

## **Subordinate Legislation Committee**

### **Report (SLC (3) 30-09)**

**Date:** 9 December 2009  
**Time:** 9.30am  
**Venue:** Committee Room 2, Senedd

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The Committee met on 9 December 2009. At the meeting the following Committee Members were present: Janet Ryder AM, Alun Davies AM, William Graham AM, Joyce Watson AM. Apologies were received from Mike German 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)**

##### **SLC356 - The Welsh Health Specialised Services Committee (Wales) Regulations 2009**

Negative Procedure. Date made 25 November 2009. Date laid 26 November 2009. Coming into force date 17 December 2009

The Committee noted that Regulation 3.-(1) specified that the members of the joint committee consisted of the chief executives of each local health board (LHBs) together with a number of others.

The Committee further noted that in the Explanatory Memorandum (EM) to the Regulations one of the consultation responses was: "Each LHB Chief Executive to have a designated deputy". The EM goes on to say that this will "be addressed in a Memorandum between the LHB Chief Executives and in the Joint Committee's Standing Orders..."

Given what appeared to be the prescriptive membership arrangements in relation to LHB chief executives set out in Regulation 3(1), the Committee was unclear how the proposed Memorandum would be able to allow deputies to attend.

The Committee agreed not to invite the Assembly pay special attention to the regulations under Standing Order 15.2 but to write to the Minister asking for further clarification of this matter.

##### **SLC357 - The Materials and Articles in Contact with Food (Wales) (Amendment) Regulations 2009**

Negative Procedure. Date made 26 November 2009. Date laid 27 November 2009. Coming into force date 19 December 2009

The Committee noted that the Explanatory Memorandum stated (para 6.1) that “The Agency has not produced a Regulatory Impact Assessment (RIA) as the proposed legislation imposes no significant impact on Wales.” This was, however, contradicted in the Explanatory Note to the Regulations which said (para 3) that “A regulatory impact assessment has been prepared as to the likely costs and benefits of complying with these Regulations. A copy can be obtained from the Food Standards Agency, 11<sup>th</sup> Floor, Southgate House, Wood Street, Cardiff CF10 1EW.”

The Committee agreed not to invite the Assembly pay special attention to the regulations under Standing Order 15.2 but to write to the Minister for clarification of this matter.

**SLC359 - The Plant Health (Import Inspection Fees) (Wales) (Amendment) (No.2) Regulations 2009**

Negative Procedure. Date made 30 November 2009. Date laid 2 December 2009. Coming into force date 1 January 2010

**SLC360 - The Non-Domestic Rating Contributions (Wales) (Amendment) Regulations 2009**

Negative Procedure. Date made 30 November 2009. Date laid 2 December 2009. Coming into force date 31 December 2009

**SLC361 - The Staffing of Maintained Schools (Wales) (Amendment No. 2) Regulations 2009**

Negative Procedure. Date made 2 December 2009. Date laid 4 December 2009. Coming into force date 1 January 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)**

**SLC358 - The Common Agricultural Policy Single Payment and Support Schemes (Wales) (Amendment) Regulations 2009**

Negative Procedure. Date made 30 November 2009. Date laid 30 November 2009. Coming into force date 1 December 2009

The Committee’s Report under S.O.15.2 on these Regulations is attached as Annex 1.

**Other Business**

**Flood and Water Management Bill**

In accordance with its remit under Standing Order 15.6 (ii) (i.e., the Committee may consider and report on “the appropriateness of provisions in Bills for Acts of the United Kingdom Parliament that grant powers to make subordinate legislation to the Welsh Ministers”).

The Committee considered the Flood and Water Management Bill, which was introduced in the House of Commons 19 November 2009 and decided to write to the Minister for Environment, Sustainability and Housing of the Welsh Assembly Government Jane Davidson AM to ask for briefing on the Bill and to invite her to give oral evidence to the Committee in the New Year.

### **Committee Correspondence**

The Committee discussed the Minister for Environment, Sustainability and Housing Jane Davidson AM’s response to the Chair’s letter regarding SLC346 – The Hazardous Waste (Wales) (Amendment) Regulations 2009.

The Committee accepted the Minister’s reason for a six months period during which the Regulations drafted for England were used as default legislation for Wales. The Committee agreed that the role of Government Agencies in the making of subordinate legislation is an issue that may need further exploration as part of the Committee’s Inquiry on Statutory Instruments.

**Janet Ryder AM**  
Chair, Subordinate Legislation Committee

**9 December 2009**

## **Annex 1**

### **Subordinate Legislation Committee**

**(SLC(3)-30-09)**

**SLC358**

### **Subordinate Legislation Committee Report**

**Title: The Common Agricultural Policy Single Payment and Support Schemes (Wales) (Amendment) Regulations 2009**

**Procedure: Negative**

These Regulations amend the Common Agricultural Policy Single Payment and Support Schemes (Wales) Regulations 2005 (“the principal Regulations”). The purpose of the amendments is to enable Welsh Ministers to make payments under the principal Regulations when the payment window opened on 1 December 2009, and to update references made to European legislation.

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

These Regulations have been made in English only, as were the principal Regulations. [Standing Order 15.2 (ix)]

**Janet Ryder AM**

Chair, Subordinate Legislation Committee

**9 December 2009**

**The Government has responded as follows:**

**The Common Agricultural Policy Single Payment and Support Schemes (Wales) (Amendment) Regulations 2009**

The point is accepted. These amendment Regulations will be revoked when the principal Regulations are revoked and remade.

The principal Regulations are scheduled to be revoked and remade in English and Welsh early in 2010.