

Constitutional Affairs Committee

Report: CA(3)-02-11 : 27 January 2011

This meeting can be viewed on Senedd TV at:
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Time: 9.30 am

Venue: Committee Room 1, Senedd

Assembly Members in attendance

Janet Ryder, North Wales (Chair)

Alun Davies, Mid and West Wales

William Graham, South Wales East

Rhodri Morgan, Cardiff West

Kirsty Williams, Brecon and Radnorshire

Apologies.

There were no apologies.

The Committee reports to the Assembly as follows:

Instruments in respect of which the Assembly is not invited to pay special attention under Standing Order 15.2 or 15.3

Instruments subject to annulment pursuant to a resolution of the Assembly (Negative Procedure)

CA520 - The M4 Motorway (West of Junction 23A (Magor) to East of Junction 29 (Castleton)) (Variable Speed Limits) Regulations 2011

Procedure: Negative

Date made: 17 January 2011

Date laid: 19 January 2011

Coming into force date: 21 February 2011

CA521 - The Education (Local Curriculum for Students Aged 16 to 18) (Wales) Regulations 2011

Procedure: Negative

Date made: 20 January 2011

Date laid: 21 January 2011

Coming into force date: 14 February 2011

Instruments in respect of which the Assembly is invited to pay special attention under Standing Orders 15.2 and/or 15.3

Instruments subject to annulment pursuant to a resolution of the Assembly (Negative Procedure)

**CA514 - The Smoke Control Areas (Exempted Fireplaces) (Wales)
Order 2011**

Procedure: Negative

Date made: 11 January 2010

Date laid: 13 January 2010

Coming into force date: 4 February 2010

The Committee agreed the Report under S.O.15.2 on this statutory instrument, which is attached as Annex 1.

Resolution to Meet in Private

In accordance with Standing Order 10.37(vi) the Committee resolved to exclude the public from the remainder of the meeting to discuss the Draft Report on the Inquiry into Drafting Welsh Government Measures: Lessons from the first three years.

Janet Ryder AM

Chair, Constitutional Affairs Committee

27 January 2011

Annex 1

Constitutional Affairs Committee

(CA(3)-02-11)

CA514

Constitutional Affairs Committee Report

Title: The Smoke Control Areas (Exempted Fireplaces) (Wales) Order 2011

Procedure: Negative

This Order exempts specified fireplaces from the general prohibition on the emission of smoke in smoke control areas found in section 20 of the Clean Air Act 1993. The exempted fireplaces must burn fuel without producing any smoke or a substantial quantity of smoke. This Order revokes and replaces with amendments the equivalent 2009 Order.

Technical Scrutiny

The following point is identified for reporting under Standing Order 15.2 in respect of this instrument.

1. The Schedule to the English version requires that some exempted fireplaces are fitted with a mechanical stop “when sold into smoke control areas”.

The Schedule to the Welsh version requires that the same exempted fireplaces are fitted with a mechanical stop “when sold in smoke control areas” (“pan werthir hwy mewn ardaloedd rheoli mwg”).

The English and Welsh versions are therefore different and raise a reporting point on the grounds of:

- Defective drafting, Standing Order 15.2(vi); and
- Inconsistency between the English and Welsh texts, Standing Order 15.2(vii).

Merits Scrutiny

No points are identified for reporting under Standing Order 15.3 in respect of this instrument at this stage.

Janet Ryder AM
Chair, Constitutional Affairs Committee

27 January 2011

The Government has responded as follows:

The Government accepts that there are inconsistencies between the English and the Welsh texts (Standing Order 15.2 (vii)) and as such raises a point of defective drafting under Standing Order 15.2 (vi).

The English text is correct and unambiguous but the Welsh text does not reflect the position in the English text. The Government considers it appropriate to rectify this by way of correction slip on publication of the Order.