â RHEOL SEFYDLOG 22.13

Gorchymyn Deddf Llywodraeth Leol a Thai 1989 (Cyfathrebu Electronig) (Cymru) 2001

DRAFFT I'W YSTYRIED GAN Y PWYLLGOR DEDDFAU

Y Cefndir

Cafodd y Gorchymyn hwn ei ystyried gan y Pwyllgor Busnes ar 30 Ionawr 2001, ei osod gerbron y Cynulliad Cenedlaethol ar 1 Chwefror 2001 a'i ystyried gan y Pwyllgor Deddfau ar 13 Chwefror 2001.

Nodwyd gwallau teipograffyddol a gwallau drafftio gan Gynghorwyr Cyfreithiol y Pwyllgor Deddfau cyn cyfarfod y Pwyllgor ac awgrymwyd diwygiadau yn sgil hynny.

Cyflwynwyd adroddiad ar y diwygiadau a chytunodd y Pwyllgor Deddfau arnynt yn ei gyfarfod ar 13 Chwefror 2001, i gael eu hystyried gan y Cynulliad Cenedlaethol fel a ganlyn:

Y Diwygiadau

1. Y Rhaglith

Yn lle:

"Mae Cynulliad Cenedlaethol Cymru yn gwneud y Gorchymyn canlynol drwy arfer y pwerau a roddwyd iddo gan adrannau 8 a 10 o Ddeddf Cyfathrebu Electronig 2000(**a**) a chyda chydsyniad yr Ysgrifennydd Gwladol:",

rhowch:

"Mae Cynulliad Cenedlaethol Cymru o'r farn bod awdurdodi defnyddio cyfathrebu electronig gan y Gorchymyn hwn at unrhyw ddiben yn gyfryw nes na fydd cofnodion o bethau a wneir at y diben hwnnw ar gael ar raddfa lai boddhaol (os o gwbl) mewn achosion lle caiff cyfathrebu electronig ei ddefnyddio nag mewn achosion eraill. Gan hynny, mae'n gwneud y Gorchymyn hwn drwy arfer y pwerau a roddwyd iddo gan adrannau 8 a 10(2), (3)(d), (3)(e), (4) a (5) o Ddeddf Cyfathrebu Electronig 2000(**a**) a chyda chydsyniad yr Ysgrifennydd Gwladol:"

Y rheswm am y diwygiad

Mae adran 8(3) o Ddeddf Cyfathrebu Electronig 2000 ("y Ddeddf") yn ei gwneud yn ofynnol i'r Cynulliad Cenedlaethol fod yn fodlon bod cofnodion ar gael (fel y'i crybwyllir yn y testun diwygiedig uchod). Mae angen croniclo'r ffaith ond ni chafodd croniclod ei gynnwys o'r blaen. Hefyd, yr oedd yr is-adrannau a'r paragraffau penodol yn adran 10 y dibynnir arnynt heb eu croniclo o'r blaen yn unol â'r angen.

2. Y Pennawd ac Erthygl 1

Rhowch "1 Ebrill 2001" ar gyfer y dyddiad y daw'r Gorchymyn i rym yn y ddau le.

Y rheswm am y diwygiad

Yr oedd y dyddiad heb ei gynnwys ar y copi a osodwyd gerbron y Cynulliad Cenedlaethol.

3. Y Pennawd

Yn nhestun Cymraeg y pennawd, yn lle "Wediiu wneud" rhowch "Wedi'i wneud".

Y rheswm am y diwygiad

Gwall teipograffyddol.

4. Erthygl 2

Ailrifwch y testun presennol yn baragraff (1) a mewnosod:

" (2) Mae cyfeiriadau at yr Ysgrifennydd Gwladol yn y diwygiadau y cyfeirir atynt ym mharagraff (1) i gael eu dehongli fel cyfeiriadau at Gynulliad Cenedlaethol Cymru."

Y rheswm am y diwygiad

Yng Nghymru mae swyddogaethau'r "Ysgrifennydd Gwladol" o dan Ddeddf Llywodraeth Leol a Thai 1989 yn arferadwy gan Gynulliad Cenedlaethol Cymru yn rhinwedd Gorchymyn Cynulliad Cenedlaethol Cymru (Trosglwyddo Swyddogaethau) 1999. Er mwyn osgoi unrhyw amheuaeth nad yw'r swyddogaethau newydd a roddir i'r "Ysgrifennydd Gwladol" gan y diwygiadau hyn (i'r graddau y maent yn "swyddogaethau" newydd) yn swyddogaethau i Gynulliad Cenedlaethol Cymru, awgrymwyd bod darpariaeth arbennig yn cael ei chynnwys yng nghorff y Gorchymyn.

5. Yr Atodlen

Dylai paragraff 4 o'r Atodlen gael ei ailrifo yn baragraff 3.

Y rheswm am y diwygiad

Gwall teipograffyddol.

Edwina Hart AC

Y Gweinidog dros Gyllid, Llywodraeth Leol a Chymunedau

14 Chwefror 2001