

Subordinate Legislation Committee

Report (SLC(3) 17-08)

Date: 01 July 2008
Time: 8.45am
Venue: Committee Room 2, Senedd

CONTENTS

The Committee met on 01 July 2008. At the meeting the following Committee Members were present: Dr Dai Lloyd AM, Eleanor Burnham AM, Andrew RT Davies AM, Alun Davies AM, Joyce Watson AM. There were no apologies.

The Chair thanked Irene James AM and Sandy Mewies AM (who frequently substituted) for their contributions to the Committee's work and welcomed Joyce Watson AM to the Committee.

The Committee reports to the Assembly as follows:

Instruments and draft instruments in respect of which the Assembly is not invited to pay special attention under Standing Order 15.2

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

SLC173 - The Bluetongue (Wales) (Amendment) Regulations 2008
Negative Procedure. Date made 18 June 2008. Date laid 18 June 2008.
Coming into force date 19 June 2008.

SLC174 - The Rice Products from the United States of America (Restriction on First Placing on the Market) (Wales) (Amendment) Regulations 2008
Negative Procedure. Date made 23 June 2008. Date laid 24 June 2008.
Coming into force date 17 July 2008.

Other subordinate legislation laid before the Assembly on which the Committee may report - Standing Order 15.6(i)

SO25 Legislation: The Welsh Ministers (South Side Of Roath Basin, Cardiff) Compulsory Purchase Order 200-

SLC161 - The Welsh Ministers (South Side Of Roath Basin, Cardiff) Compulsory Purchase Order 200-
Special Assembly Procedure (Standing Order 25). Date made 200- . Coming into force date 200-.

The Committee's Report under S.O.15.6(i) on the draft Order subject to Special Assembly Procedure (Standing Order 25) is attached as Annex 1 to this Report.

Other items of business

Following the Committee's decision on 10 June to undertake an inquiry into the scrutiny of subordinate legislation and delegated powers, Members noted that the consultation had been launched and the agreed terms of reference and call for evidence had been posted on the Committee's website. The Committee will consider responses and take evidence during the Autumn term.

There was no other business.

Dr Dai Lloyd AM

Chair, Subordinate Legislation Committee

01 July 2008

Annex 1

Subordinate Legislation Committee

(SLC(3)-17-08)

SLC161

Subordinate Legislation Committee Report

Under Standing Order 15.6(i) the Assembly is invited to pay special attention to the following instrument.

**Title: The Welsh Ministers (South Side of Roath Basin, Cardiff)
Compulsory Purchase Order 200-**

This draft Order would permit Welsh Ministers compulsorily to acquire land adjoining Roath Basin, Cardiff Bay. It would also involve the discharge of existing rights etc and the acquisition of new rights.

Procedure: Special Assembly Procedure

The following points have been identified for reporting under Standing Order 15.6(i).

Paragraph 4(3) of the English text of the Order contains the following expression: "the land over which the new rights is acquired ". It is not clear whether the intention was to refer to the land acquired (in which case "is" is correct, but something else is missing) or to rights acquired, (in which case "is" should read "are"). The Welsh text assumes the latter.

For the purposes of interpretation, the two texts have to be read together, so that effect would be given to the clear Welsh text. Nevertheless, when legislation directly affects the property rights of both individuals and private companies (who may or may not be able to understand the Welsh text), there should be no room for ambiguity.

If this were a Statutory Instrument, it would be reportable under Standing Order 15.2 (vi) - defective drafting.

Dr Dai Lloyd AM
Chair, Subordinate Legislation Committee

01 July 2008

Government have responded as follows:-

**The Welsh Ministers (South Side of Roath Basin, Cardiff)
Compulsory Purchase Order 200-**

The Government has indicated that it accepts that drafting errors appear in the current English and Welsh texts of paragraph 4(3) of the draft Order.

The expression: "the land over which the new rights is acquired" was intended, in the English text, to read "the land over which the new right is acquired" (i.e. "rights" in this phrase should read "right"). The Welsh text should be read correspondingly. The intention of the phrase is that, where a new right is acquired, under the Order, over land forming open space, but the ownership of that land is not acquired, then that land will be discharged from all rights etc. to which it was previously subject so far as the continuance of those previous rights etc. would be inconsistent with the exercise of the new right acquired under the Order.

It is the Government's intention to correct these errors in both the English and Welsh texts when the Minister comes to make the Order.

The amended English text of paragraph 4(3) would then read: "As from the date on which this order becomes operative or the date on which any new right is vested in the acquiring authority, whichever is the later, the land over which the new right is acquired will be discharged from all rights, trusts and incidents to which it was previously subject so far as their continuance would be inconsistent with the exercise of that new right."

The amended Welsh text of paragraph 4(3) would then read: "O'r dyddiad y daw'r gorchymyn hwn i rym neu'r dyddiad y caiff unrhyw hawl newydd ei breinio yn yr awdurdod caffael, pa un bynnag sydd ddiweddaraf, caiff y tir y caiff yr hawl newydd ei chaffael drosto ei ryddhau rhag pob hawl, ymddiriedolaeth a digwyddiad yr oedd yn amodol arnynt yn flaenorol i'r graddau y byddai eu parhad yn anghyson ag ymarfer yr hawl newydd hon."

It is the Government's view that these errors should not have misled or prejudiced any persons affected by the draft Order and so do not require the draft Order to be re-laid or re-published under the Assembly's Standing Order 25. During the promotion of the compulsory purchase order consultations were held with the local community and potentially affected bodies. Affected persons were also given opportunity to object to the Order, prior to it being laid before the Assembly under Standing Order 25. No objections or representations were received on paragraph 4(3) and, at the time of laying, there were no subsisting objections of any kind.