

ADRODDIAD GAN Y PWYLLGOR DEDDFAU LEGISLATION COMMITTEE REPORT**The Wildlife and Countryside (Registration, Ringing and Marking of Certain Captive Birds) (Wales) Regulations 2003**

The Wildlife and Countryside Act 1981 provides that a person who keeps certain birds is required to have them registered and ringed or marked. These regulations set out the detail of those requirements. They replace regulations made in 1982 and allow for alternative marking in accordance with EU regulations.

Standing Order 11.5

The Assembly is invited to pay special attention to the following apparent drafting defects. These have been acknowledged on behalf of the Minister and will be appropriate for correction by memorandum of corrections.

Regulation 3(4)

Given the use of “must” in paragraphs (1) – (3), it is assumed that paragraph (4) is not intended to allow the Assembly a discretion and that the intention was for the requirement to be that the Assembly “must” not register a bird without being satisfied as to compliance with the requirements in regulation 5.

Regulation 3(5)

The power to impose a charge for registration is in section 7(2A) of the 1981 Act.

Thus regulation 3(5) is misleading in that it appears to be empowering the Assembly to make “such reasonable charge as it thinks fit”. The only substantive effect is to require the charge to be submitted with the registration application.

In these circumstances it would have been more appropriate if regulation 3(5) had been worded so as to indicate that the charge referred to is not a charge empowered by the regulations but a charge determined by the Assembly under section 7(2A). Eg. for “thinks fit” substitute “has determined under section 7(2A) of the Act”.

Regulation 4(1)(d)(ii)

It is assumed that regulation 4(1)(d)(ii) will not apply where the new address, although within the UK, is outside Wales. I.e. regulation 1(2) states that the regulations “apply to Wales”, and regulation 3(1) limits the Assembly register to birds kept at addresses in Wales.

It is thought that the position does need to be clarified, however.

Glyn Davies AM

Chair, Legislation Committee

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