

Subordinate Legislation Committee

Report (SLC (3) 28-09)

Date: 25 November 2009
Time: 9.30am
Venue: Committee Room 1, Senedd

CONTENTS

The Committee met on 25 November 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)

SLC352 - The Local Authorities (Executive Arrangements) (Functions and Responsibilities) (Wales) (Amendment) Regulations 2009

Negative Procedure. Date made 10 November 2009. Date laid 11 November 2009. Coming into force date 2 December 2009

SLC353 - The National Health Service (Charges to Overseas Visitors) (Amendment) (No.2) (Wales) Regulations 2009

Negative Procedure. Date made 11 November 2009. Date laid 13 November 2009. Coming into force date 7 December 2009

Although in respect of these regulations the Committee did not raise any points under Standing Order 15.2, the Members considered several issues under the Standing Order 15.3(ii): "...matters to which the Assembly should pay special attention as giving rise to issues of public policy likely to be of interest to the Assembly...". The Committee agreed that the Chair would write to the Minister to draw her attention to the report and asking that she gives further consideration to the matters referred to.

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

Agenda Items 3, 4 and 5 - Regulations resulting from Measures, Monitoring the outcome of the Subordinate Legislation Committee's Reports - Counsel General's response to the Chair's

letter and Consideration of the Committee's Draft Report on Proposed Red Meat Industry (Wales) Measure

In accordance with Standing Order 10.37 (vi) and (vii) the Committee resolved to exclude the public from the remainder of the meeting to discuss legal and Members' Research Service's advice on Regulations resulting from Measures, and the outcome of the Subordinate Legislation Committee's Reports and the content and recommendations of the report on the Proposed Red Meat Industry (Wales) Measure.

Janet Ryder AM
Chair, Subordinate Legislation Committee

25 November 2009

Annex 1

Subordinate Legislation Committee

(SLC(3)-28-09)

SLC353

Subordinate Legislation Committee Report

Title: The National Health Service (Charges to Overseas Visitors) (Amendment) (No. 2) (Wales) Regulations 2009

Procedure: Negative

These Regulations amend the National Health Service (Charges to Overseas Visitors) Regulations 1989 (S.I. 1989/306) (“the 1989 Regulations”). The Regulations remove Guernsey and its bailiwick and Jersey from Schedule 2 to the 1989 Regulations. Visitors from these territories to Wales will no longer be exempt under regulations 4 and 5 of the 1989 Regulations from charges for healthcare provided within the NHS.

No points have been identified to be the subject of a report under Standing Order 15.2.

The following points have been identified for reporting under Standing Order 15.3(ii):

These Regulations implement a significant change that will have the effect of making the people of the Channel Islands (158,000 people) exempt from free NHS care to which they were previously entitled when visiting Wales. The Explanatory Memorandum gives no explanation, nor makes any assessment, of the impact of these changes for Wales. In particular, there is no assessment of any potential costs or savings to Welsh Government budgets or the Welsh Block or whether there is any consequential change in the entitlement of people in Wales to health care in the Channel Islands.

The Explanatory Memorandum says that a Regulatory Impact Assessment (RIA) has not been prepared because “the legislation simply amends existing legislation.” It is the view of the Committee that this is an inadequate reason for not preparing an RIA that, if accepted, would apply to the greater part of all Subordinate Legislation made by the Welsh Ministers.

The Explanatory Memorandum explains that the Regulations are being made following the UK Department of Health giving “notice on the bilateral agreement between the UK and the Channel Islands and the

amendments to the regulations is [sic] to give effect to that decision". The Committee accepts that maintaining parity with other parts of the UK, and meeting international obligations, can in themselves be sound reasons for making or amending Subordinate Legislation relating to Wales. However, in this instance, a fuller explanation of the need for Welsh Ministers to make this legislation, based upon implications for Wales, would have been desirable.

[Standing Order 15.3(ii): Matters to which the Assembly should pay special attention as giving rise to issues of public policy likely to be of interest to the Assembly.]

Janet Ryder AM
Chair, Subordinate Legislation Committee

25 November 2009