

Subordinate Legislation Committee

Report (SLC(3) 18-09)

Date: 6 July 2009
Time: 16.15
Venue: Committee Room 3, Senedd

CONTENTS

The Committee met on 6 July 2009. At the meeting the following Committee Members were present: Janet Ryder AM, Alun Davies AM, Mike German AM, David Melding AM, Joyce Watson AM. There were no apologies.

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)

SLC306 - The Swine Vesicular Disease (Wales) (Amendment) Regulations 2009

Negative procedure. Date made 25 June 2009. Date laid 26 June 2009. Coming into force date 17 July 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)

SLC304 - The Marketing of Fresh Horticultural Produce (Wales) Regulations 2009

Negative procedure. Date made 23 June 2009. Date laid 24 June 2009. Coming into force date 16 July 2009

The Committee adjourned the consideration of **SLC304 – The Marketing of Fresh Horticultural Produce (Wales) Regulations 2009** until the next meeting as the Government had not completed consideration of its response to the points raised by the Committee's Legal Advisers in respect of these Regulations.

SLC305 - The Meat (Official Controls Charges) (Wales) Regulations 2009

Negative procedure. Date made 24 June 2009. Date laid 25 June 2009. Coming into force date 28 September 2009

The Committee's Report under S.O.15.2 on Statutory Instruments subject to annulment pursuant to a resolution of the Assembly (Negative Procedure) is attached as Annex 1 to this Report.

Other Business

Extract from the Record of the Plenary Proceedings 30 June 2009 - Stage 1 Debate on General Principles of the Proposed Children and Families (Wales) Measure (Debate re Section 60 – the choice of procedure)

The Subordinate Legislation Committee's report on the proposed Measure made four recommendations, including the recommendation that the regulations under section 60 should be subject to the affirmative procedure. At the Plenary Stage 1 Debate 30 June 2009 on general principles of the proposed Measure the Minister commented that given the detailed nature of regulations under the section 60, they are more appropriate for the negative procedure. The Members expressed a view that it is what the regulations do, and not their detailed nature should determine the choice of procedure.

Sewell Convention

The Committee discussed the legal advice on the Sewel Convention. The Members agreed to return to the issue when the Business Committee completed its consideration of the legislative consent orders.

Equality Bill

As part of scrutiny of the Equality Bill conducted under SO 15.6 (ii) (the Committee may consider and report on "the appropriateness of provisions in Proposed Assembly Measures and in Bills or Acts of the United Kingdom Parliament that grant powers to make subordinate legislation to the Welsh Ministers") the Members heard the evidence of the Minister for Social Justice and Local Government Dr Brian Gibbons AM.. The Minister agreed to provide further information.

The Committee agreed to consider a draft report in relation to the Bill.

In accordance with Standing Order 10.37(vi) the Committee resolved to exclude the public from the remainder of the meeting to discuss the evidence and initial recommendations for the Committee Report on the Equality Bill.

Janet Ryder AM

Chair, Subordinate Legislation Committee

6 July 2009

Annex 1

Subordinate Legislation Committee

(SLC(3)-18-09)

SLC305

Subordinate Legislation Committee Report

Title: The Meat (Official Controls Charges) (Wales) Regulations 2009

Procedure: Negative

These Regulations introduce, in Wales, time-based charging arrangements for meat hygiene and animal welfare at slaughter official controls in approved meat premises. The Meat (Official Controls Charges) (Wales) Regulations 2008 are revoked.

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

- The preamble to the Regulations states that it considered expedient that the Regulations contain an ambulatory reference* to the Community instruments referred to in Schedule 1 to the Regulations. The relevant paragraph states that “it appears to the Secretary of State” that it is expedient to make such a reference. The reference to the Secretary of State should be to the Welsh Ministers [Standing Order 15.2(vi) – defective drafting]
- In the Welsh text of the definitions of various community instruments contained in regulation 2(1), words corresponding to “have the meanings” are omitted. [Standing Order 15.2(vi) – defective drafting]
- Regulation 5(2) provides that any demand issued by the Environment Agency for information or evidence must be delivered to the operator. In the case of an operator that it is a body corporate the demand is to be delivered to “the operator’s secretary at the operator’s registered or principal office”. The Welsh text refers to “ysgrifennydd or ysgrifennyddes”. It is assumed that the reference to “secretary” is to the person required under company law to hold the office of Company Secretary and not to a person employed as a personal secretary or personal assistant and as such it is considered that this would be more clearly conveyed by the use of the expression “Secretary” in the English text. In these circumstances “Ysgrifennydd” alone would then be considered acceptable in the Welsh text. [Standing Order 15.2(v) – meaning needs further explanation]

* An “ambulatory reference” allows an instrument to be read as if references to a community instrument therein are references to the instruments as amended from time to time. This obviates the necessity of amending

regulations and orders each time amendment is made to the community instrument concerned. This practice is permitted by section 1A of the European Communities Act 1972 (as inserted by section 16 of the Legislative and Regulatory Reform Act 2006).

Janet Ryder AM

Chair, Subordinate Legislation Committee

6 July 2009

Government have responded as follows:-

The Meat (Official Controls Charges) (Wales) Regulations 2009

The Welsh Assembly Government notes the points raised in the report and will make the requisite amendments over the Summer.