

Subordinate Legislation Committee

Report (SLC(3) 08-09)

Date: 24 March 2009
Time: 8.15am
Venue: Committee Room 3, Senedd

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The Committee met on 24 March 2009. At the meeting the following Committee Members were present: Janet Ryder AM, Mike German AM, Joyce Watson AM, Alun Davies AM, Mark Isherwood AM. There were no apologies. The meeting was attended by the former Clerk of the Committee Anna Daniel, for item 3 on the agenda: Enhancing the Scrutiny of Subordinate Legislation: Inquiry into the scrutiny of subordinate legislation and delegated powers – consideration of Draft Report.

The Committee reports to the Assembly as follows:

Instruments in respect of which the Assembly is invited to pay special attention under Standing Order 15.2

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

SLC259 - The Plastic Materials and Articles in Contact with Food (Wales) Regulations 2009

Negative Procedure. Date made 4 March 2009. Date laid 6 March 2009. Coming into force date 7 March 2009.

The Committee noted the Counsel General's letter to the Presiding Officer explaining the reasons why these regulations were issued in English only (the Deputy Minister for Social Services deemed it would not be reasonably practical to make the Regulations bilingually because of their length and complexity and the need to transpose and implement the Directive by 7 March 2009) and why the 21 day rule had been breached (a consequence of the need to transpose and implement the Directive by 7 March 2009). The Members, however, asked the Chair to write to the Minister to emphasize the need to translate the regulations as soon as possible.

SLC263 - The National Health Service (Amendments relating to Optical Charges and Payments)(Wales) Regulations 2009

Negative Procedure. Date made 10 March 2009. Date laid 11 March 2009. Coming into force date 1 April 2009

The Committee's Reports under S.O.15.2 on these Statutory Instrument are attached as Annexes 1-2 to this Report.

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)

SLC260 - The Local Authorities (Capital Finance and Accounting) (Wales) (Amendment) Regulations 2009

Negative Procedure. Date made 6 March 2009. Date laid 10 March 2009. Coming into force date 31 March 2009

SLC264 - The National Health Service (Travelling Expenses and Remission of Charges) (Wales) (Amendment) (No.2) Regulations 2009

Negative Procedure. Date made 16 March 2009. Date laid 16 March 2009. Coming into force date 6 April 2009

SLC265 - The National Assistance (Assessment of Resources and Sums for Personal Requirements) (Amendment) (Wales) Regulations 2009

Negative Procedure. Date made 11 March 2009. Date laid 12 March 2009. Coming into force date 6 April 2009

Other Business

Enhancing the Scrutiny of Subordinate Legislation: Inquiry into the scrutiny of subordinate legislation and delegated powers – consideration of Draft Report

In accordance with Standing Order 10.37(vi) the Committee resolved to exclude the public from the remainder of the meeting to deliberate on the conclusions and recommendations of the Inquiry report.

Janet Ryder AM

Chair, Subordinate Legislation Committee

24 March 2009

Annex 1

Subordinate Legislation Committee

(SLC(3)-09-09)

SLC259

Subordinate Legislation Committee Report

Under Standing Order 15.2 the Assembly is invited to pay special attention to the following instrument.

Title: The Plastic Materials and Articles in Contact with Food (Wales) Regulations 2009

Implementing in Wales European Commission Directive 2008/39/EC which amends Directive 2002/72/EC by updating the lists of monomer substances and additives permitted for use in the manufacture of food contact plastics and laying down conditions for their safe use.

Procedure: Negative

The instrument breaches the 21 day rule in that it was made on 4 March 2009 and laid before the Assembly on 6 March 2009 and came into force on 7 March 2009. The Counsel General and Leader of the House has advised, in his letter to the Presiding Officer dated 6 March 2009 that the breach arises as a consequence of the need to transpose and implement the Directive by 7 March 2009.

Under Standing Order 15.2 the Assembly is invited to pay special attention to the following instrument.

- The instrument has been drafted in English only – Standing Order 15.2 (ix)

In his letter to the Presiding Officer, the Counsel General and Leader of the House stated that the Deputy Minister for Social Services deemed it would not be reasonably practical to make the Regulations bilingually because of their length and complexity and the need to transpose and implement the Directive by 7 March 2009. The Counsel General and Leader of the House has confirmed that a Welsh translation of the Regulations will be available in due course.

- Page 7, Paragraph 2 the reference to the 'Secretary of State' should be amended to refer to the 'Welsh Ministers' – Standing Order 15.2 (vi)

- Schedule 3, Part 5, Paragraph 7 (page 49), in the table, the ‘test temperature’ needs to be correctly aligned with the ‘contact temperature’ – Standing Order 15.2 (vi)

Janet Ryder AM

Chair, Subordinate Legislation Committee

24 March 2009

The Government has responded as follows:

The Plastic Materials and Articles in Contact with Food (Wales) Regulations 2009

The government accepts the reporting points in respect of paragraph 2 of the preamble to the regulations and the formatting of the table in paragraph 7 of schedule 3 and intends to correct both reporting points immediately upon publication of the SI.

Annex 2

Subordinate Legislation Committee

(SLC(3)-09-09)

SLC263

Subordinate Legislation Committee Report

Under Standing Order 15.2 the Assembly is invited to pay special attention to the following instrument.

Title: The National Health Service (Amendments relating to Optical Charges and Payments) (Wales) Regulations 2009

Procedure: Negative

These Regulations amend the National Health Service (Optical Charges and Payments) Regulations 1997 and the National Health Service (General Ophthalmic Services) Regulations 1986. The Regulations provide for an increase in the payments to be made by means of a voucher system in respect of costs incurred by certain categories of persons in connection with the supply, replacement and repair of optical appliances. The Regulations also provide for an increase to the NHS sight test fee and an increase to the amount used as a basis for calculating entitlement to optical vouchers or a free NHS sight test.

Under Standing Order 15.2 the Assembly is invited to pay special attention to the following instrument.

In the Welsh text of regulation 7, words corresponding to “of the 1986 Regulations” have been omitted. [Standing Order 15.2(vi) – defective drafting]

Janet Ryder AM

Chair, Subordinate Legislation Committee

24 March 2009

The Government has responded as follows:

The National Health Service (Amendments relating to Optical Charges and Payments) (Wales) Regulations 2009

"The Government accepts the reporting point in respect of regulation 7 of the Welsh text of the National Health Service (Amendments relating to Optical

Charges and Payments)(Wales)Regulations 2009 and intends to correct the reporting point when the National Health Service(General Ophthalmic Services)Regulations 1986 are next amended."