

Subordinate Legislation Committee

Report (SLC (3) 26-09)

Date: 11 November 2009
Time: 9.30am
Venue: Committee Room 2, Senedd

CONTENTS

The Committee met on 11 November 2009. At the meeting the following Committee Members were present: Janet Ryder AM, Alun Davies 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:

1. 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)

SLC344 - The Combined Fire and Rescue Services Schemes (Variation) (Wales) Order 2009

Negative Procedure. Date made 24 October 2009. Date laid 27 October 2009. Coming into force date 1 December 2009

SLC345 - The School Teacher Appraisal (Wales) (Amendment No 2) Regulations 2009

Negative Procedure. Date made 26 October 2009. Date laid 28 October 2009. Coming into force date 24 November 2009

SLC347 - The Feed (Specified Undesirable Substances) (Wales) Regulations 2009

Negative Procedure. Date made 27 October 2009. Date laid 29 October 2009. Coming into force date 23 November 2009

SLC349 - The Public Transport Users' Committee for Wales (Establishment) (Amendment) Order 2009

Negative Procedure. Date made 2 November 2009. Date laid 3 November 2009. Coming into force date 25 November 2009

2. Instruments in respect of which the Assembly is invited to pay special attention under Standing Orders 15.2 and 15.3

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

SLC343 - The Public Transport Users' Committee for Wales (Establishment) Order 2009

Negative Procedure. Date made 20 October 2009. Date laid 22 October 2009. Coming into force date 16 November 2009

In addition to the points raised in the draft report under Standing Order 15.2, the Committee discussed a particular provision in regulation 4.1(c) regarding the appointment of members. It was agreed that this be drawn to the attention of the Assembly under Standing Order 15.3. This is noted in Annex 1. The Committee agreed that the Chair would write to the Chairs of the Equality of Opportunity and Enterprise and Learning Committees and to the Minister to draw their attention to the report and asking that they give further consideration to the matter.

SLC346 - The Hazardous Waste (Wales) (Amendment) Regulations 2009

Negative Procedure. Date made 27 October 2009. Date laid 28 October 2009. Coming into force date 18 November 2009

The Committee noted that the Explanatory Memorandum to these Regulations states that "...the Department for the Environment, Food and Rural Affairs have already made amending regulations which have been in force in England since 6 April 2009. Welsh businesses could be placed at a disadvantage if the proposed amendments to the current regulations are not implemented. The Environment Agency has taken a temporary regulatory position, which is in place until December 2009 where they will treat industry in both Wales and England the same in relation to these amendments..." The Members agreed that the Chair would ask the relevant Minister the reason for there being a six months period during which the Regulations drafted for England were used as default legislation for Wales.

The Committee's Reports under S.O.15.2 and S.O.15.3 on these Regulations are attached as Annexes 1-2.

3. Proposed Red Meat Industry (Wales) Measure

As part of scrutiny of the Proposed Red Meat Industry (Wales) Measure conducted under SO 15.6 (ii) (the Committee may consider and report on "the appropriateness of provisions in proposed assembly Measures ... that grant powers to make subordinate legislation to the Welsh Ministers") the Members heard the evidence of the Deputy Minister for Rural Affairs Elin Jones AM.

Agenda Item 4.2 - Consideration of evidence and initial recommendations for the Committee Report: Red Meat Industry (Wales) Measure

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 on the Proposed Red Meat Industry (Wales) Measure.

Janet Ryder AM
Chair, Subordinate Legislation Committee

11 November 2009

Annex 1

Subordinate Legislation Committee

(SLC(3)-26-09)

SLC343

Subordinate Legislation Committee Report

Title: The Public Transport Users' Committee for Wales (Establishment) Order 2009

This Order establishes the Public Transport Users' Committee for Wales. The Committee is an independent advisory body to the Welsh Ministers on public transport issues.

Procedure: Negative

The following point has been identified for reporting under Standing Order 15.2.

Both article 7 (1) (d), and article 8 (1) in the English text refer to "procedure" in the singular, whereas the equivalent provisions in the Welsh text refer to "procedures". There is an inconsistency between the English and Welsh text [Standing Order 15.2 (vii)].

The following point has been identified for reporting under Standing Order 15.3(ii).

In addition, the following issue has been identified for reporting under Standing Order 15.3(ii) as a matter to which the Assembly should pay special attention as giving rise to an issue of public policy likely to be of interest to the Assembly.

In regulation 4.1(c), it was noted that one additional member of the Public Transport Users' Committee for Wales will be the person appointed by the Secretary of State [for Transport] to represent the interests of Wales on the "Disabled Persons' Transport Advisory Committee". The Assembly may wish to consider whether it would be more appropriate for this appointment to be made by the Welsh Ministers rather than by the Secretary of State and whether the Transport Act 1985 should be amended to reflect this.

Janet Ryder AM
Chair, Subordinate Legislation Committee

11 November 2009

The Government has responded as follows to the reporting point under Standing Order 15.2 :-

The Public Transport Users' Committee for Wales (Establishment) Order 2009

The point is accepted. An amending Order has been drafted and will come into force on 25th November 2009 to rectify the error.

Annex 2

Subordinate Legislation Committee

(SLC(3)-26-09)

SLC346

Subordinate Legislation Committee Report

Title: The Hazardous Waste (Wales) (Amendment) Regulations 2009

Procedure: Negative

These Regulations amend the Hazardous Waste (Wales) Regulations 2005 (“the 2005 Regulations”), which implement Council Directive 91/689/EEC on hazardous waste. The miscellaneous amendments are explained in the Explanatory Note.

The following point has been identified for reporting under Standing Order 15.2.

Regulation 6 substitutes a new regulation 14 for the version in the 2005 Regulations. The English paragraph (3)(b) refers to waste accepted for collection, disposal or recovery “at a site”. The Welsh equivalent refers to waste accepted for collection, disposal or recovery “from a site” (“o safle”). The English wording suggests that “at a site” relates to the acceptance, whilst the Welsh wording suggests that the “from a site” refers to the collection, disposal or recovery. The ambiguity should be resolved as soon as possible. [Standing Order 15.2(vii)]

Janet Ryder AM

Chair, Subordinate Legislation Committee

11 November 2009

The Government has responded as follows:-

The Hazardous Waste (Wales) (Amendment) Regulations 2009

The ambiguity noted in the Welsh language version of the 2009 Regulations is accepted by the Government.

This ambiguity will be addressed in forthcoming regulations that will amend the Hazardous Waste (Wales) Regulations 2005. Those amendments will relate to the Consignment Note system currently in

use for Hazardous Waste collections and movements. The Welsh Assembly Government, DEFRA and the Environment Agency are currently working on those proposals and it is intended that the ambiguity noted by the Committee in the 2009 Amendment Regulations will be addressed as part of these amendments.