

Subordinate Legislation Committee

Report (SLC(3) 10-07)

Meeting Date: 13 November 2007
Meeting Time: 8.15am
Meeting Venue: Committee Room 3, Senedd

Remit:

The remit of the Committee is:-

1. Subject to Standing Order 15.7, the Committee must consider all statutory instruments or draft statutory instruments required by any enactment to be laid before the Assembly and report on whether the Assembly should pay special attention to the instrument or draft on any of the following grounds:

- (i) that there appears to be doubt as to whether it is intra vires;
- (ii) that it appears to make unusual or unexpected use of the powers conferred by the enactment under which it is made or to be made;
- (iii) that the enactment which gives the power to make it contains specific provisions excluding it from challenge in the courts;
- (iv) that it appears to have retrospective effect where the authorising enactment does not give express authority for this;
- (v) that for any particular reason its form or meaning needs further explanation;
- (vi) that its drafting appears to be defective or it fails to fulfil statutory requirements;
- (vii) that there appear to be inconsistencies between the meaning of its English and Welsh texts;
- (viii) that it uses gender specific language;
- (ix) that it is not made or to be made in both English and Welsh;
- (x) that there appears to have been unjustifiable delay in publishing it or laying it before the Assembly; or
- (xi) that there appears to have been unjustifiable delay in sending notification under section 4(1) of the Statutory Instruments Act 1946 (as modified).

2. Subject to Standing Order 15.7, the Committee may consider and report on whether the Assembly should pay special attention to any statutory instrument

or draft statutory instrument required by any enactment to be laid before the Assembly on any of the following grounds:

- (i) that it imposes a charge on the Welsh Consolidated Fund or contains provisions requiring payments to be made to that Fund or any part of the government or to any local or public authority in consideration of any licence or consent or of any services to be rendered, or prescribes the amount of any such charge or payment;
- (ii) that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Assembly;
- (iii) that it is inappropriate in view of the changed circumstances since the enactment under which it is made or is to be made was itself passed or made;
- (iv) that it inappropriately implements European Union legislation; or
- (v) that it imperfectly achieves its policy objectives.

3. The Committee must make any report under Standing Order 15.2 or 15.3 in respect of any statutory instrument or draft statutory instrument no later than 20 days after the instrument or draft has been laid.

4. In calculating for the purposes of Standing Order 15.4 any period of days, no account is to be taken of any time during which the Assembly is dissolved or is in recess for more than 4 days.

5. Subject to 15.7, the Committee may also consider and report on:

- (i) any other subordinate legislation laid before the Assembly;
- (ii) the appropriateness of provisions in proposed Assembly Measures and in Bills for Acts of the United Kingdom Parliament that grant powers to make subordinate legislation to the Welsh Ministers, the First Minister or the Counsel General;
- (iii) consequences for legislation subject to the consideration of the Assembly of draft orders under Part 1 of the Legislative and Regulatory Reform Act 2006;
- (iv) the exercise of commencement powers by the Welsh Ministers; or
- (v) any legislative matter of a general nature within or relating to the competence of the Assembly or Welsh Ministers.

6. The Committee may not consider:

- (i) any draft legislative competence order; or

(ii) any statutory instrument or draft statutory instrument that is required to be laid before Parliament.

Membership:

The current membership of the Committee is:

Dr Dai Lloyd AM (Chair)
Eleanor Burnham AM
Andrew RT Davies AM
Alun Davies AM
Paul Davies AM
Irene James AM
Sandy Mewies AM
Janet Ryder AM
Karen Sinclair AM

Legal Advisers:

Gwyn Griffiths
Joanest Jackson

Clerking Team:

Clerk to the Committee:

Chris Reading

Deputy Clerk to the Committee:

Olga Lewis

Administrative Support Officers:

Hasera Khan
Runa Haque

Contacts:

To attend an Assembly committee meeting it is necessary to book a seat in advance; either by telephoning:

Assembly Booking Line; telephone 029 2089 8477

Or by e-mailing assembly.bookings@wales.gsi.gov.uk

You can contact the Committee by sending an e-mail to:

Legislation.com@wales.gsi.gov.uk

Or you can speak to the Clerk, Chris Reading; telephone 029 2089 8164.

CONTENTS

The Committee met on 13 November 2007. At the meeting the following Committee Members were present: Dr Dai Lloyd AM (Chair), Eleanor Burnham AM, Andrew RT Davies AM, Alun Davies AM, Paul Davies AM, Irene James AM, Sandy Mewies AM, Janet Ryder AM, Karen Sinclair AM.

The Committee reports to the Assembly as follows:

Instruments and draft 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)

SLC59 - The Maintained Schools (Partnership Agreements) (Wales) Regulations 2007

Negative Procedure. Date made 23 October 2007. Date laid 26 October 2007. Coming into force date 12 December 2007.

SLC62 - The Rating Lists (Valuation Date) (Wales) Order 2007

Negative Procedure. Date made 4 November 2007. Date laid 5 November 2007. Coming into force date 1 December 2007.

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

SLC61 - The Import and Export Restrictions (Foot-and-Mouth Disease) (No.6) (Wales) Regulations 2007

Negative Procedure. Date made 31 October 2007. Date laid 1 November 2007. Coming into force date 31 October 2007.

Action: The Assistant Legal Adviser was asked to enquire when the Welsh translation of these Regulations would be available so that (depending on the advice received) the Chair might decide if he should write to the relevant Minister regarding this matter.

The Committee's Report under S.O.15.2 on The Import and Export Restrictions (Foot-and-Mouth Disease) (No.6) (Wales) Regulations 2007 is attached as Annex 1 to this Report.

The Committee considered the proposed draft NHS Redress (Wales) Measure 2007 and approved the final version of report. The Committee's report will be laid before the Plenary and published on the Internet.

Dr. Dai Lloyd AM
Chair
Subordinate Legislation Committee

Annex 1

Subordinate Legislation Committee

(SLC(3) 10-07)

SLC61

Subordinate Legislation Committee Report

Under Standing Order 15.2 the Assembly is invited to pay special attention to the following instrument.

Title: The Import and Export Restrictions (Foot- and -Mouth Disease) (No 6) (Wales) Regulations 2007

- implementing in Wales European Commission Decision 2007/709/EC which further amends Commission Decision 2007/554/EC concerning certain protection measures against foot-and-mouth disease in the United Kingdom and revoking and remaking with amendments the Import and Export (foot-and-Mouth Disease) (No 5) (Wales) Regulations 2007. These Regulations were made and came in to force on 31 October 2007 and are to cease to have effect on 15 December 2007. They regulate-

- the importation and dispatch of live animals;
- the export of meat from bovine, ovine, caprine and porcine animals and other biungulates;
- the marking of meat not eligible for export;
- the export of meat products, milk and dairy products;
- the export of semen, ova or embryos of bovine, ovine, caprine or porcine species or other biungulates, hides and skins and various animal products; and
- personal exports.

Procedure: Negative

The Assembly is invited to pay special attention to this instrument on the grounds set out in Standing order 15.2(ix) (that it is not made in both English and Welsh).

The Presiding Officer was advised that due to the length of the Regulations and the need to introduce them in Wales immediately, the Minister for Rural Affairs deemed it would not be reasonably practicable for them to be made bilingually in the timescale but that a Welsh translation would be available in due course.

Dr Dai Lloyd AM

Chair, Subordinate Legislation Committee

13 November 2007