

Subordinate Legislation Committee

Report (SLC (3) 29-09)

Date: 2 December 2009
Time: 9.30am
Venue: Committee Room 4, Ty Hywel

CONTENTS

The Committee met on 2 December 2009. At the meeting the following Committee Members were present: Janet Ryder AM, William Graham AM, Mike German AM. Apologies were received from Joyce Watson AM. There were no substitutions.

The Committee reports to the Assembly as follows:

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)

SLC355 - The Crime and Disorder Strategies (Prescribed Descriptions) (Wales) Order 2009

Negative Procedure. Date made 16 November 2009. Date laid 19 November 2009. Coming into force date 28 December 2009

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

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

SLC354 - The Children Act 1989 (Amendment of Miscellaneous Regulations) (Wales) Regulations 2009

Negative Procedure. Date made 16 November 2009. Date laid 18 November 2009. Coming into force date 20 January 2010

The Committee's report on this Statutory Instrument is attached is Annex 1 to this Report.

Committee Correspondence: Deputy Minister's responses to the Chair's letters: SLC313 - The Natural Mineral Water, Spring Water and Bottled Drinking Water (Wales)(Amendment) Regulations 2009

The Members discussed the Deputy Minister's most recent response to the Chair on these regulations. The Committee agreed to take no further action until the amending regulations were available. However, the Committee also

agreed to invite the Minister to attend the meeting at which scrutiny of the regulations would take place to answer questions from Members.

Janet Ryder AM

Chair, Subordinate Legislation Committee

2 December 2009

Annex 1

Subordinate Legislation Committee

(SLC(3)-29-09)

SLC354

Subordinate Legislation Committee Report

Title: The Children Act 1989 (Amendment of Miscellaneous Regulations) (Wales) Regulations 2009

The Children Act 2004 extended the meaning of “organisation” in the Children Act 1989 to include an unincorporated association. These Regulations make amendments to the Childminding and Day Care (Wales) Regulations 2002 and the Registration of Social Care and Independent Health Care (Wales) Regulations 2002 to give administrative effect to that amendment. They also amend the schedule of documents and information that an applicant for registration is required to provide where a person has been appointed to be in charge of day care.

Procedure: Negative

Under Standing Order 15.2 the Assembly is invited to pay special attention to this instrument on the following grounds:.

The power specified as being exercised by the Welsh Ministers to make these Regulations is section 76C of the Children Act 1989 (“the 1989 Act”), which does not exist. [Standing Order 15.2 (i) that there appears to be doubt as to whether it is *intra vires*], and [Standing Order 15.2 (vi), that its drafting appears to be defective or it fails to fulfill statutory requirements].

The English text of regulation 2 (2) refers to “corporate body” within regulation 2 (1) of the Child Minding and Day Care (Wales) Regulations 2002, but that regulation 2 (1) actually refers to “body corporate”. [Standing Order 15.2 (vi)].

Janet Ryder AM

Chair, Subordinate Legislation Committee

2 December 2009

The Government has responded as follows:

The Children Act 1989 (Amendment of Miscellaneous Regulations) (Wales) Regulations 2009

"the Government accepts that in respect of both of the points raised by the Legislation Committee in its report on The Children Act 1989 (Amendment of Miscellaneous Regulations)(Wales) Regulations 2009 there has been a drafting error. The government proposes to make and lay a statutory instrument which will revoke those regulations and replace them with corrected regulations which achieve the same intended effect and will come into force on the same date already set of 20 January 2010"