

**Y Pwyllgor Materion Cyfansoddiadol a
Deddfwriaethol**

**Constitutional and Legislative Affairs
Committee**



Cynulliad National
Cenedlaethol Assembly for
Cymru Wales

Bae Caerdydd / Cardiff Bay
Caerdydd / Cardiff
CF99 1NA

Rt Hon Carwyn Jones AM
First Minister
Welsh Government
Tŷ Hywel
Cardiff Bay
CF99 1NA

7 July 2011

Dear First Minister

**Statutory Instruments laid before or during the dissolution of the Third
Assembly**

When it met on 22 June 2011, the Committee on Statutory Instruments considered a number of Statutory Instruments that the then Constitutional Affairs Committee was unable to scrutinise because they were laid late during the Third Assembly.

The Committee accepted that there might be good reasons why these particular instruments were laid so late in the day. The Committee also accepts that there are always likely to be some situations where legislation needs to be made at relatively short notice. However, it is of considerable concern that legislation implementing very significant changes, such as arrangements for Social Care Charges and for the regulation of Care Homes, should not be subject to Committee scrutiny.

The Committee also had drawn to its attention an e-mail from Mr Ian Medlicott of the Wales Branch of the Association of Council Secretaries and Solicitors, which also expressed concern about the matter. I enclose a copy of the text of his e-mail for your information. The Committee shares Mr Medlicott's concerns and would be grateful for your assurance that in future subordinate legislation, particularly legislation that implements significant policy changes, is laid in good time to be scrutinised by the Constitutional and Legislative Affairs Committee.

I am copying this to the Counsel General for information.

Yours sincerely

David Melding AM
Chair
Constitutional and Legislative Affairs Committee

Dear Mr. George,

You will recall that you and I had a hurried exchange of correspondence during the last few days of the last Assembly, about the volume of statutory instruments made and published in that period, most of which came into effect shortly thereafter. I notice that the new Committee on Statutory Instruments will be considering this issue tomorrow, and I would be grateful if you would arrange for the committee members to see this email, and take it into account when considering this item.

I am writing on behalf of the Association of Council Secretaries and Solicitors, Wales Branch ("ACSeS"). ACSeS represents Heads of Legal Services and Monitoring Officers of Unitary, Fire and Rescue, National Park and Police authorities in Wales. Many of the pieces of secondary legislation made by the Assembly are relevant to these authorities, and ACSeS members will be responsible for making relevant staff in their authorities aware of the new regulations, and for advising on their implementation in their authority.

The rush of SIs issued during the last week of the Third Assembly's life caused considerable concern, partly because of the short notice, and the early commencement dates thereafter, but also because they took effect after the dissolution of the Third Assembly, and so could not be subject to effective scrutiny by Assembly members before the SIs came into effect, or in the periods specified in the Assembly's Standing Orders.

The report from the Committee's officials details the legislation involved, and ACSeS welcomes the review by this Committee in the early life of the new Assembly. While the precise situation (publication before the dissolution of the Assembly) will not happen for another five years, this is not an academic situation as there is the potential for it to re-occur where the Assembly is in recess for a longer period – for example, the summer break.

ACSeS invites the Committee to make strong recommendations to Welsh Ministers to ensure that this situation cannot be repeated, and then to monitor its effectiveness.

Would you please acknowledge safe receipt of this email?

Sincerely,
Ian Medicott