

National Assembly for Wales
Constitutional and Legislative
Affairs Committee

Report on the Holiday Caravan Sites (Wales) Bill

October 2014



Cynulliad
Cenedlaethol
Cymru

National
Assembly for
Wales

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The Constitutional and Legislative Affairs Committee

The Committee was established on 15 June 2011 with a remit to carry out the functions of the responsible committee set out in in Standing Orders 21.2 and 21.3 and to consider any other legislative matter, other than the functions required by Standing Order 26, referred to it by the Business Committee.

Current Committee membership



David Melding (Chair)
Deputy Presiding Officer
Welsh Conservatives
South Wales Central



Suzy Davies
Welsh Conservatives
South Wales West



Alun Davies
Welsh Labour
Blaenau Gwent



William Powell
Welsh Liberal Democrats
Mid and West Wales



Simon Thomas
Plaid Cymru
Mid and West Wales

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The Committee's Recommendations

Recommendation 1. We recommend that the Member in charge reviews the procedure he wishes to apply to section 16(2) and if necessary, tables an appropriate amendment to the Bill. (Page 20)

Recommendation 2. We recommend that the Member in charge should consider tabling an amendment to clarify the wording of section 66(1)(c) of the Bill. (Page 21)

Recommendation 3. We recommend that the Member in charge should table amendments to the Bill to make the way in which procedures are applied to the making of statutory instruments simpler. (Page 21)

Recommendation 4. We recommend that the negative procedure is applied to commencement orders made in connection with the powers contained in section 66(1)(c) and / or section 69(7) of the Bill. (Page 22)

1. Introduction

The Committee's remit

1. The remit of the Constitutional and Legislative Affairs Committee (“the Committee”) is to carry out the functions of the responsible committee set out in Standing Order 21 and to consider any other constitutional or governmental matter within or relating to the competence of the Assembly or Welsh Ministers.
2. Within this, the Committee considers the political and legal importance and technical aspects of all statutory instruments or draft statutory instruments made by the Welsh Ministers and reports on whether the Assembly should pay special attention to the instruments on a range of grounds set out in Standing Order 21.
3. The Committee also considers and reports on the appropriateness of provisions in Assembly Bills and UK Parliament Bills that grant powers to make subordinate legislation to the Welsh Ministers, the First Minister or the Counsel General.

Introduction and consideration of the Bill

4. On 17 March 2014, Darren Millar AM introduced the Holiday Caravan Sites (Wales) Bill (‘the Bill’) and accompanying Explanatory Memorandum.¹
5. The National Assembly’s Business Committee referred the Bill to the Communities, Equality and Local Government Committee for consideration setting a deadline of 24 October 2014 to report on its general principles.
6. The Constitutional and Legislative Affairs Committee considered the Bill at its meeting on 9 June 2014, taking evidence from the Member in charge, Darren Millar AM and Carl Sargeant AM, the then Minister for Housing and Regeneration.
7. The Minister provided written evidence to the Communities Equality and Local Government Committee on 28 May 2014.²

¹ Darren Millar AM, *Holiday Caravan Sites (Wales) Bill, Explanatory Memorandum*, March 2014

2. Background

Purpose of the Bill

8. The Explanatory Memorandum states that:

“The Holiday Caravan Sites (Wales) Bill will modernise the regulatory framework for holiday caravan sites in Wales, raise standards in the sector and tackle the minority of site owners and caravan occupiers who flout the current law.

The Bill will modernise the licensing regime for holiday caravan sites. Local authorities will be given new duties and enforcement powers so they can ensure that holiday caravan sites are safe and well managed; breaches of licence conditions will be tackled robustly by a combination of statutory enforcement action and fines that provide an effective deterrent.

The Bill seeks to end the permanent residential use of holiday caravans by requiring owners and long-term occupiers to demonstrate that their main residence is elsewhere, and by giving local authorities powers to deal with occupiers who fail this test.”³

9. It further explains that the Bill:

“... will make provision for local authorities to gain appropriate and proportionate licensing and enforcement powers to allow them to address the issue of unlawful occupation while continuing to allow the industry in Wales to thrive. By providing the ability for local authorities to charge fees, the Bill will, for the first time, enable improved, regular and consistent monitoring of site licence conditions across all of Wales.”⁴

10. The Explanatory Memorandum also explains the relationship between this Bill and the *Mobile Homes (Wales) Act 2013*, which was

² Carl Sargeant AM, Minister for Housing and Regeneration, *Evidence to the Communities, Equality and Local Government Committee – Holiday Caravan Sites (Wales) Bill*, 28 May 2014

³ Explanatory Memorandum, paragraphs 1-3

⁴ Explanatory Memorandum, paragraph 15

introduced as a Member Bill, by Peter Black AM. It states that the 2013 Act:

“... will, when fully commenced, provide a modern legislative framework for park home sites in Wales that will benefit site owners, park home residents and also the local authorities responsible for licensing sites.

Holiday caravan sites were specifically excluded from the 2013 Act ... because Peter Black AM’s original proposal focused solely on residential mobile homes – holiday caravans would have been beyond the scope of that Bill. However, this Bill will modernise the licensing regime for holiday caravan sites, and also strengthen and clarify rights for both holiday caravan owners and site owners. The Bill therefore adopts a similar framework to the 2013 Act in many areas.”⁵

⁵ Explanatory Memorandum, paragraphs 10-11

3. Legislative Competence

Explanatory Memorandum

11. In terms of the National Assembly's legislative competence to make the Bill, the Explanatory Memorandum states:

“The legislative competence enabling the National Assembly for Wales to make an Act in relation to holiday caravan sites is contained in Part 1 of Schedule 7 to the Government of Wales Act 2006 (“the 2006 Act”). In particular, subject 11 (Housing) specifically includes residential caravans and mobile homes; subject 12 (Local Government) specifically includes the powers and duties of local authorities and their members and officers; subject 17 (Tourism); and subject 18 (Town and Country Planning) specifically includes caravan sites.”⁶

Evidence from the Minister

12. In his letter of 28 May to the Chair of the Communities, Equality and Local Government Committee, the Minister said:

“The Bill creates new rights of appeal to the magistrates’ court and one to the county court. An assessment of these new rights of appeal needs to be undertaken to ensure they are within the legislative competence of the National Assembly for Wales.”^{7 8}

13. When questioned he told us:

“What I am saying is that we do not have an issue about competency as such, but we do have concerns ... about the right of appeal in terms of the mechanisms that take place. We have not done any appraisals of that, but I believe that it is something that should be considered as a potential issue around whether the Court of Appeal and the competency of the Assembly should be considered at that point. So, I have not made a judgment on this and I am sure that the Counsel

⁶ Explanatory Memorandum, paragraph 9

⁷ Carl Sargeant AM, Minister for Housing and Regeneration, *Evidence to the Communities, Equality and Local Government Committee – Holiday Caravan Sites (Wales) Bill*, 28 May 2014

⁸ Rights of appeal are provided for in Parts 2 and 3 of the Bill in respect of licensing and residence tests.

General will give advice at the appropriate time if Government should be taking this forward.”⁹

14. He subsequently confirmed that it was not the legislative competence of the Bill he was concerned with but its impact on the judicial system.¹⁰

15. The Minister said that he had not had any discussions with the Ministry of Justice,¹¹ adding that “it is something that the backbencher should have concern about”.¹²

Evidence from the Member in Charge

16. When asked about the Minister’s views regarding the appeals system and whether he has spoken to the Ministry of Justice, Darren Millar AM said:

“I have not, and I do not think that there is any need to, frankly. This is an entirely devolved matter. What I will say is that there is no new appeals system; what we have done is to listen to the industry through the consultation process that was undertaken and maintain the existing appeals system under the 1960 Act, which is appeals to a magistrates’ court. I think that there will be fewer appeals taken to court as a result of my Bill, because it is much clearer and requires, for example, written agreements between site owners and holiday caravan owners, which do not exist at the moment. So, I think that there will be a reduction in the time taken by the courts system to deal with problems on holiday caravan sites as a result of my legislation. What I do, of course, introduce is this new mechanism of fixed-penalty notices, which will, therefore, also reduce the burden on the courts.”¹³

Our view

17. We note that no issues have been raised with the Member in charge or Minister regarding the National Assembly’s ability to make

⁹ Constitutional and Legislative Affairs (“CLA”) Committee, *RoP paragraph [72]*, 9 June 2014

¹⁰ CLA Committee, *RoP paragraphs [73-74]*, 9 June 2014

¹¹ CLA Committee, *RoP paragraphs [75-76]*, 9 June 2014

¹² CLA Committee, *RoP paragraph [78]*, 9 June 2014

¹³ CLA Committee, *RoP paragraph [197]*, 9 June 2014

this legislation under Schedule 7 to the *Government of Wales Act 2006*.

18. We do note, however, that there would appear to be a lack of clarity around the mechanism by which a backbench Member in charge of a Bill should seek the views of the UK Government on matters of legislative competence, should that be necessary. It is unclear to what extent this issue is a problem, but we may consider it as part of our inquiry into making laws in the fourth Assembly.

4. General observations

19. The Bill has 71 sections, in six parts, and three schedules.

Evidence from the Minister

20. In his letter to the Chair of the Communities, Equality and Local Government Committee, the Minister explained that originally he was “broadly supportive” of the aims of Darren Millar AM, as it would provide an opportunity to modernise the law applying to holiday caravans, a position he supported subject to further detailed research being undertaken on the nature of the problems and possible solutions.¹⁴ However, he added that having seen the Bill and considered the proposals and the evidence of the tourism sector, he was:

“not persuaded this Bill is either appropriate or proportionate. Therefore I cannot support it.”¹⁵

21. During questioning he said:

“First of all, we think that the legislation goes too far in what is being proposed, and, secondly, we believe that some of the things that Darren Millar is seeking to achieve could be addressed in other aspects of the legislation currently in place, with better enforcement in the way that that is handled under current legislation.”¹⁶

22. He did not believe therefore that there was a need for further legislation,¹⁷ noting that “we do not have the evidence to suggest that we need it”¹⁸ and that “if we believed there was a problem, then we would legislate for that, as a Government”.¹⁹ He also said:

“... part of the problem is that we do not understand the scale of the issue and we do not believe that there is enough evidence

¹⁴ Carl Sargeant AM, Minister for Housing and Regeneration, *Evidence to the Communities, Equality and Local Government Committee – Holiday Caravan Sites (Wales) Bill*, 28 May 2014

¹⁵ *ibid*

¹⁶ CLA Committee, *RoP paragraph [23]*, 9 June 2014

¹⁷ CLA Committee, *RoP paragraph [29]*, 9 June 2014

¹⁸ CLA Committee, *RoP paragraph [33]*, 9 June 2014

¹⁹ CLA Committee, *RoP paragraph [41]*, 9 June 2014

behind this to suggest what the scale or proportion of the problem is.”²⁰

23. In terms of what this meant for the legislation, the Minister said his starting point would be to ascertain “the scale of the problem ... and ... draft the legislation accordingly”,²¹ adding that he couldn’t “support the principle of taking this forward on the basis that we do not really know that we need to legislate for it.”²²

24. When asked about his recognition of the need to modernise the legislation and what needs to be undertaken, the Minister replied:

“It is based upon ... keeping up with the times in terms of things like the issues that we raised earlier on—free prescriptions, bus passes et cetera—and what that means for those living in a mobile home, a caravan or fixed accommodation in Wales. These are old Acts, so we need to look at what they may mean, but I am not going to amend any Act unless I am convinced of the need to do so and the evidence base behind that.”²³

25. In terms of the Bill as a piece of legislation, the Minister said:

“... we are relatively comfortable with the drafting of the Bill. There is nothing major in that that we would have concern about. We think that the balance of the overall Bill is appropriate if that was to be taken forward. However, I reiterate that we will not be seeking to support this on the principle that we do not believe the legislation is needed.”²⁴

Evidence from the Member in charge

26. Darren Millar AM told us:

“I want to modernise the whole of the licensing regime for holiday caravan sites across the country. The existing licensing regime dates back to the 1960s. It is over 50 years old, it is outdated, and it is not relevant to the modern holiday caravan industry here in Wales. In making sure that we have a regime

²⁰ CLA Committee, *RoP paragraph [31]*, 9 June 2014

²¹ CLA Committee, *RoP paragraph [62]*, 9 June 2014

²² *ibid*

²³ CLA Committee, *RoP paragraph [55]*, 9 June 2014

²⁴ CLA Committee, *RoP paragraph [88]*, 9 June 2014

that is fit for purpose, that, I am confident, will raise standards in the sector as a whole and tackle the minority of caravan site owners and caravan occupiers who abuse the current regime and flout the law.”²⁵

27. He felt that:

“... there is very clear evidence that there is this problem out there in the industry that needs to be addressed. There is also clear evidence that the current regime is not working, because we know that there is very little enforcement activity around Wales by local authorities, and, to be fair, when they are faced with financial challenges, as they are at the moment, it is quite understandable that, if they do not have a duty to inspect, for example, against caravan licences, which they do not under the 1960 Act, they will do whatever they can to focus on those other, statutory services and duties that they have to undertake. My Bill gives an opportunity for local authorities to be able to raise some resource so that they can undertake inspections, and it places a duty on them to make sure that that is something that they do.”²⁶

28. He said that evidence for the problem that needs to be addressed was provided in the Explanatory Memorandum²⁷ and described some of the problems with the existing legislation, citing as examples the absence of a duty on local authorities to inspect caravan sites, the lack of an opportunity to raise resources and the lack of written agreements between caravan and site owners.²⁸ He also noted that in fairness to the industry, it had sought to address problems on its own “but, unfortunately, its efforts have not succeeded thus far, and that is why we need a change in legislation.”²⁹

29. He did not agree with the Minister that the enforcement regime created by the Bill was “disproportionate”,³⁰ arguing that the additional enforcement by local authorities advocated by the Minister:

²⁵ CLA Committee, *RoP paragraph [109]*, 9 June 2014

²⁶ CLA Committee, *RoP paragraph [119]*, 9 June 2014

²⁷ CLA Committee, *RoP paragraphs [117 and 183]*, 9 June 2014

²⁸ CLA Committee, *RoP paragraph [123]*, 9 June 2014

²⁹ CLA Committee, *RoP paragraph [117]*, 9 June 2014

³⁰ CLA Committee, *RoP paragraph [129]*, 9 June 2014

“... is the very thing that would create a burden, because they do not have the resources to be able to enforce against the existing licences as it is.”³¹

30. He added:

“Therefore, I am actually minimising the burden on local authorities by enabling them to be able to charge for the licensing regime ... those powers to be able to charge are critically important, and that is the key reason that the Bill needs to become law.”³²

Our view

31. It is clear from the evidence that there is a difference in view between the Member in charge and Minister regarding the need for this legislation.

32. The need for legislation is a relevant consideration for this committee particularly in the context of acquiring knowledge and understanding about the body of law that is developing to be a Welsh Statute Book. Equally important is for this committee to consider whether provisions are best delivered by means of law rather than, for example, through guidance.

33. It is not generally our role to comment specifically or give a view on the general principles of a Bill, as other factors will affect that judgement. Nevertheless, we do believe that the evidence we have taken and highlighted above will be useful in helping Members come to a view on whether the general principles of the Bill should be agreed to.

34. There is one general principle, however, which we do wish to comment upon. It is perfectly legitimate for a Bill to be brought forward that creates new duties because existing discretionary powers are not being used or exercised.

35. We are broadly content with the balance between what is on the face of the Bill and what is left to subordinate legislation.

³¹ CLA Committee, *RoP paragraph [129]*, 9 June 2014

³² *ibid*

5. Powers to make subordinate legislation – observations on specific powers

Background

36. The Bill contains eight powers to make subordinate legislation and they are described in Chapter 5 of the Explanatory Memorandum.

General views of the Minister

37. In his letter to the Chair of the Communities, Equality and Local Government Committee, the Minister said:

“I am reasonably satisfied that the subordinate legislation powers are appropriate. Many of the powers enabling Welsh Ministers to make subordinate legislation do not immediately require action.”³³

38. During questioning he indicated that:

“There are some small parts of the Bill, as drafted, that we would question in terms of whether they should be affirmative procedures or otherwise, but nothing, within the Bill context, that we would not seek to amend at the appropriate point.”³⁴

General views of the Member in charge

39. We asked Darren Millar AM how he had chosen the procedure to be applied to each order and regulation-making power. He replied by reference to the *Mobile Homes (Wales) Act 2013*.³⁵

“In general, where the 2013 Act had some specifics in terms of regulation-making powers and affirmative and negative procedures, we have passported those into the new Bill. The reason that we have done that is because, of course, if they were fit for purpose, and the Assembly deemed that they were fit for purpose less than 12 months ago, I have assumed that

³³ Carl Sargeant AM, Minister for Housing and Regeneration, *Evidence to the Communities, Equality and Local Government Committee – Holiday Caravan Sites (Wales) Bill*, 28 May 2014

³⁴ CLA Committee, *RoP paragraph [25]*, 9 June 2014:25

³⁵ See paragraph 10

the Assembly will deem that they are fit for purpose on this occasion as well.”³⁶

40. When questioned on the approach he adopted in choosing the procedure for each section he said:

“It was not just, ‘Everything is okay’. To be fair, as far as the 2013 Act is concerned, I have taken the view that, given that the Assembly voted on it in fairly recent history, it was likely not to have changed its mind. When it came to the 1960 Act, we were a bit more meticulous about considering those parts that will apply under the new licensing regime, should it become law. That is why I have been quite deliberate, really, in the approach that I have taken.”³⁷

Our view

41. We are broadly content with the procedures applied to the making of subordinate legislation under this Bill. We do however have some observations and comments on certain provisions and these are set out below.

Section 2 - Meaning of “holiday caravan”; Section 3 - Meaning of “holiday caravan site” and Schedule 1 - Sites which are not holiday caravan sites.

42. Section 2 defines “holiday caravan” for the purposes of the Bill, while section 3 defines the meaning of “holiday caravan site” and introduces schedule 1, which sets out which sites are not holiday caravan sites.

43. Section 2(3) provides that “holiday caravan” does not include a structure designed or adapted for human habitation if its dimensions, when assembled, exceed certain limits. Section 2(4) allows the Welsh Ministers to substitute, by order, any of those dimensions for a different dimension. The power is exercised by the use of the negative procedure because:

³⁶ CLA Committee, *RoP paragraph [142]*, 9 June 2014

³⁷ CLA Committee, *RoP paragraph [170]*, 9 June 2014

“These orders will prescribe technical matters of detail which may change from time to time.”³⁸

44. Paragraph 3(1) of schedule 1 provides that a site is not a caravan site in certain circumstances, namely in respect of the area covered (currently 20,000 square metres) and two conditions having been met in the previous 12 months. Paragraph 3(2) of schedule 1 permits the Welsh Ministers, by order, to substitute the reference to 20,000 square metres with a smaller area. It also permits the Welsh Ministers, by order, to provide that the one of the conditions in paragraph 3(1)(b), namely that not more than three holiday caravans may be stationed on the land at any one time, applies only between certain dates in any year specified in the order. An order made under these provisions are subject to no procedure because:

“These orders will prescribe technical matters of detail which may change from time to time.”³⁹

45. Darren Millar AM indicated that the provisions used had been copied from the 2013 Act,⁴⁰ which gave the legislation some consistency.⁴¹ He said:

“... we are talking about a different sort of industry, but in terms of size et cetera, they are both taken from the 2013 Act. I think that it is entirely appropriate for Ministers to be able to determine what constitutes, in terms of scale and size, a holiday caravan site, and what does not. I think that, when you talk about definitions of caravans, though, it is something that should be following the negative procedure. So, that is why we have two different procedures here, in terms of the approach that we have taken, and why we have sought to be consistent with the 2013 Act.”⁴²

46. When pressed further, Darren Millar AM said:

“These provisions have been passported into the Bill, from the 1960 Act, and are consistent with the 2013 Act.”⁴³

³⁸ Explanatory Memorandum, Chapter 5, page 40

³⁹ Explanatory Memorandum, Chapter 5, page 42

⁴⁰ CLA Committee, *RoP paragraph [144 and 148]*, 9 June 2014

⁴¹ CLA Committee, *RoP paragraph [144]*, 9 June 2014

⁴² CLA Committee, *RoP paragraph [148]*, 9 June 2014

⁴³ CLA Committee, *RoP paragraph [159]*, 9 June 2014

and

“They are in this Bill because I have not received any evidence that those existing powers are inappropriate.”⁴⁴

Our view

47. We note that the same argument is used by the Member in charge to justify the use of the negative procedure and no procedure for these provisions. We consider that the Explanatory Memorandum should have provided better explanations for the use of each procedure.

48. We are content with the negative procedure applied in respect of the order-making provision in section 2(4) but comment on the way in which section 69 of the Bill (orders, regulations and guidance) is applied to section 2(4) at paragraph 61.

49. We are content for no procedure to apply to the order-making provision in paragraph 3(2) of Schedule 1.

Section 16 – Site inspections and licence reviews

50. Section 16(1) requires local authorities to inspect holiday caravan sites at least once every three years. Section 16(2) provides that this duty does not commence until the Welsh Ministers appoint, by regulations, a commencement day, after having consulted with organisations representative of interests substantially affected by the regulations. The Explanatory Memorandum says that:

“These regulations are confined to commencement and are technical in nature. Negative procedure is appropriate for commencement of the duty to introduce site inspections.”⁴⁵

51. The Member in charge explained the rationale for applying a negative procedure to a commencement provision:

“This, of course, is a new provision; it was not in the previous legislation and it is really important to get the timing of site inspections right, which was why we felt that it was necessary for the Minister to consult and to put that on the face of the

⁴⁴ CLA Committee, *RoP paragraph [161]*, 9 June 2014

⁴⁵ Explanatory Memorandum, Chapter 5, page 40

Bill, under a negative procedure, to make sure that people have the opportunity to give their views.”⁴⁶

52. The Minister suggested that no procedure should be applied.⁴⁷

Our view

53. We recognise that the Member in charge has given thought to the impact of this legislation on those affected by seeking to apply the negative procedure to regulations commencing site inspections. We accept that this represents a novel approach for a provision that identifies a commencement date only. We note the reasons for the approach put forward by the Member in charge and would have no objection to the use of the negative procedure.

54. However, as currently drafted, the Bill applies no procedure to the making of regulations under section 16(2), which, based on the Explanatory Memorandum and the evidence of the Member in charge, would appear to be an oversight.

Recommendation 1: we recommend that the Member in charge reviews the procedure he wishes to apply to section 16(2) and if necessary, tables an appropriate amendment to the Bill.

Section 66 – Consequential amendments and transitionals etc; Section 69 – Orders, regulations and guidance; Section 70 – Commencement

55. Section 66(1)(b) gives the Welsh Ministers power by order to make any amendment (including by revocation or repeal) of any enactment or instrument which is consequential on any provision of the Bill. This power is exercised by the affirmative procedure.

56. Section 66(1)(c) gives the Welsh Ministers power, by order, to make “transitional provision, or saving”, which appears appropriate in connection with the coming into force of any provisions of the Bill once enacted. The Explanatory Memorandum suggests that the negative procedure applies to the making of such orders,⁴⁸ although, as the Bill is currently drafted, no procedure applies.

⁴⁶ CLA Committee, *RoP paragraph [172]*, 9 June 2014

⁴⁷ CLA Committee, *RoP paragraph [90]*, 9 June 2014

⁴⁸ Explanatory Memorandum, Chapter 5, page 41

57. Section 69(4) applies the affirmative procedure to certain order and regulation-making powers, while section 69(5) applies the negative procedure unless a draft of the instrument has been approved in accordance with subsection (4).

58. Section 69(7) permits any order made under the Bill once enacted to contain such incidental, supplementary, consequential, transitional or saving provisions as the Welsh Ministers.

59. Section 70(2) allows the Welsh Ministers to bring the Bill once enacted into force, by order(s) on a date appointed by them. An order may appoint different days for different purposes. There is no procedure applied to an order under section 70(2).

Our view

60. Section 66(1)(c) would appear to require amending to read “transitional or saving provision” rather than “transitional provision, or saving”.

Recommendation 2: we recommend that the Member in charge should consider tabling an amendment to clarify the wording of section 66(1)(c) of the Bill.

61. In our view there is a lack of clarity in the way the negative procedure is applied under section 69(5). For example, section 69(5)(b) applies the negative procedure to an order made under section 2(4) unless a draft has been approved in accordance with section 69(4). However, the procedure in section 69(4) does not apply to an order under section 2(4) (see section 69(4)(c)).

62. In our view it would be simpler to provide a list of those provisions that are subject to the affirmative procedure and those that are subject to the negative procedure.

Recommendation 3: we recommend that the Member in charge should table amendments to the Bill to make the way in which procedures are applied to the making of statutory instruments simpler.

63. In line with our views on the making of commencement orders, we believe that such orders that make incidental, supplementary, consequential, transitional or saving provisions in connection with the

coming into force of a provision should be subject to scrutiny and the negative procedure.

Recommendation 4: we recommend that the negative procedure is applied to commencement orders made in connection with the powers contained in section 66(1)(c) and / or section 69(7) of the Bill.