

## **Subordinate Legislation Committee**

### **Report (SLC(3) 21-09)**

**Date:** 30 September 2009  
**Time:** 9.30am  
**Venue:** Committee Room 1, Senedd

### **CONTENTS**

---

The Committee met on 30 September 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:

#### **Draft instruments in respect of which the Assembly is not invited to pay special attention under Standing Order 15.2**

#### **Draft instruments subject to annulment pursuant to a resolution of the Assembly (Negative Procedure)**

##### **SLC328 - The Pre-release Access to Official Statistics (Wales) Order 2009**

Affirmative Procedure. Date made 2009. Coming into force date in accordance with article 1.

#### **Instruments in respect of which the Assembly is invited to pay special attention under Standing Orders 15.3**

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

##### **SLC313 - The Natural Mineral Water, Spring Water and Bottled Drinking Water (Wales) (Amendment) Regulations 2009**

Negative Procedure. Date made 15 July 2009. Date laid 15 July 2009. Coming into force date 16 July 2009

The Committee had considered this Statutory Instrument at its meeting on 23 September 2009 and had established a potential reporting point as the Regulations contained a requirement to use English descriptions only for natural mineral water under regulation 5(2). The Government had disagreed with the reporting point. The Committee had not been content with the Government's response and had decided to defer consideration of these Regulations until 30 September to allow for further clarification to be provided by the Minister for Health and Social Service.

However, having considered the Minister's further response the Members decided that the reporting point under S.O.15.3 still stands ("that it is of

political or legal importance or gives rise to issues of public policy likely to be of interest to the Assembly.”). The Committee noted a discrepancy between the contents of these Regulations and the response of the Deputy Minister for Social Services to the Chair’s letter. The Members recommended that the letter should be attached to the Committee’s report on these Regulations and that the Food Standards Agency and other relevant bodies should be made aware of its contents.

The Committee’s Report under S.O.15.3 on these Regulations is attached as Annex 1; the letter from the Deputy Minister for Social Services is attached at Annex 2.

## **Other Business**

### **Written Response to the Subordinate Legislation Committee’s Report on the Apprenticeship, Skills, Children and Learning Bill by John Griffiths, Deputy Minister for Skills.**

The Members considered the response of the Deputy Minister for Skills John Griffiths AM to the Committee’s report on the Apprenticeships, Skills, Children and Learning Bill, which was the second UK Bill scrutinised by the Committee. The Committee published its Report on the Bill in May 2009.

### **Proposed Social Care Charges (Wales) Measure – evidence session with the Deputy Minister for Social Services Gwenda Thomas AM**

As part of their scrutiny of the Proposed Social Care Charges (Wales) Measure, 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 Deputy Minister for Social Services Gwenda Thomas AM.

The Minister agreed to provide further information to the Committee regarding the evidence from LE Wales. The Committee agreed to consider a draft report in relation to the proposed Measure at a subsequent meeting.

### **Agenda Item 5.2 – Consideration of evidence and initial recommendations for the Committee Report**

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 recommendations for the Committee Report on the Proposed Social Care Charges (Wales) Measure.

**Janet Ryder AM**  
**Chair, Subordinate Legislation Committee**

**23 September 2009**

## **Annex 1**

### **Subordinate Legislation Committee**

**(SLC(3)-21-09)**

**SLC313**

### **Subordinate Legislation Committee Report**

#### **Title: The Natural Mineral Water, Spring Water and Bottled Drinking Water (Wales) (Amendment) Regulations 2009**

#### **Procedure: Negative**

These Regulations amend the Natural Mineral Water, Spring Water and Bottled Drinking Water (Wales) Regulations 2007 (S.I. 2007/3165 (W.276)) ("the principal Regulations") and in so doing implement Directive 2009/54/EC of the European Parliament and of the Council on the exploitation and marketing of natural mineral waters.

The Regulations also rectify defects reported by the Committee in relation to the principal Regulations that were set out in its report of 27 November 2007. The Counsel General wrote to the then Chair of the Committee on 14 January 2008 stating "I can confirm that in this instance the amended Regulations will be brought forward early in the New Year, and almost certainly before the end of January 2008." The current Regulations were not in fact made until 15 July 2009.

#### **Under Standing Order 15.3(ii) the Assembly is invited to pay special attention to this instrument on the grounds:**

"that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Assembly."

Regulation 5(2) substitutes a new regulation 8(1)(h) in the principal Regulations. This provision prohibits the use of descriptions other than those specified for natural mineral water. The descriptions specified are in English only in both the English and Welsh texts. Consequently, the use of a corresponding Welsh term would be a breach of regulation 8, and render a person using such a description open to prosecution and a fine of up to £5,000 under regulation 20 of the principal Regulations.

**Janet Ryder AM**

Chair, Subordinate Legislation Committee

**30 September 2009**

**The Government has responded as follows:**

“The Government notes the comments about the new regulation 8(1)(h), but believes that as these Regulations are made directly from a recast EU Directive, it is possible under EU Law to use only the English language when dealing with labelling requirements, but not possible to use only the Welsh language. As the information in the description may be viewed as being health related, it is important to ensure that as many consumers as possible (as well as enforcement officers) understand that information. In addition, the inclusion of the Welsh language equivalents to the mandatory English language terminology would not provide a clear food label solution for the consumer. Therefore these Regulations do not require amendment .”

**Gwenda Thomas AC/AM**  
Y Dirprwy Weinidog dros Wasanaethau Cymdeithasol  
Deputy Minister for Social Services



Llywodraeth Cynulliad Cymru  
Welsh Assembly Government

Eich cyf/Your ref – SLC 309  
Ein cyf/Our refxxx

Janet Ryder AM  
Chair  
Subordinate Legislation Committee  
National Assembly for Wales  
Cardiff Bay  
Cardiff  
CF99 1NA

29<sup>th</sup> September 2009

*Dear Janet,*

**SLC 313- The Natural Mineral Water, Spring Water and Bottled Drinking Water (Wales) (Amendment) Regulations 2009**

Thank-you for your letter dated 23<sup>rd</sup> September 2009 addressed the Minister for Health and Social Services regarding the Subordinate Legislation Committee's (SLC) observations with regard to the above legislation. It has been agreed that I will respond on behalf of the Welsh Assembly Government as this subject matter falls within my portfolio.

The SLC has drawn attention to the Regulations under Standing Order 15.3 where the Assembly is invited to pay special attention to an instrument on the grounds:  
"that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Assembly".

The Food Standards Agency in Wales has led on the progress of these Regulations and have been consulted as to the detail of the Regulations and offer the following explanation regarding the textual wording issues highlighted by the SLC in the Welsh version of the SI;

The Regulations were implemented in Wales from the recast EU Directive 2009/54/EC that applies UK wide. The recast Directive was published in the Official Journal on the 26<sup>th</sup> June 2009. It dictates in Article 7 that the sales description shall be "natural mineral water" etc and this is prescribed wording and expressly in the English language and then directly transcribed into the 2009 domestic Regulations.

These 2009 Regulations replicate the above wording of the 2007 Regulations that they amend ,and this is not a new term or form of wording.

The use of the terms ' natural mineral water' etc in the English language are not perceived as contrary to the Welsh language policy nor do they preclude a food business from adding the Welsh text on a label on a voluntary basis in addition to the English terms.

In the Government response of 23 August we previously advised:

Bae Caerdydd • Cardiff Bay  
Caerdydd • Cardiff  
CF99 1NA

English Enquiry Line 0845 010 3300  
Llinell Ymholiadau Cymraeg 0845 010 4400  
Ffacs \* Fax 029 2089 8635  
Correspondence.Gwenda.Thomas@Wales.gsi.gov.uk

*Wedi'i argraffu ar bapur wedi'i ailgylchu (100%)*

*Printed on 100% recycled paper*

"The Government notes the comments about the new regulation 8(1)(h), but believes that as these Regulations are made directly from a recast EU Directive, it is possible under EU Law to use only the English language when dealing with labelling requirements, but not possible to use only the Welsh language. As the information in the description may be viewed as being health related, it is important to ensure that as many consumers as possible (as well as enforcement officers) understand that information. In addition, the inclusion of the Welsh language equivalents to the mandatory English language terminology would not provide a clear food label solution for the consumer. Therefore these Regulations do not require amendment."

It should be noted that the Welsh language version of the Regulations quotes the terms 'natural spring water' etc in the English language, but further to the above comment they could be included on the label in Welsh, in addition if commercially desirable, but not instead of English text. The Food Standards Agency did not prescribe bilingual labelling, as two sets of wording could lead to small font size on a relatively small label, which many consumers may not be able to read. As previously commented, the descriptions may be associated with health related issues and so should ensure as many consumers and enforcement authorities as possible understand the label information. Such bottled water may also be used in the use of infant formula.

Yours sincerely

A handwritten signature in cursive script, appearing to read 'Gwenda'.

**Gwenda Thomas AC/AM**