



Constitutional and Legislative Affairs Committee

Report: CLA(4)-15-12 : 25 June 2012

The Committee reports to the Assembly as follows:

Instruments that raise no reporting issues under Standing Order 21.2 or 21.3

Negative Resolution Instruments

None

Affirmative Resolution Instruments

None

Instruments that raise reporting issues under Standing Order 21.2 or 21.3

Negative Resolution Instruments

CLA157 - The Plant Health (Fees) (Wales) Regulations 2012

Procedure: Negative.

Date made: 5 June 2012.

Date laid: 12 June 2012.

Coming in to force date: 6 July 2012

Affirmative Resolution Instruments

None

Super Affirmative Resolution Instruments

CLA155 - The Natural Resources Body for Wales (Establishment) Order 2012

Procedure: Super Affirmative

Date made: 2012

Date laid: not stated

Coming into force date: see article 1

The Committee agreed the Reports under S.O.21.2 and S.O.21.3 on these statutory instruments, which are attached as Annexes 1 - 2.

Other Business

Subsidiarity monitoring report (January 2012 – April 2012)

The Committee noted Subsidiarity Monitoring Report (January 2012 – April 2012), which covered the proposals received between January and April 2012.

Committee Inquiries: Inquiry into the establishment of a separate Welsh jurisdiction

The Committee took oral evidence from The Rt. Hon. Lord Morris of Aberavon KG QC.

Resolution to Meet in Private

In accordance with Standing Order 17.42(vi) the Committee resolved to exclude the public from the remainder of the meeting to discuss the evidence submitted thus far on the Inquiry into the establishment of a separate Welsh jurisdiction.

David Melding AM

Chair, Constitutional and Legislative Affairs Committee

25 June 2012

Annex 1

Constitutional and Legislative Affairs Committee

(CLA(4)-15-12)

CLA155

Constitutional and Legislative Affairs Committee Report

Title: The Natural Resources Body for Wales (Establishment) Order 2012

Procedure: Affirmative

This draft order is being brought forward under powers contained in sections 13 and 15 of the Public Bodies Act 2011. It establishes a new statutory body, the Natural Resources Body for Wales and provides for its form, purpose, membership, procedure, financial governance and initial functions.

Technical Scrutiny

The following point is identified for reporting under Standing Order 21.2 in respect of this draft instrument.

Article 13(5) contains a requirement in certain circumstances for the Body to make payment to Welsh Ministers. The words ‘to them’ are included in the English text, but the corresponding ‘iddynt’ is absent in the Welsh text. The intention is clear, so it would be appropriate to insert the missing word on publication to make the provision easier to follow.

[Standing Order 21.2(vi) – that the drafting appears to be defective.

Merits Scrutiny

The following points are identified for reporting under Standing Order 21.3 (ii) in respect of this draft instrument – that it gives rise to issues of public policy likely to be of interest to the Assembly.

This is the first order made by the Welsh Ministers under section 13 of the Public Bodies Act 2011 (“the 2011 Act”) that the National Assembly for Wales has considered.

The Order establishes the new single body for the management of Wales’ natural resources. The new body has the working title *Natural Resources Body for Wales*. The Welsh Government state within the

Explanatory Memorandum that the order establishes the body in a way that ensures that, prior to its having transferred to it the full range of appropriate functions, it will be able to undertake the preparatory work necessary to ensure the new body will be able to function fully from the first day it becomes responsible for all the environmental responsibilities that are to be transferred to it. The preparatory work will include setting up the internal structures of the Body and preparing for the transfers of those functions, and of staff, property and other rights and liabilities in other legislation.

The Order is subject to a form of affirmative procedure in accordance with section 19 of the 2011 Act. In addition to the normal requirement of affirmative procedure – i.e. that the Order cannot be made unless the Assembly approves it, the 2011 Act requires that the Order be laid in draft for 40 non-recess days. At any time within 30 days of it being laid (which expires on 5th July 2012), the Assembly may resolve or a committee tasked with scrutinising the Order may recommend that the draft Order be laid for an additional 20 non-recess days (i.e. 60 in all) before it can be made. Any recommendation by a committee is subject to being overruled by a motion of the Assembly. In the event that the Assembly resolves or a committee recommendation stands, then the Order must be laid for a further 20 days to allow for further scrutiny, consultation etc. The Welsh Ministers will have to have regard to any representations, any resolutions of the Assembly and any recommendations of a Committee of the Assembly tasked with scrutinising the Order. If any material changes are made to the draft Order as a result, the revised draft Order would need to be re-laid before the Assembly, with a statement summarising the changes. The revised draft Order would then be subject to normal affirmative procedure in the Assembly.

The Constitutional and Legislative Affairs Committee referred the draft Order to the Environment and Sustainability Committee for consideration on 11 June 2012.

David Melding AM

Chair, Constitutional and Legislative Affairs Committee

25 June 2012

The Government has responded as follows:

The Natural Resources Body for Wales (Establishment) Order 2012

The Government accepts the technical reporting point and will correct the error on publication.

Annex 2

Constitutional and Legislative Affairs Committee

(CLA(4)-15-12)

CLA157

Constitutional and Legislative Affairs Committee Report

Title: The Plant Health (Fees) (Wales) Regulations 2012

Procedure: Negative

These Regulations, which apply in relation to Wales, specify fees payable to the Welsh Ministers in the field of plant health. The fees are payable in relation to specified inspections/other operations carried out pursuant to Council Directive 2000/29/EC on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community.

In addition, these Regulations consolidate several previous instruments which dealt separately with particular fees in relation to plant health.

Technical Scrutiny

Under Standing Orders 21.2 the Assembly is invited to pay special attention to this instrument:-

In particular, concerning Regulation 3 (3) there is a discrepancy between the English and Welsh text. The Welsh text has additional wording which is not reflected in the English text.

We believe the English text is the correct version.

[Standing Order 21.2 (vii) that there appear to be inconsistencies between the meaning of its English and Welsh texts] and [Standing Order 21.2 (vi) that its drafting appears to be defective or it fails to fulfil its statutory requirement].

Merits Scrutiny

No points are identified for reporting under Standing Order 21.3 in respect of this instrument at this stage.

David Melding AM

Chair, Constitutional and Legislative Affairs Committee

25 June 2012

The Government has responded as follows:

The Plant Health (Fees) (Wales) Regulations 2012

The Government accepts the reported inconsistency between the Welsh and English texts which arose in final amendment of the draft Statutory Instrument prior to making to remove otiose text. The relevant text was removed from the English text of the Statutory Instrument, but inadvertently left in the Welsh text. Given that the relevant text has no impact on the meaning or intended effect of the instrument, the Government proposes to amend the Welsh text upon publication.