

NATIONAL ASSEMBLY

FOR WALES

LEGISLATION COMMITTEE

**FIRST ASSEMBLY: FOURTH ANNUAL
REPORT**

2002 - 2003

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FIRST ASSEMBLY: FOURTH ANNUAL REPORT

2002 - 2003

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SUMMARY OF THE WORK OF THE LEGISLATION COMMITTEE 2002-2003

FOURTH YEAR ANALYSIS:

COMMITTEE RESPONSIBILITIES: Standing Order 11.5

Standing Order 11.5 sets out grounds on which the Committee are to invite the National Assembly to pay special attention to legislation. The grounds are as follows:

- doubt as to whether the legislation is within the Assembly's powers
- the legislation appears to make unusual or unexpected use of the powers
- it is excluded from challenge in the courts
- it appears to have unauthorised retrospective effect
- its form or meaning needs further explanation
- its drafting appears to be defective
- it fails to fulfil statutory or other legal requirements
- there appear to be inconsistencies between the English and the Welsh texts.

Before reporting to the Assembly, the Committee is, under Standing Order 11.4, required to notify the relevant Assembly Minister of this intention and invite him or her to give evidence to the Committee.

During the reporting period (September 2002 – March 2003) the Committee considered 153 pieces of legislation.

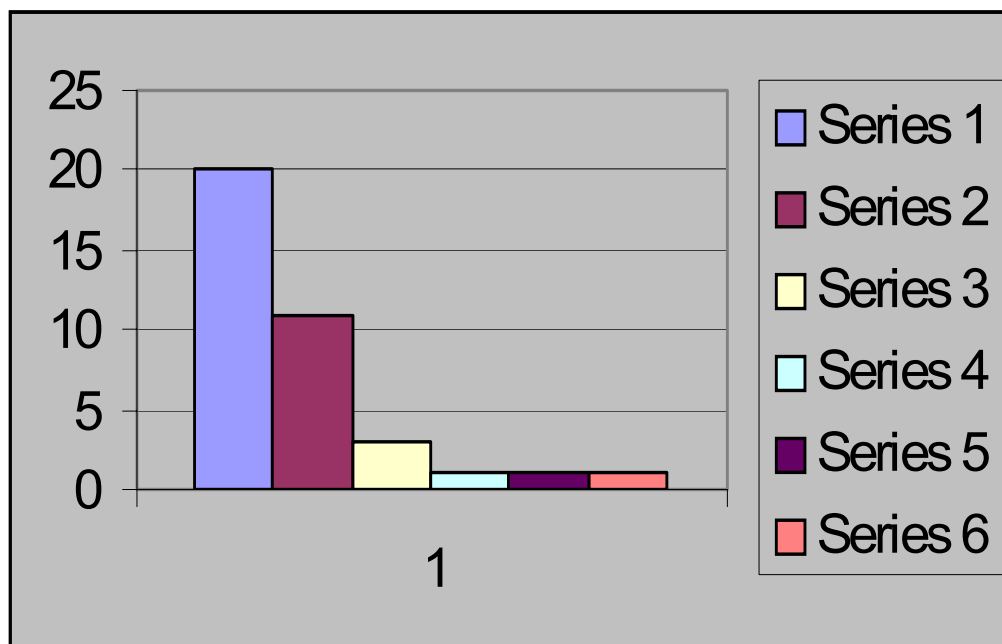
The Committee invited the Assembly to pay special attention to legislation on 37 separate occasions. In the majority of cases those defects were capable of correction by Memorandum of Correction: 25 out of total 37 occasions. In 1 case the defects were appropriate for correction in the printed version.

The reasons why the Committee invited the Assembly to pay special attention to Statutory Instruments were as follows:

- drafting appeared to be defective - 20 cases

- drafting appeared to be defective and form or meaning needed further explanation - 11 cases
- there were inconsistencies between the English and the Welsh texts - 3 cases
- form or meaning needed further explanation - 1 case
- drafting appeared to be defective and there were inconsistencies between the English and the Welsh texts - 1 case
- drafting appeared to be defective; form or meaning needed further explanation; doubt as to whether the legislation is within the Assembly's powers and there was an unusual or unexpected use of powers – 1 case

Distribution of Problems Established by the Committee under Standing Order 11.5 (Bar Chart)



Series 1 - Drafting appeared to be defective

Series 2 - Drafting appeared to be defective and form or meaning needed further explanation

Series 3 - There were inconsistencies between the English and the Welsh texts

Series 4 - Form or meaning needed further explanation

Series 5 - Drafting appeared to be defective and there were inconsistencies between the English and the Welsh texts

Series 6 – Drafting appeared to be defective; form or meaning needed further explanation; doubt as to whether the legislation is within the Assembly's powers and there was an unusual or unexpected use of powers

Observations

Besides reporting formally under Standing Order 11.5, the Committee's reports to the Assembly have included observations on minor defects.

The Committee pointed out the cases where drafting could have been simplified to assist the reader on 39 occasions. Suggestions were made on the need for greater clarity on 28 occasions. Typographical errors were found in (27) cases. 4 cases contained grammatical errors.

The vast majority of submitted Orders have followed the Committee's suggestion that the use of gender specific language be avoided. Only 3 Orders were found to contain instances of gender specific language.

The National Assembly is required to produce bilingual legislation except where this is inappropriate or not reasonably practicable. 151 of the Orders submitted to the Committee were drafted bilingually, of which only 1 contained inconsistencies between the English and Welsh texts.

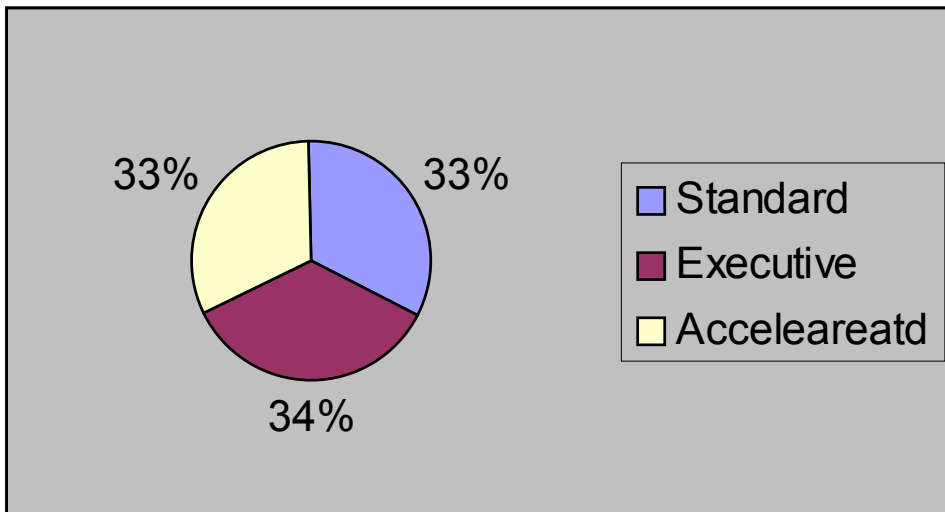
At present out of a total of 153 Orders considered by the Committee during the period from September 2002 to March 2003, 152 are available as final printed versions. Of these, 39 final versions fully took into account Committee suggestions; 12 final versions incorporated some of the suggestions; 22 final versions did not incorporate the suggestions; the Committee's points were taken into consideration and amendments are intended by way of an amending Order in 9 cases. The Committee did not need to make any comments in respect of 70 Orders. At the time of the writing of this Fourth Annual Report the final printed versions have not been issued as yet for 1 Order. It should be noted that relatively high percentage of printed versions that did not incorporate the Committee's suggestions (i.e., 22 final versions) was largely observed in Statutory Instruments that followed the Executive procedure (these Instruments are issued before they are seen by the Committee).

In many instances the legal advisers to the Committee had been able to comment on early drafts of legislation. This has resulted in a considerable number of drafting and similar points being rectified prior to formal submission of the legislation to the Committee.

Procedures By Which Legislation Is Made

The National Assembly processes legislation in four different ways: by Standard Procedure, Executive Procedure, Accelerated Procedure and Extended Procedure. Out of total 153 Orders considered by the Committee during the period from September 2002 to March 2003, 50 cases were processed by Standard Procedure; 53 cases - by Executive Procedure; 50 cases - by Accelerated Procedure. No legislation followed Extended Procedure.

Procedures By Which Legislation Is Made (Pie Chart)



OPERATIONAL MATTERS

Legislation Committee met almost every week and had therefore very tight deadlines. However, there were no problems with the operational side. All draft orders and legal adviser reports were placed on the agenda of the meetings held soon after the date when the draft orders were laid before the Assembly. The Committee team aimed to provide Members with all papers two working days before the meeting. Following each meeting the Secretariat ensured that the Committee's Reports were laid before the Assembly as soon as possible, often on the same day. The reports and minutes were placed on the intranet and internet within two working days. All SO 11.4 letters from the Chair were sent within that time scale as well.

OTHER ACTIVITIES

VISIT TO THE OFFICE OF THE COUNSEL GENERAL

At the meeting of the Legislation Committee 9.07.02 a general question was raised regarding the procedure of drafting statutory instruments, given the fact that laid orders still seemed to contain typographical errors. The Committee decided to visit the Office of the Counsel General to gain a better understanding of the process of the legislative drafting, in the light of this concern.

Accordingly, on 5.11.02 the Chair of the Legislation Committee Mick Bates AM, Committee Members Rosemary Butler AM, Ann Jones AM, Dai Lloyd AM, Owen John Thomas AM and the Committee officials visited Office of the Counsel General and held a discussion with Assistant Counsel General Ms Angela Parkes, Senior Assembly Counsel Mr Gwyn Griffiths, Assembly Counsel Ms Catrin Huws and Senior Executive Officer Mr Alun Jenkins.

In the course of discussion it was mentioned that the OCG was grateful for constructive criticism. The Committee was given an overview of work of the Office of Counsel General and the role of the Legislation Management Unit was explained. It was explained that the difficulties faced by the lawyers were the combination of speed with which they had to create legislation in order to meet tight deadlines and the thoroughness of the preparation of the Statutory Instruments. Not always there was time to show draft legislation to the Legal Adviser to the Legislation Committee for checking beforehand. Thus typographical and similar errors sometimes still slipped unnoticed.

The Committee was briefed on the process of co-drafting of legislation simultaneously both in English and Welsh. This process involved two original texts rather than the translation of one text into another language. It was noted that the co-drafting process was longer and it involved two lawyers' working time. The resulting legislation, however, was prepared extremely thoroughly and potentially should have fewer errors. The Chair of the Legislation Committee pointed out that the National Assembly for Wales had a great desire eventually to have all its legislation co-drafted and on behalf of the Committee commended the work of the OCG on co-drafting of Statutory Instruments.

SUBMISSION TO THE RICHARD COMMISSION

On 6.12.02 the Chair of the Legislation Committee Mick Bates AM accompanied by the Committee officials appeared before the Lord Richard Commission and made a submission. The following issues were among those raised in the submission:

- Sufficiency of powers as provided by the Government of Wales Act to the Assembly to operate effectively and meet the expectations of the people of Wales: it was stressed that at the moment there is an inconsistency in an Assembly in Wales with responsibility for implementing policy without influencing it and a Parliament in London with responsibility for legislating for policy without implementing it;

- Failure of the present system to involve AMs' or wider interests in formation of bids for Westminster legislation, or in policy which lies behind bids;
- Disappointment that the UK government has not responded more positively to bids for legislation, noting that since devolution there has been only one Wales-only Act and one Bill scheduled for the coming Parliamentary session;
- Importance of conferring on the Assembly powers of primary legislation within Wales to allow the development of the political and legal capacity to give full expression to the policy requirements of Wales: examples of the use of primary legislative powers in a Wales Legislature would be such areas as Health (Free Personal Care); Education (in order to adjust tuition fees) and Animal Health.

Regarding the possible impact of increased powers, the Committee noted the following:

- If the Assembly were to receive primary legislative powers and the present structure were split into a separate Legislature and Executive, the function of making subordinate legislation would, if the Westminster and Scotland pattern were adopted, be vested in the Executive. The Committee would be reporting to the Legislature in relation to action taken by the Executive;
- The possibility of the Legislation Committee having the additional function of reporting on subordinate legislation powers in proposed primary legislation;
- The possibility of the Legislation Committee having a role in advising the Legislature on the drafting of primary legislation as introduced in the Legislature.

PRIMARY LEGISLATION SEMINAR

On 22.01.03 the Committee Secretariat and the Office of the Counsel General held a joint seminar on primary legislation. The seminar was intended for the Assembly Members, their research staff and civil servants. The seminar was very well attended. The participants found the seminar very informative and pointed out that handouts were particularly useful.

PAPER FOR BUSINESS COMMITTEE ABOUT ASSEMBLY REVIEW OF PROCEDURE'S RECOMMENDATION (PARAGRAPH 8.10 OF FINAL REPORT)

On 28.01.03 at the Plenary the Presiding Officer raised one of the Legislation Committee's recommendations to the Assembly Review of Procedure regarding

its role in ensuring that subordinate legislation procedures are being fully complied with (such as regulatory appraisal, environmental impact assessment and consultation with business). Following this, the Business Committee asked the Legislation Committee to submit its views on the implementation of this recommendation. The Committee was concerned that there was no progress with this issue and on 11.02.03 a letter to this effect was written to the Deputy Presiding Officer and copied to the Presiding Officer. As the Committee did not receive a reply, this issue was raised again in the Committee meeting during the second Assembly on 10.06.03 and another letter to this effect was written to the Chair of the Business Committee Jenny Randerson AM and copied to the Presiding Officer.

VISIT OF THE CLERK TO THE SELECT COMMITTEE ON DELEGATED POWERS AND REGULATORY REFORM CHRISTINE SALMON

On 18.03.03 the Clerk to the Select Committee on Delegated Powers and Regulatory Reform Ms Christine Salmon attended the meeting of the Legislation Committee and gave a brief presentation on the role of her Committee. This was followed by a brief presentation by the Legal Adviser to the Committee John Turnbull on the role of the Legislation Committee. After the presentation there was a discussion.

Statutory Instruments Considered by the Legislation Committee

LC530	The Food and Animal Feedingstuffs (Products of Animal Origin from China) (Emergency Control) (Wales) Regulations 2002, SI 2002 No.1798(W.173)
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Considered by the Legislation Committee on: 15th October 2002

The Committee did not identify any points reportable under S.O. 11.5. The legal advisers to the Committee had had the opportunity to consider an early draft when a number of drafting points had been identified and subsequently corrected.

LC531	The Child Minding and Day Care (Wales) (Amendment) Regulations 2002, 2002 No.2171(W218)
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Considered by the Legislation Committee on: 15th October 2002

The Committee did not identify any points reportable under S.O. 11.5. Under observations the Committee noted that the Regulations needed further clarification in a sense that it would have been better for all provisions to be made as free-standing modifications leaving the text of the main regulations intact; the definition of “a summer playscheme”, paragraphs (B) - (D) of regulation 4(3)(c)(iii) and paragraph (7)(d) of regulation 16 contained drafting defects; paragraph (4)(b) of regulation 16(5) needed further clarification and the footnote to the Preamble should have referred to section 120(2) of the Care Standards Act 2000 to indicate how the enabling powers were vested in the Assembly.

LC532	The Animal Gatherings (Interim Measures) (Wales) (Amendment) (No. 2) Order 2002, SI 2002 No.2060 (W.209)
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Considered by the Legislation Committee on: 15th October 2002

The Committee did not identify any points reportable under S.O. 11.5.

LC 533	The Bus Service Operators Grant (Wales) Regulations 2002, SI 2002 No.2022(W.206)
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Considered by the Legislation Committee on: 15th October 2002

The Committee did not identify any points reportable under S.O. 11.5. Under observations the Committee noted one typographical mistake in the Welsh text of the Explanatory Note (“1992” should have been “1965”).

LC534 The Disease Control (Interim Measures) (Wales) (Amendment No. 3) Order 2002, SI 2002 No. 2061 (W. 210)

Considered by the Legislation Committee on: 15th October 2002

The Committee did not identify any points reportable under SO 11.5. Under observations the Committee noted that Paragraph (a) of the explanatory note needed further clarification and that there was a typographical error in paragraph (b) of the English text of the explanatory note (“article 3(3)(b)” should have been “article 3(2)(b)”).

LC535 The Transport Act 2000 (Commencement No. 2) (Wales) Order 2002, SI 2002 No. 2024 (W.208) (C.65)

Considered by the Legislation Committee on: 15th October 2002

The Committee did not identify any points reportable under S.O. 11.5. Under observations the Committee noted that the citation of powers and the opening paragraph of the explanatory note needed further clarification; the Welsh text of the explanatory note contained grammatical/typographical errors. It was also noted that two errors in the copy order submitted to the Committee have been corrected in the published version (i.e. incorrect date in explanatory note and incorrect year in preamble).

LC536 The Travel Concessions (Eligible Services) (Wales) Order 2002, SI 2002 No. 2023 (W.207)

Considered by the Legislation Committee on: 15th October 2002

The Committee identified several points reportable under SO 11.5: the citation provision in Article 1(1) and the heading on page 2 contained inconsistencies between the English and Welsh texts; Article 3(4) contained a drafting error (“regulation” should have been “article” and “rheoliad hwn” should have been “erthygl hon”). Under observations the Committee noted one typographical error in the Welsh text of the explanatory note (“1992” should have been “1965”) and one drafting error in the reference to section 154(6) (the word “adran” had been omitted).

LC537 The Environmental Impact Assessment (Uncultivated Land and Semi-Natural Areas) (Wales) Regulations 2002 SI 2002 No. 2127 (W.214)

Considered by the Legislation Committee on: 15th October 2002

The Committee did not identify any points reportable under S.O. 11.5. The legal advisers to the Committee had had the opportunity to consider an early draft when a number of points had been identified and subsequently corrected. Under observations the Committee noted that the Regulation contained an inconsistency between the English and the Welsh texts (the wording “in accordance with regulation 13” which appeared in the English text was not reciprocated in the Welsh text) and paragraph 4 of Schedule 3 needed clarification.

LC538 The Velindre National Health Service Trust (Establishment) Amendment (No. 2) Order 2002, SI 2002 No. 2199 (W.219)

Considered by the Legislation Committee on: 15th October 2002

The Committee did not identify any points reportable under S.O. 11.5. Under observations the Committee noted that the heading to article 1 and the first paragraph of the Welsh text of the explanatory note contained small drafting errors and the footnote (ch) in the Welsh text had one typographical mistake.

LC539 The Town and Country Planning (Fees for Applications and Deemed Applications) (Amendment No. 2) (Wales) Regulations 2002, SI 2002 No. 2258 (W.222)

Considered by the Legislation Committee on: 15th October 2002

The Committee did not identify any points reportable under S.O. 11.5. Under observations the Committee noted a typographical error in paragraph 11(b) in Schedule 1 (“for use” should have been “the use”).

LC540 The Food (Peanuts from China) (Emergency Control) (Wales) (No. 2) Regulations 2002 SI 2002 No. 2295 (W.224)

Considered by the Legislation Committee on: 15th October 2002

The Committee did not identify any points reportable under S.O. 11.5. Under observations the Committee noted that the title as printed on page 1 and the heading in the bracketing wording immediately under explanatory note contained drafting mistakes.

LC541 The Protection of Water Against Agricultural Nitrate Pollution (Amendment) (Wales) Regulations 2002 SI 2002 No. 2297 (W. 226)

Considered by the Legislation Committee on: 15th October 2002

The Committee did not identify any points reportable under S.O. 11.5. Under observations the Committee noted that the reference to "the chief officer" in regulation 3C(3)(c) needed further clarification; the English text of regulation 1(3) contained one typographical mistake ("Agricultural" had been omitted from the title of the 1996 regulations) and the Welsh text contained some small typographical and grammatical points.

LC542	The Food (Figs, Hazelnuts and Pistachios from Turkey) (Emergency Control) (Wales) (No. 2) Regulations 2002, SI 2002 No.2296 (W.225)
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Considered by the Legislation Committee on: 15th October 2002

The Committee did not identify any points reportable under S.O. 11.5.

LC543	The Sheep and Goats Identification and Movement (Interim Measures) (Wales) (No. 2) Order 2002, SI 2002 No.2302(W.227)
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Considered by the Legislation Committee on: 15th October 2002

The Committee identified one point reportable under SO 11.5: there was an inconsistency between the English and Welsh texts in regulation 5(2)(f)/(dd). Under observations the Committee noted due to a discrepancy between the Welsh and English texts an amending order should be made. The Committee further noted that in Schedule it would be better to have the heading and opening wording of the document in full page bilingual format (rather than dual column format).

LC544	The Disease Control (Interim Measures) (Wales) (No.2) Order 2002, SI 2002 No.2304 (W.229)
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Considered by the Legislation Committee on: 15th October 2001

The Committee identified several points reportable under SO 11.5: Paragraph (b) of Article 4 and Article 6(4) needed further clarification; drafting of Article 9(1) was defective. These points applied equally to the Welsh text. Under observations the Committee noted that Citation of powers needed further clarification; some typographical and similar points had been drawn to the attention of those responsible for the processing of this order so that they could be corrected in the published version.

LC545 The Pigs (Records, Identification and Movement)(Interim Measures)(Wales)(No.2)Order 2002

Considered by the Legislation Committee on: 15th October 2002

The Committee identified one point reportable under SO 11.5: there was an inconsistency between the English and Welsh as in article 3(1) the English text used the word “keeper” which was defined in article 2(1) but the Welsh text did not use the defined word “ceidwad”. Under observations the Committee noted that the prescribed forms in Schedules 1 and 2 needed further clarification.

LC546 The Bovines and Bovine Products (Trade) (Amendment) (Wales) (No. 2) Regulations 2002, SI 2002 No.2325 (W.232)

Considered by the Legislation Committee on: 15th October 2002

The Committee identified one point reportable under SO 11.5: drafting of the Regulation 2(2)(c) was defective as sub-paragraph (c) should have been revoked. Under observations the Committee noted some typographical and similar points.

LC547 The Disease Control (Interim Measures) (Wales) (No. 2) (Amendment) Order 2002

Considered by the Legislation Committee on: 15th October 2002

The Committee identified one point reportable under SO 11.5: drafting of the amendments to Article 6(3) in Article 2(8)(a) was defective both in the English and Welsh texts. On the basis that this was merely a clerical error, it was suggested that the paragraph in question could be omitted from the printed order.

LC548 The National Health Service Reform and Health Care Professions Act 2002 (Commencement) (Wales) Order 2002

Considered by the Legislation Committee on: 15th October 2002

The Committee did not identify any points reportable under S.O. 11.5. The legal advisers to the Committee had had the opportunity to consider an early draft when a number of points had been identified and subsequently corrected.

LC549 The Town and Country Planning (Costs of Inquiries etc) (Standard Daily Amount) (Wales) Regulations 2002

Considered by the Legislation Committee on: 29th October 2002

The Committee did not identify any points reportable under S.O. 11.5.

LC550	The Fees for Inquiries (Standard Daily Amount) (Wales) Regulations 2002
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Considered by the Legislation Committee on: 29th October 2002

The Committee did not identify any points reportable under S.O. 11.5.

LC551	The Plastic Materials and Articles in Contact with Food (Amendment) (Wales) Regulations 2002
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Considered by the Legislation Committee on: 29th October 2002

The Committee identified three points reportable under S.O.11.5 that were appropriate for correction by means of a Memorandum of Corrections under S.O.22.12A:

- Section 31 of the 1990 Act was to be added to the enabling powers;
- The preamble was to include a recital that consultation had taken place in compliance with Regulation (EC) No. 178/2002;
- The provision which regulation 11 inserts as regulation 8B(3) was to be omitted.

LC552	The Children Act 1989 and the Care Standards Act 2000 (Miscellaneous Regulations) (Amendment) (Wales) Regulations 2002
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Considered by the Legislation Committee on: 29th October 2002

The Committee did not identify any points reportable under S.O. 11.5. The legal advisers to the Committee had had the opportunity to consider an early draft when a number of points had been identified and subsequently corrected. Under observations the Committee noted a number of typographical and similar errors which could be corrected in the printed version.

LC553	The Local Authorities (Operation of Different Executive or Alternative Arrangements) (Wales) Regulations 2002
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Considered by the Legislation Committee on: 5th November 2002

The Committee did not identify any points reportable under S.O. 11.5. The legal advisers to the Committee had had the opportunity to consider an early draft when a number of matters had been identified and subsequently corrected.

LC554 The Abortion (Amendment) (Wales) Regulations 2002

Considered by the Legislation Committee on: 5th November 2002

The Committee did not identify any points reportable under S.O. 11.5. Under observations the Committee noted one drafting mistake (in the Explanatory Note “the Schedule” should be “Schedule 1”) and third paragraph needed clarification (it was not clear that the notification requirements were in regulation 4 rather than Schedule 2).

LC555 The General Teaching Council for Wales (Amendment) Order 2002

Considered by the Legislation Committee on: 12th November 2002

The Committee did not identify any points reportable under S.O. 11.5.

LC556 The Local Authorities (Executive Arrangements) (Discharge of Functions) (Amendment) (Wales) Regulations 2002

Considered by the Legislation Committee on: 12th November 2002

The Committee did not identify any points reportable under S.O. 11.5. The legal advisers to the Committee had had the opportunity to consider an early draft when a drafting modification was suggested and taken into account.

LC557 The Children Act 1989 and the Care Standards Act 2000 (Miscellaneous Amendments) (Wales) (No. 2) Regulations 2002

Considered by the Legislation Committee on: 12th November 2002

The Committee did not identify any points reportable under S.O. 11.5. Under observations the Committee noted some typographical points.

LC558 The Education (Teachers’ Qualifications and Health Standards) (Wales) (Amendment) Regulations 2002

Considered by the Legislation Committee on: 12th November 2002

The Committee did not identify any points reportable under S.O. 11.5.

LC559 The General Teaching Council for Wales (Disciplinary Functions) (Amendment) Regulations 2003

Considered by the Legislation Committee on: 12th November 2002

The Committee did not identify any points reportable under S.O. 11.5.

LC560 The Travel Concessions (Eligibility) Act 2002 (Commencement) (Wales) Order 2002

Considered by the Legislation Committee on: 19th November 2002

The Committee did not identify any points reportable under S.O. 11.5. Under observations the Committee noted that explanatory note needed one further clarification.

LC561 The Commonhold and Leasehold Reform Act 2002 (Commencement No. 1, Savings and Transitional Provisions) (Wales) Order 2002

Considered by the Legislation Committee on: 19th November 2002

The Committee did not identify any points reportable under S.O. 11.5. The legal advisers to the Committee had had the opportunity to consider an early draft when some points had been identified and subsequently corrected.

LC562 The Arrangements for Placement of Children (General) and the Review of Children's Cases (Amendment) (Wales) Regulations 2002

Considered by the Legislation Committee on: 19th November 2002

The Committee did not identify any points reportable under S.O. 11.5. Under observations the Committee noted minor clerical errors in the heading which were suitable for correction in the published version.

LC563 The Food for Particular Nutritional Uses (Addition of Substances for Specific Nutritional Purposes) (Wales) Regulations 2002

Considered by the Legislation Committee on: 19th November 2002

The Committee did not identify any points reportable under S.O. 11.5. Under observations the Committee noted that footnote (b) in the preamble needed clarification.

LC564 The Quality Partnership Schemes (Existing Facilities) (Wales) Regulations 2002

Considered by the Legislation Committee on: 19th November 2002

The Committee did not identify any points reportable under S.O. 11.5. Under observations the Committee noted that footnote (a) to the preamble needed one further clarification.

LC565 The Plant Health (Phytophthora ramorum) (Wales) (No. 2) Order 2002

Considered by the Legislation Committee on: 19th November 2002

The Committee did not identify any points reportable under S.O. 11.5.

LC566 The National Assembly for Wales (Returning Officers' Charges) Order 2002

Considered by the Legislation Committee on: 26th of November 2002

The Committee did not identify any points reportable under S.O. 11.5. The legal advisers to the Committee had had the opportunity to consider an early draft when a number of points had been identified and subsequently corrected. Under observations the Committee noted that the preamble needed clarification, which could be included in a memorandum of corrections.

LC567 The Organic Products (Wales) Regulations 2002

Considered by the Legislation Committee on: 26th of November 2002

The Committee did not identify any points reportable under S.O. 11.5.

LC568 The Relocation Grants (Forms of Application) (Amendment) (Wales) Regulations 2002

Considered by the Legislation Committee on: 26th of November 2002

The Committee did not identify any points reportable under S.O. 11.5. Under observations the Committee noted some typographical points that could be corrected on printing.

LC569 The Housing Renewal Grants (Prescribed Forms and Particulars) (Amendment) (Wales) Regulations 2002

Considered by the Legislation Committee on: 26th of November 2002

The Committee did not identify any points reportable under S.O. 11.5.

LC570 The Housing Renewal Grants (Amendment) (Wales) Regulations 2002

Considered by the Legislation Committee on: 26th of November 2002

The Committee did not identify any points reportable under S.O. 11.5. Under observations the Committee noted some typographical and similar points that could be corrected on printing.

LC571 The Education (Assembly Learning Grant Scheme) (Wales) (Amendment) Regulations 2002

Considered by the Legislation Committee on: 26th of November 2002

The Committee did not identify any points reportable under S.O. 11.5. The legal advisers to the Committee had had the opportunity to consider an early draft when one point was identified and subsequently corrected.

LC572 The National Health Service (General Medical Services Supplementary List) (Wales) (Amendment), the National Health Service (General Medical Services) (Amendment) (Wales) (No. 3), the National Health Service (General Dental Services) (Amendment) (Wales) (No. 3) and the National Health Service (General Ophthalmic Services) (Amendment) (Wales) (No. 2) Regulations 2002

Considered by the Legislation Committee on: 3rd of December 2002

The Committee identified several points reportable under S.O.11.5 that were appropriate for rectification as printing corrections: the substituted sub-paragraph (e) in Regulation 5(6)(iv) needed clarification; Regulation 7 contained some defective drafting, i.e., the number of paragraph (1) had been omitted, paragraph (2) contained unnecessary numbering (i) and (ii) and unnecessary wording in its opening provision; paragraphs (d) and (e) should be (3) and (4) and should refer to regulation 5, paragraphs (3) - (9) should be (5) - (11). Under observations the Committee noted that Title, Regulation 1(2) and Regulation 5(1) needed further clarification; sub-paragraph (b) in Regulation 7 contained

some defective drafting.

LC573 The National Health Service Reform and Health Care Professions Act 2002 (Commencement) (Wales) (No. 2) Order 2002

Considered by the Legislation Committee on: 10th of December 2002

The Committee identified several points reportable under S.O.11.5:

- There was doubt whether the present Order was within the Assembly's powers (the commencement of Schedules needed clarification as it seemed that they had already been commenced on an earlier date);
- The citation of powers contained a drafting defect;
- The inclusion of article 1(3) which states that the Order applies to Wales only, appeared to constitute an unusual or unexpected use of the enabling power.

LC574 The Non-Domestic Rating Contributions (Wales) (Amendment) Regulations 2002

Considered by the Legislation Committee on: 3rd of December 2002

The Committee did not identify any points reportable under S.O. 11.5.

LC575 The Air Quality (Amendment) (Wales) Regulations 2002

Considered by the Legislation Committee on: 3rd of December 2002

The Committee did not identify any points reportable under S.O. 11.5. Under observations the Committee noted that "lonawr" at the head of the English text needs to be corrected to "January" in the printed version.

LC576 The Street Works (Inspection Fees) (Amendment) (Wales) Regulations 2002

Considered by the Legislation Committee on: 3rd of December 2002

The Committee did not identify any points reportable under S.O. 11.5.

LC577 The Genetically Modified Organisms (Deliberate Release) (Wales) Regulations 2002

Considered by the Legislation Committee on: 3rd of December 2002

The Committee did not identify any points reportable under S.O. 11.5. The legal advisers to the Committee had had the opportunity to consider an early draft when some small drafting points had been identified and subsequently corrected.

LC578 The National Health Service (Pharmaceutical Services) and (General Medical Services) (Amendment) (Wales) Regulations 2002

Considered by the Legislation Committee on: 10th of December 2002

The Committee did not identify any points reportable under S.O. 11.5. Under observations the Committee noted that when Schedule 2 was next amended it would greatly assist the user in Wales if a separate Schedule 2A was inserted for Wales.

LC579 The Inspection of Boarding Schools and Colleges (Powers and Fees) (Wales) Regulations 2002

Considered by the Legislation Committee on: 10th of December 2002

The Committee did not identify any points reportable under S.O. 11.5.

LC580 The Housing (Right to Acquire and Right to Buy) (Designated Rural Areas and Designated Regions) (Wales) Order 2003

Considered by the Legislation Committee on: 3rd of December 2002

The Committee identified one point reportable under S.O.11.5 that was appropriate for correction by means of a Memorandum of Corrections under S.O.22.12A: there was an apparent drafting defect in article 4(2) both in the English and in the Welsh texts. Under observations the Committee noted that Preamble needed clarification and footnotes identified in article 5 and in the attestation provision were missing.

LC581 The Leasehold Reform (Notices) (Amendment) (Wales) Regulations 2002

Considered by the Legislation Committee on: 10th of December 2002

The Committee did not identify any points reportable under S.O. 11.5. The legal advisers to the Committee had had the opportunity to consider an early draft when one point of doubt was identified and subsequently corrected.

LC582 The Rating Lists (Valuation Date) (Wales) Order 2002

Considered by the Legislation Committee on: 10th of December 2002

The Committee did not identify any points reportable under S.O. 11.5.

LC583 The Education Act 2002 (Transitional Provisions) (Wales) Regulations 2002

Considered by the Legislation Committee on: 10th of December 2002

The Committee did not identify any points reportable under S.O. 11.5.

LC584 The Education Act 2002 (Commencement No. 1) (Wales) Order 2002

Considered by the Legislation Committee on: 10th of December 2002

The Committee identified two minor drafting errors reportable under S.O.11.5 that were appropriate for correction by means of a Memorandum of Corrections under S.O.22.12A:

- it was necessary to clarify that Article 3 should read “ references to Parts, sections and Schedules are references to Parts and sections of, and Schedules to, the Education Act 2002” and
- the fourth entry in Part I of the Schedule “sub-paragraph[s]” should have been “subsection[s]”.

These points applied in relation to both the English and Welsh texts. However, as these drafting errors had been corrected by the drafting lawyer prior to laying, the copy of the instrument on the Intranet was correct. Thus, in the circumstances the errors could be dealt with by ensuring that it was the Intranet version which was made and published.

LC585 The Air Quality Limit Values (Wales) Regulations 2002

Considered by the Legislation Committee on: 10th of December 2002

The Committee did not identify any points reportable under S.O. 11.5. The legal advisers to the Committee had had the opportunity to consider an early draft when some typographical points had been identified and subsequently corrected.

LC586 The Welsh Administration Ombudsman (Jurisdiction) Order 2002

Considered by the Legislation Committee on: 10th of December 2002

The Committee did not identify any points reportable under S.O. 11.5.

LC587 The Local Health Boards (Constitution, Membership and Procedures) (Wales) Regulations 2003

Considered by the Legislation Committee on: 17th of December 2002

The Committee identified one drafting defect in the enabling powers reportable under S.O.11.5 that was appropriate for correction by means of a Memorandum of Corrections under S.O.22.12A: the reference to section 16BA should not have been included in the enabling powers. The Committee additionally identified two points reportable under SO 11.5, also appropriate for correction by means of a Memorandum of Corrections under S.O.22.12A: Regulation 8(2) and paragraph (4) of Regulation 5 needed further explanations. Under observations the Committee noted that the insertion of 28 January 2003 at the head of the regulations and in relation to, and together with, the printed signature was premature; Footnote (b) in Preamble, Regulation 1(2), Regulation 3(2) and Regulation 8 needed further clarification.

LC588 The Local Health Boards (Establishment) (Wales) Order 2003

Considered by the Legislation Committee on: 17th of December 2002

The Committee did not identify any points reportable under S.O. 11.5. Under observations the Committee noted that Inclusion of a “made” date at the head of the order and with a signature was premature, the reference to variations in area needed further clarification, the definition of “operational date” was not in alphabetical order in the English text and Footnote (a) on page 3 should have indicated that Parts I and II of Schedule 4 were substituted by the Local Government (Wales) Act 1994.

LC589 The Local Health Boards (Functions) Regulations 2003

Considered by the Legislation Committee on: 17th of December 2002

The Committee identified two drafting defects reportable under S.O.11.5 that were appropriate for correction by means of a Memorandum of Corrections

under S.O.22.12A: the citation of powers needed further clarification and inclusion of regulation 3(3) was inappropriate as it duplicated paragraph 13(1) of Schedule 5B to the 1977 Act and could have been construed as purporting to override 13(3). Under observations the Committee noted that some typographical points had been drawn to the attention of those responsible for the processing of these regulations, so that they could be corrected either on printing or in the memorandum of corrections.

LC590 The Health, Social Care and Well-being Strategies (Wales) Regulations 2003

Considered by the Legislation Committee on: 17th of December 2002

The Committee did not identify any points reportable under S.O. 11.5. The legal advisers to the Committee had had the opportunity to consider an early draft when a number of points, principally in relation to the amendments to primary legislation, had been identified and subsequently corrected. Additionally, the amendments to primary legislation had been considered by Parliamentary Counsel. Under observations the Committee noted that there remained some typographical errors which need to be corrected.

LC591 The Countryside Access (Dedication of Land as Access Land) (Wales) Regulations 2003

Considered by the Legislation Committee on: 17th of December 2002

The Committee identified three drafting defects reportable under S.O.11.5 that were appropriate for correction by means of a Memorandum of Corrections under S.O.22.12A: in regulation 3(l) “4(2)” should have been be “4(4)”; Regulation 8 needed clarification and it also needed to be amended. Under observations the Committee noted that footnote (a) in Preamble needed clarification, in Regulation 2 numbering of paragraphs needed to be amended, opening wording “Unless otherwise stated” did not seem relevant and it was necessary to add a footnote in the definition of “electronic communication”; in Regulation 7(4) a reference to paragraph (2) would have been more appropriate.

LC592 The Countryside Access (Exclusion or Restriction of Access) (Wales) Regulations 2003

Considered by the Legislation Committee on: 17th of December 2002

The Committee identified six minor drafting defects reportable under S.O.11.5 that were appropriate for correction by means of a Memorandum of Corrections under S.O.22.12A: the definition of “relevant local access forum” in Regulation

2(1) needed further clarification; in Regulation 7 “8(4)” should have been be “6(4)”; in Regulation 9(3), paragraphs (a) – (c) needed to be redrafted; Regulation 9(4) needed clarification, in Regulation 12(1)(e) “8(3)” should have been “6(3)”; in Regulation 13(1) the reference needed to refer to a notification requirement imposed by a direction. Under observations the Committee noted that a footnote identifying the definitions of “prescribed” and “regulations” should be inserted in section 45 of the Preamble and in Regulation 2(1) the opening wording “Unless otherwise stated” did not appear to be relevant.

LC593 The Products of Animal Origin (Third Country Imports) (Wales) (Amendment) Regulations 2002

Considered by the Legislation Committee on: 17th of December 2002

The Committee did not identify any points reportable under S.O. 11.5.

LC594 The Local Authorities Executive Arrangements (Functions and Responsibilities) (Amendment) (Wales) Regulations 2003

Considered by the Legislation Committee on: 17th of December 2002

The Committee identified one minor drafting defect in the citation of powers reportable under S.O.11.5 that was appropriate for correction by means of a Memorandum of Corrections under S.O.22.12A: the inclusion of section 32 was in error. Under observations the Committee noted that in line 3 of Regulation 2 “are” should be “is”; paragraph (a) needed clarification, in paragraphs (b) and (c) “repealed” should be “revoked”.

LC595 The Local Authorities (Alternative Arrangements) (Amendment) (Wales) Regulations 2003

Considered by the Legislation Committee on: 14th of January 2003

The Committee identified two drafting defects reportable under S.O.11.5 that were appropriate for correction by means of a Memorandum of Corrections under S.O.22.12A: in the citation of powers the inclusion of section 13 was in error and in Regulation 1(1) “Order” should have been “Regulations”. The first defect was relevant to the Welsh text also, but the second one applied only to the English text. Under observations the Committee noted that in line 1 of Regulation 2 the normal form would be “Schedule 3 to ...”; in line 3 “are” should be “is”; the inclusion of the column headings in paragraph (a) needed clarification; in paragraphs (b) and (c) “repealed” should be “revoked”. There were corresponding points in the Welsh text in relation to paragraph (b) and (c) of Regulation 2.

LC596 The Long Residential Tenancies (Principal Forms) (Amendment) (Wales) Regulations 2003

Considered by the Legislation Committee on: 14th of January 2003

The Committee did not identify any points reportable under S.O. 11.5.

LC597 The Education (Teachers' Qualifications and Health Standards) (Amendment) (Wales) Regulations 2003

Considered by the Legislation Committee on: 14th of January 2003

The Committee did not identify any points reportable under S.O. 11.5.

LC598 The National Health Service (General Dental Services) and (Dental Charges) (Amendment) (Wales) Regulations 2003

Considered by the Legislation Committee on: 14th of January 2003

The Committee did not identify any points reportable under S.O. 11.5.

LC599 The National Health Service (General Medical Services) (Amendment No. 2) (Wales) Regulations 2003

Considered by the Legislation Committee on: 14th of January 2003

The Committee identified three drafting defects reportable under S.O.11.5 that were appropriate for correction by means of a Memorandum of Corrections under S.O.22.12A: The inclusion of "No. 2" in the title was not appropriate; The opening wording of regulation 3 and Regulation 3(a)(i) needed clarification.

LC600 The National Health Service (General Medical Services) and (Pharmaceutical Services) (Amendment) (Wales) Regulations 2003

Considered by the Legislation Committee on: 14^h January 2003

The Committee identified one drafting defect reportable under S.O.11.5 that was appropriate for correction by means of a Memorandum of Corrections under S.O.22.12A: Regulation 2(2)(a) should read – "(a) for the opening wording of sub-paragraph (3), substitute – ". Under observations the Committee noted a typographical error in regulation 2(2)(c).

LC601 The Kava-kava in Food (Wales) Regulations 2002
SI 2002/3157 (W.293)

Considered by the Legislation Committee on: 14th January 2003

The Committee did not identify any points reportable under S.O. 11.5.

LC602 The Smoke Control Areas (Authorised Fuels) (Amendment) (Wales)
Regulations 2002 SI 2002/3160 (W.295)

Considered by the Legislation Committee on: 14th January 2003

The Committee did not identify any points reportable under S.O. 11.5.

LC603 The Products of Animal Origin (Third Country Imports) (Wales)
(Amendment) (No. 2) Regulations 2002

Considered by the Legislation Committee on: 14th January 2003

The Committee did not identify any points reportable under S.O. 11.5. Under observations the Committee noted that Regulation 2(6) needed further clarification.

LC604 The Potatoes Originating in Egypt (Amendment) (Wales) (No. 2)
Regulations 2002

Considered by the Legislation Committee on: 14th January 2003

The Committee did not identify any points reportable under S.O. 11.5.

LC605 The Agricultural Holdings (Units of Production) (Wales) Order 2003

Considered by the Legislation Committee on: 21st January 2003

The Committee did not identify any points reportable under S.O. 11.5.

LC606 The Fostering Services (Wales) Regulations 2003

Considered by the Legislation Committee on: 21st January 2003

The Committee did not identify any points reportable under S.O. 11.5. The legal advisers to the Committee had had the opportunity to consider an early draft when a number of points had been identified and subsequently corrected. Under observations the Committee noted that care needed to be taken to ensure that the correct version of these regulations was made, as there had been a confusion with earlier incorrect versions.

LC607 The Care Standards Act 2000 (Commencement No. 10) [and Transitional Provisions] (Wales) Order 2003

Considered by the Legislation Committee on: 21st January 2003

The Committee identified two drafting defects reportable under S.O.11.5 that were appropriate for correction by means of a Memorandum of Corrections under S.O.22.12A: the title as prescribed in the citation provision in article 1(1) (and as printed at the head of page 5) did not accord with the title as printed at the head of page 1 and the citation of powers should have included subsection (7) of section 118. Under observations the Committee noted that the note of earlier commencements needed clarification and article 3 contained one typographical mistake.

LC608 The Care Standards Act 2000 (Commencement No. 11) (Wales) Order 2003

Considered by the Legislation Committee on: 21st January 2003

The Committee identified one drafting defect reportable under S.O.11.5 that was appropriate for correction by means of a Memorandum of Corrections under S.O.22.12A: Article 2(2) needed further clarification. Under observations the Committee noted that the “Made” reference remained to be inserted immediately above the preamble.

LC608A The Care Standards Act 2000 (Commencement No. 11) (Wales) Order 2003

Considered by the Legislation Committee on: 25th February 2003

The order of the same title reported on by the Legislation Committee in its report LC608 had not been made and was replaced by the LC608A. The Committee did not identify any points reportable under S.O. 11.5.

LC609 The National Health Service (Optical Charges and Payments) (Amendment) (Wales) Regulations 2003

Considered by the Legislation Committee on: 21st January 2003

The Committee identified one drafting defect reportable under S.O.11.5 that was appropriate for correction by means of a Memorandum of Corrections under S.O.22.12A: the numerous cross references in the subsequent insertions into regulations 9, 12 and 13 should all be changed to “(IC)” rather than “(ID)”. Under observations the Committee noted that Footnote (a) on page 4 should have identified relevant amendments to the SI and there was a typographical error in regulation 4.

LC610 The Seeds (Miscellaneous Amendments) (Wales) Regulations 2003

Considered by the Legislation Committee on: 4th February 2003

The Committee did not identify any points reportable under S.O. 11.5. Under observations the Committee noted that the title heading on pages 1 and 2 of the English text did not conform to the word order of the citation in regulation 1(1). This was to be corrected in the published version.

LC611 The Road Traffic (Vehicle Emissions) (Fixed Penalty) (Wales) Regulations 2003

Considered by the Legislation Committee on: 4th February 2003

The Committee did not identify any points reportable under S.O. 11.5. Under observations the Committee noted typographical errors in regulations 16 and 19.

LC612 The Local Authorities (Referendums) (Petitions and Directions) (Amendment) (Wales) Regulations 2003

Considered by the Legislation Committee on: 4th February 2003

The Committee did not identify any points reportable under S.O. 11.5.

LC613 The Town and Country Planning (Referrals and Appeals) (Written Representations Procedure) (Wales) Regulations 2003

Considered by the Legislation Committee on: 11th February 2003

The Committee identified one small drafting defect reportable under S.O.11.5 that was appropriate for correction by means of a Memorandum of Corrections under S.O.22.12A: the reference to “applications for tree preservations orders”

needed clarification and a footnote should then have been included to indicate that section 78 was applied in relation to tree preservation orders by the Town and Country Planning Trees Regulations 1999 (S.I. 1999/1892). Under observations the Committee noted that Regulation 2 contained a drafting defect.

LC614 The Town and Country Planning (Enforcement Notices and Appeals) (Wales) Regulations 2003

Considered by the Legislation Committee on: 11th February 2003

The Committee identified a discrepancy between the English and Welsh texts reportable under S.O.11.5 that was appropriate for correction by means of a Memorandum of Corrections under S.O.22.12A: the English text had a coming into force date of 1 April 2003 whereas the Welsh text had a date of 1 March 2003. Under observations the Committee noted that the Joint Committee on Statutory Instruments had reported defective drafting in relation to the equivalent England regulations (SI 2002/2682). There was a contradiction between the Regulation 9 and Regulation 10. It was not considered that this was a matter for reporting to the Assembly as defective drafting, however, since it was felt that regulation 9 must be interpreted as referring not to every document required under the procedure but merely those necessary to ascertain that a valid appeal had been made.

LC615 The Town and Country Planning (Enforcement) (Written Representations Procedure) (Wales) Regulations 2003

Considered by the Legislation Committee on: 11th February 2003

The Committee did not identify any points reportable under S.O. 11.5. Under observations the Committee noted that Citation of powers unnecessarily included section 93(2) of the Listed Buildings Act; Section 39 of the Listed Buildings Act in Regulation 2 should have been placed at the end of the alphabetical list and there were also two very small typographical points that had been drawn to the attention of the Legislation Management Unit.

LC616 The Local Authorities (Executive Arrangements) (Discharge of Functions) (Amendment) (Wales) Regulations 2003

Considered by the Legislation Committee on: 11th February 2003

The Committee did not identify any points reportable under S.O. 11.5.

LC617 The Sheep Annual Premium (Amendment) (Wales) Regulations 2003

Considered by the Legislation Committee on: 11th February 2003

The Committee did not identify any points reportable under S.O. 11.5.

LC618 The Allocation of Housing (Wales) Regulations 2003

Considered by the Legislation Committee on: 11th February 2003

The Committee did not identify any points reportable under S.O. 11.5.

LC619 The Undersized Lobsters (Wales) Order 2003

Considered by the Legislation Committee on: 11th February 2003

The Committee did not identify any points reportable under S.O. 11.5.

LC620 The Agricultural Subsidies (Appeals) (Wales) (Amendment) Regulations 2003

Considered by the Legislation Committee on: 11th February 2003

The Committee did not identify any points reportable under S.O. 11.5. The legal advisers to the Committee had had the opportunity to consider an early draft when two small drafting points had been identified and subsequently corrected. Under observations the Committee noted that the headings to regulation 1 contained (different) drafting errors in each text.

LC621 The Prohibition of Keeping or Release of Live Fish (Specified Species) (Amendment) (Wales) Order 2003

Considered by the Legislation Committee on: 11th February 2003

The Committee did not identify any points reportable under S.O. 11.5. Under observations the Committee noted that it might have been better for an entirely new order to be made for Wales. This would have avoided the difficulty of the 1998 order now having different texts in Wales and in England.

LC622 The Non-Domestic Rating (Demand Notices) (Amendment) (Wales) Regulations 2003

Considered by the Legislation Committee on: 11th February 2003

The Committee identified one drafting defect reportable under S.O.11.5 that was appropriate for correction by means of a Memorandum of Corrections under S.O.22.12A: the substituted wording needed to be exactly the same in each text (English and Welsh) in the inserted text in regulation 3(4) and (5). Under observations the Committee noted some typographical points that would need to be corrected in the English text.

LC623 The Police Reform Act 2002 (Commencement) (Wales) Order 2003

Considered by the Legislation Committee on: 11th February 2003

The Committee did not identify any points reportable under S.O. 11.5.

LC624 The General Teaching Council for Wales (Constitution) (Amendment) Regulations 2003

Considered by the Legislation Committee on: 11th February 2003

The Committee did not identify any points reportable under S.O. 11.5.

LC625 The Animal Gatherings (Interim Measures) (Wales) (Amendment) Order 2003

Considered by the Legislation Committee on: 11th February 2003

The Committee did not identify any points reportable under S.O. 11.5.

LC626 The Pigs (Records, Identification and Movement) (Interim Measures) (Wales) (No. 2) (Amendment) Order 2003

Considered by the Legislation Committee on: 11th February 2003

The Committee did not identify any points reportable under S.O. 11.5. Under observations the Committee noted that section 83(2) should have been included in the citation of powers.

LC627 The Education (Induction Arrangements for School Teachers) (Wales) Regulations 2003

Considered by the Legislation Committee on: 25th February 2003

The Committee did not identify any points reportable under S.O. 11.5.

LC628 The Education (Supply of Information) (Wales) Regulations 2003

Considered by the Legislation Committee on: 25th February 2003

The Committee did not identify any points reportable under S.O. 11.5. The legal advisers to the Committee had had the opportunity to consider an early draft when a number of points had been identified and subsequently corrected.

LC629 The Financing of Maintained Schools (Amendment) (Wales) Regulations 2003

Considered by the Legislation Committee on: 25th February 2003

The Committee did not identify any points reportable under S.O. 11.5.

LC630 The Local Authority Adoption Service and Miscellaneous Amendments (Wales) Regulations 2003

Considered by the Legislation Committee on: 25th February 2003

The Committee identified three drafting defect reportable under S.O.11.5 that was appropriate for correction by means of a Memorandum of Corrections under S.O.22.12A: subsection (2) of section 9 of the 1976 Act and the relevant provisions of the Care Standards Act 2000 should have been included into the Citation of powers; Regulations 1(2) and 2(5) overlapped and there was an element of inconsistency between them - Regulation 2(5) needed to be deleted; Regulation 2(1) contained the wording which repeated what had already been said in the definition. Under observations the Committee noted that the footnote (a) of the Preamble should have indicated that section 9(3A) had been inserted by the 2000 Act and subsections (2) and (3) had been amended by the 2002 Act. The Committee also noted a number of typographical and similar points.

LC631 The Council Tax (Administration and Enforcement) (Amendment) (Wales) Regulations 2003

Considered by the Legislation Committee on: 25th February 2003

The Committee did not identify any points reportable under S.O. 11.5. Under observations the Committee noted that "COUNCIL TAX" should be used instead of "LOCAL GOVERNMENT" in the subject heading; Regulation 2(3) was irrelevant.

LC632 The Council Tax (Discount Disregards) (Amendment) (Wales) Order 2003

Considered by the Legislation Committee on: 25th February 2003

The Committee did not identify any points reportable under S.O. 11.5. The legal advisers to the Committee had had the opportunity to consider an early draft when some points had been identified and subsequently corrected.

LC633 The Health Authorities (Transfer of Functions, Staff, Property, Rights and Liabilities and Abolition) (Wales) Order 2003

Considered by the Legislation Committee on: 25th February 2003

The Committee did not identify any points reportable under S.O. 11.5. Under observations the Committee noted that the inclusion of section 154(1) in the citation of powers was not necessary.

LC634 The Powys Health Care National Health Service Trust (Dissolution) Order 2003

Considered by the Legislation Committee on: 25th February 2003

The Committee did not identify any points reportable under S.O. 11.5.

LC635 The Animal By-Products (Identification) (Amendment) (Wales) Regulations 2003

Considered by the Legislation Committee on: 25th February 2003

The Committee did not identify any points reportable under S.O. 11.5. Under observations the Committee noted that Footnote (b) on page 3 should have given explanation that “the Ministers” had been replaced by “the Secretary of State” by the Food Standards Act 1999.

LC636 The Adoption and Children Act 2002 (Commencement No. 1) (Wales) Order 2003

Considered by the Legislation Committee on: 25th February 2003

The Committee did not identify any points reportable under S.O. 11.5.

LC637 The Sheep and Goats Identification and Movement (Interim Measures) (Wales) (No. 2) (Amendment) Order 2003

Considered by the Legislation Committee on: 25th February 2003

The Committee identified one drafting defect reportable under S.O. 11.5: in article 9 the inserted wording referred to “the Sheep and Goats Order 2000”, while it should have referred to “the 2000 Regulations”. This defect had been acknowledged on behalf of the appropriate Minister as requiring correction at the next legislative opportunity. The Committee considered, however, that the defect should be corrected without delay.

LC638	The Disease Control (Interim Measures) (Wales) (No. 2) (Amendment) Order 2003
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Considered by the Legislation Committee on: 25th February 2003

The Committee did not identify any points reportable under S.O. 11.5. Under observations the Committee noted that it would have been appropriate to include section 7 of the principal Order in the cited powers of this order.

LC639	The Education (Pupil Referral Units) (Appeals Against Permanent Exclusion) (Wales) Regulations 2003
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Considered by the Legislation Committee on: 25th February 2003

The Committee did not identify any points reportable under S.O. 11.5.

LC640	The Bluetongue (Wales) Order 2003
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Considered by the Legislation Committee on: 4th March 2003

The Committee did not identify any points reportable under S.O. 11.5.

LC641	The Assured Tenancies and Agricultural Occupancies (Forms) (Amendment) (Wales) Regulations 2003
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Considered by the Legislation Committee on: 4th March 2003

The Committee did not identify any points reportable under S.O. 11.5.

LC642	The Revenue Support Grant (Specified Bodies) (Amendment) (Wales) Regulations 2003
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Considered by the Legislation Committee on: 4th March 2003

The Committee did not identify any points reportable under S.O. 11.5. Under observations the Committee noted that consultation under section 76(5) of the 1988 Act was not necessary, as the amendment was solely in consequence of a change of name of the body in question.

LC643 The Basic Curriculum for Wales (Amendment) Order 2003

Considered by the Legislation Committee on: 11th March 2003

The Committee did not identify any points reportable under S.O. 11.5.

LC644 The Local Health Boards (Transfer of Staff) (Wales) Order 2003

Considered by the Legislation Committee on: 4th March 2003

The Committee identified three drafting defects reportable under S.O.11.5 that were appropriate for correction by means of a Memorandum of Corrections under S.O.22.12A: The preamble was incorrect in its statement that the prescribed requirements in paragraph 22(3) have been complied with, although the Committee appreciated that full, non-statutory consultation had been carried out; Articles 3 and 4 did not quite reflect the terms of the enabling power in paragraph 22 of Schedule 5B, as read in conjunction with paragraph 23; the wording in the Article 5(1)(a) “at any time between the transfer date and 31st March 2004” did not have any relevance. Under observations the Committee noted that two small points arising in relation to the explanatory note and a typographical point in the preamble have been drawn to the attention of the drafting lawyers.

LC645 The Residential Family Centres (Wales) Regulations 2003

Considered by the Legislation Committee on: 4th March 2003

The Committee noted that the legal advisers to the Committee had had the opportunity to consider an early draft when a number of points had been identified and subsequently corrected. However, there remained one drafting defect reportable under SO 11.5 that was appropriate for correction by means of a Memorandum of Corrections under S.O.22.12A: the wording “and for this purpose ... such a person.” should have been deleted in Regulation 31(2). The same needed to be done in the Welsh text.

LC646 The Feeding Stuffs (Amendment) (Wales) Regulations 2003

Considered by the Legislation Committee on: 11th March 2003

The Committee did not identify any points reportable under S.O. 11.5.

LC647 The Health and Social Care Act 2001 (Commencement No. 4)
(Wales) Order 2003

Considered by the Legislation Committee on: 4th March 2003

The Committee did not identify any points reportable under S.O. 11.5. Under observations the Committee noted that Footnote (a) should have indicated that “the relevant authority” was defined in section 66 and the second paragraph in the Explanatory Note would be better drafted if the term “a one off catastrophe” was replaced by something more formal.

LC648 The Movement of Animals (Restrictions) (Wales) Order 2003

Considered by the Legislation Committee on: 11th March 2003

The Committee identified two points reportable under SO 11.5: in the citation of powers the references to sections 87(5) and 88(4) were inappropriate as the order did not exercise those powers and in article 3(1) the definition of “primary route” referred to 1994 Regulations and Directions whereas these had been replaced by 2002 Regulations and Directions (SI 2002/3113). Under observations the Committee noted that Article 4(3) contained one gender specific references; Articles 4(4) and 11(3) needed clarification; Article 6(1)(b) contained one grammatically inappropriate word.

LC649 The National Health Service (General Medical Services)
(Amendment) (No. 2) (Wales) Regulations 2003

Considered by the Legislation Committee on: 11th March 2003

The Committee did not identify any points reportable under S.O. 11.5. The legal advisers to the Committee had had the opportunity to consider an early draft when some small points had been identified and subsequently corrected.

LC650 The National Health Service (Pharmaceutical Services)
(Amendment) (Wales) Regulations 2003

Considered by the Legislation Committee on: 11th March 2003

The Committee did not identify any points reportable under S.O. 11.5. The legal advisers to the Committee had had the opportunity to consider an early draft when some small points had been identified and subsequently corrected.

LC651 The National Health Service (General Dental Services)
(Amendment) (Wales) Regulations 2003

Considered by the Legislation Committee on: 11th March 2003

The Committee did not identify any points reportable under S.O. 11.5. The legal advisers to the Committee had had the opportunity to consider an early draft when some small points had been identified and subsequently corrected.

LC652 The National Health Service (General Ophthalmic Services)
(Amendment) (Wales) Regulations 2003

Considered by the Legislation Committee on: 11th March 2003

The Committee did not identify any points reportable under S.O. 11.5. The legal advisers to the Committee had had the opportunity to consider an early draft when some small points had been identified and subsequently corrected.

LC653 The Commons Registration (General) (Amendment) (Wales)
Regulations 2003

Considered by the Legislation Committee on: 11th March 2003

The Committee identified two drafting defects reportable under S.O.11.5 that were appropriate for correction by means of a Memorandum of Corrections under S.O.22.12A: the Principal Regulations should be amended by deleting from the definition of “the Form” the words “contained in the Schedule to” and substituting - “as substituted in Schedule 1 to the Principal Regulations by”; Regulation 4 sought to revoke the whole of the 1989 Regulations except regulation 3 and the Schedule, but revocation should be confined only to regulation 4 or, alternatively, it might have been better to leave the 1989 Regulations intact. Under observations the Committee noted that Footnote (a) on page 2 needed clarification.

LC654 The Individual Learning Accounts Wales Regulations 2003

Considered by the Legislation Committee on: 11th March 2003

The Committee did not identify any points reportable under S.O. 11.5. The legal advisers to the Committee had had the opportunity to consider an early draft when some points had been identified and subsequently corrected.

LC655 The Education (Free School Lunches) (Prescribed Tax Credits) (Wales) Order 2003

Considered by the Legislation Committee on: 11th March 2003

The Committee did not identify any points reportable under S.O. 11.5.

LC656 The Education (School Lunches) (Prescribed Requirement) (Wales) Order 2003

Considered by the Legislation Committee on: 11th March 2003

The Committee did not identify any points reportable under S.O. 11.5. The legal advisers to the Committee had had the opportunity to consider an early draft when some minor points had been identified and subsequently corrected.

LC657 The Transport of Animals (Cleansing and Disinfection) (Wales) Order 2003

Considered by the Legislation Committee on: 11th March 2003

The Committee identified one drafting defect reportable under S.O.11.5: subparagraphs (a) and (b) of the Article 1(3) needed the change of format to clarify that the enabling provisions in sections 87 and 88 provided for the separate extension of each definition. Under observations the Committee noted that the word “must” was used inappropriately in Articles 3(1) and 4(1).

LC658 The Animal Gatherings (Interim Measures) (Wales) Order 2003

Considered by the Legislation Committee on: 11th March 2003

The Committee did not identify any points reportable under S.O. 11.5. Under observations the Committee noted that it would assist the user if the date of cessation was included in the Explanatory Note; paragraph 2(2) of the Schedule contained one case of gender specific language.

LC659 The Care Homes (Wales) (Amendment) Regulations 2003

Considered by the Legislation Committee on: 18th March 2003

The Committee identified one drafting defect reportable under S.O.11.5 that was appropriate for correction by means of a Memorandum of Corrections under S.O.22.12A: in the Regulations 5A(4) and (5) inserted in Regulation 2(3) the three “Health Authority” references should be “local health board”. Under observations the Committee noted that in Regulation 2(2)(b) punctuation was amended in an unusual way.

LC660	The Health and Social Care Act 2001 (Commencement No. 5) (Wales) Order 2003
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Considered by the Legislation Committee on: 18th March 2003

The Committee did not identify any points reportable under S.O. 11.5. Under observations the Committee noted that Footnote (a) needed clarification – it should have indicated that “the relevant authority” was defined in section 66.

LC661	The National Assistance (Residential Accommodation) (Disregarding of Resources) (Wales) Regulations 2003
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Considered by the Legislation Committee on: 18th March 2003

The Committee did not identify any points reportable under S.O. 11.5. Under observations the Committee noted that the Footnote to the Preamble needed clarification.

LC662	The National Assistance (Residential Accommodation) (Additional Payments, Relevant Contributions and Assessment of Resources) (Wales) Regulations 2003
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Considered by the Legislation Committee on: 18th March 2003

The Committee identified some drafting minor defects reportable under S.O.11.5 that were appropriate for correction by means of a Memorandum of Corrections under S.O.22.12A: Citation of Powers should have included section 22(5) of the National Assistance Act 1948; Regulation 6(2) and Regulation 6(2)(b) needed clarification.

LC663	The Education (Remission of Charges Relating to Residential Trips) (Wales) Regulations 2003
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Considered by the Legislation Committee on: 18th March 2003

The Committee did not identify any points reportable under S.O. 11.5.

LC664 The Miscellaneous Food Additives (Amendment) (Wales) Regulations 2003

Considered by the Legislation Committee on: 18th March 2003

The Committee did not identify any points reportable under S.O. 11.5.

LC665 The Disease Control (Interim Measures) (Wales) Order 2003

Considered by the Legislation Committee on: 18th March 2003

The Committee did not identify any points reportable under S.O. 11.5. Under observations the Committee noted that the cessation date should be mentioned in the Explanatory note and in there was a misprint in Article 13(2).

LC666 The Local Health Boards (Transfer of Property, Rights and Liabilities) (Wales) Order 2003

Considered by the Legislation Committee on: 18th March 2003

The Committee identified four drafting defects reportable under S.O.11.5: Paragraph (2) of Article 6, Article 8(1), Schedules 1 and 2 and Schedule 3 needed further clarification. Under observations the Committee noted that Preamble, Footnote (a) and Schedules 1 and 2 contained a drafting defect, Article 2(1) contained typographical mistakes. It was considered that these defects should be corrected by an amending order as soon as possible.

LC667 The National Assistance (Assessment of Resources) (Amendment) (Wales) Regulations 2003

Considered by the Legislation Committee on: 18th March 2003

The Committee identified seven drafting defects reportable under S.O.11.5 that were appropriate for correction by means of a Memorandum of Corrections under S.O.22.12A: the wording “in each instance” needed to be included into Regulation 2(3); the words “Social Security” should have been omitted from Regulation 3; the word “(General)” should have been omitted from the definition of “lone parent” in Regulation 3; the year of the Act should be inserted into other definitions in Regulation 3; the words “regulation 16 of” should have been included in Regulation 4; the reference to the Assembly should be in full and the

year should be given for the Local Government Act in Regulation 7(1); “Social Security” should be omitted from paragraphs (a) and (b) in the inserted paragraph 6A and the year should be given for the Local Government Act in the inserted paragraph 22 in Regulation 8. Under observations the Committee noted that, given the desirability of avoiding different text for the same paragraph as between Wales and England, Regulation 4 needed further clarification; coming into force date needed to be checked in a revised laid version of these regulations (“in accordance with article 1(1)”).

LC668 The National Assistance (Sums for Personal Requirements) (Wales) Regulations 2003

Considered by the Legislation Committee on: 18th March 2003

The Committee did not identify any points reportable under S.O. 11.5. Under observations the Committee noted that the wording under the Explanatory Note contained a small drafting defect.

LC669 The Fostering Services (Wales) (Amendment) Regulations 2003

Considered by the Legislation Committee on: 18th March 2003

The Committee did not identify any points reportable under S.O. 11.5. The legal advisers to the Committee had had the opportunity to consider an early draft when some points had been identified and subsequently corrected.

LC670 The Local Authorities (Allowances for Members of Community Councils) (Wales) Regulations 2003

Considered by the Legislation Committee on: 18th March 2003

The Committee did not identify any points reportable under S.O. 11.5. The legal advisers to the Committee had had the opportunity to consider an early draft when some matters had been identified and subsequently corrected.

LC671 The Local Authorities (Capital Finance) (Amendment) (Wales) Regulations 2003

Considered by the Legislation Committee on: 18th March 2003

The Committee did not identify any points reportable under S.O. 11.5.

LC672 The Local Authorities (Capital Finance) (Rate of Discount for 2003/2004) (Wales) Regulations 2003

Considered by the Legislation Committee on: 18th March 2003

The Committee did not identify any points reportable under S.O. 11.5.

LC673 The Education (Outturn Statements) (Wales) Regulations 2003

Considered by the Legislation Committee on: 18th March 2003

The Committee did not identify any points reportable under S.O. 11.5.

LC674 The Sheep and Goats Identification and Movement (Interim Measures) (Wales) (No.2) (Amendment) (No.2) Order 2003

Considered by the Legislation Committee on: 18th March 2003

The Committee did not identify any points reportable under S.O. 11.5.

LC675 The Tir Gofal (Amendment) (Wales) Regulations 2003

Considered by the Legislation Committee on: 18th March 2003

The Committee did not identify any points reportable under S.O. 11.5.

LC676 The Sea Fishing (Enforcement of Community Control Measures) (Wales) (Amendment) Order 2003

Considered by the Legislation Committee on: 25th March 2003

The Committee did not identify any points reportable under S.O. 11.5.

LC677 The Shellfish (Specified Sea Area) (Prohibition of Fishing Methods) (Wales) Order 2003

Considered by the Legislation Committee on: 25th March 2003

The Committee identified one drafting defect reportable under S.O. 11.5: in

Article 4(1) the wording “the territorial sea adjacent to Wales” should be changed for “the sea adjacent to Wales out as far as the seaward boundary of the territorial sea”. The Committee advised that an amendment order should be made.

LC678	The Zoo Licensing Act 1981 (Amendment) (Wales) Regulations 2003
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Considered by the Legislation Committee on: 25th March 2003

The Committee did not identify any points reportable under S.O. 11.5.

LC679	The Commission for Health Improvement (Functions) (Wales) Regulations 2003
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Considered by the Legislation Committee on: 25th March 2003

The Committee identified some minor drafting defects reportable under S.O.11.5 that were appropriate for correction by means of a Memorandum of Corrections under S.O.22.12A: Regulation 1(1) contained an inappropriate reference to paragraph (d) of regulation 2 of the Functions Regulations; the wording “may be varied” was not appropriate in relation to sub-paragraph (b) in Regulation 2(4); the reference to “paragraph (2)(c)” was inappropriate in Regulation 7(3)(c); the wording at the end of sub-paragraph (a) of paragraph 2 of Regulation 8(1) should be “or”; “national review” should be “national service review” in Regulation 9(1); “regulation 2(1)(f)” should be “regulation 2(f)” in Regulation 21(1), (2). Under observations the Committee noted that Regulation 1(3) contained two drafting defects; Regulation 11(a) contained a grammatical error; Regulation 16(2)(5)(a) contained gender specific references; footnote in Regulation 22 needed clarification.

LC680	The Leasehold Reform (Notices) (Amendment) (Wales) Regulations 2003
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Considered by the Legislation Committee on: 25th March 2003

The Committee did not identify any points reportable under S.O. 11.5.

LC681	The Leasehold Reform (Collective Enfranchisement) (Counter-notices) (Wales) Regulations 2003
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Considered by the Legislation Committee on: 25th March 2003

The Committee did not identify any points reportable under S.O. 11.5.

REPORT TO MEMBERS

SUMMARY OF ISSUES RAISED BY THE COMMITTEE IN ITS REPORTS

	Urgency Procedure S.O.22.26	Report Under S.O.11.5	S.O.11.5 matters amended by Memo of Corrections	Observations					Comments Included in Final Version	
				Need for Greater Clarity	Defective drafting	Grammatical Errors	Inconsistency in English & Welsh Texts	Gender Specific		Typographical Errors
LC530 (e)	*			(1)	(2)	(3)	(4)	(5)	(6)	4
LC531 (e)	*			*	*					5
LC532 (e)	*									4
LC533 (e)	*								*	3
LC534 (e)	*			*					*	3
LC535 (e)	*			*	*	*			*	2
LC536 (e)	*	*			*				*	3
LC537 (e)	*			*			*			3
LC538 (e)	*				*				*	3

NB: Executive Procedure used to be called "Urgent Procedure".

Comments included in final version:

- (1) - all comments are taken into account
- (2) - some comments are taken into account
- (3) - none of the comments are taken into account
- (4) - there were no comments
- (5) - points taken into consideration, amendments intended in the new SI
- No SI - no printed version of the Statutory Instrument is available

