

Subordinate Legislation Committee

Report (SLC(3)-26-08)

Date: 18 November 2008

Time: 8.45am

Venue: Committee Room 3, Senedd

Contents

The Committee met on 18 November 2008. At the meeting the following Committee Members were present: Dr Dai Lloyd AM, Eleanor Burnham AM, Mark Isherwood AM, Joyce Watson AM.

The Committee reports to the Assembly as follows:

Item 2: Instruments in respect of which the Assembly is not invited to pay special attention under Standing Order 15.2

Item 2.1: Instruments subject to annulment pursuant to a resolution of the Assembly (Negative Procedure)

SLC217 - The Home Loss Payments (Prescribed Amounts) (Wales) Regulations 2008

Negative Procedure. Date made 2 November 2008. Date laid 4 November 2008. Coming into force date 25 November 2008

Item 3: Instruments in respect of which the Assembly is invited to pay special attention under Standing Orders 15.2

Item 3.1: - Instruments subject to annulment pursuant to a resolution of the Assembly (Negative Procedure)

SLC216 - The Non-Domestic Rating Contributions (Wales) (Amendment) Regulations 2008

Negative Procedure. Date made 28 October 2008. Date laid 31 October 2008. Coming into force date 31 December 2008

The Committee's Report under S.O.15.2 on Statutory Instruments subject to annulment pursuant to a resolution of the Assembly (Negative Procedure) is attached as Annex 1 to this Report.

Dr Dai Lloyd AM

Chair, Subordinate Legislation Committee

18 November 2008

Annex 1

Subordinate Legislation Committee

(SLC(3)-26-08)

SLC216

Subordinate Legislation Committee Report

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

Title: The Non-Domestic Rating Contributions (Wales) (Amendment) Regulations 2008 ("the 2008 Regulations")

These Regulations, which apply in relation to Wales, amend the Non-Domestic Rating Contributions (Wales) Regulations 1992 ("the 1992 Regulations"). Under Part II of Schedule 8 to the Local Government Finance Act 1988 billing authorities (in Wales, county and county borough councils) are required to pay amounts (called non-domestic rating contributions) to the Welsh Ministers. The 1992 Regulations contain rules for the calculation of those contributions for Welsh billing authorities. The 2008 Regulations amend the 1992 Regulations by substituting a new Schedule 4 (Adult Population Figures). The 2008 Regulations update the adult population figures for each council. These are used to set a threshold for local authorities to recalculate, where necessary, their provisional contributions to the pool. If these changes are not made, the estimates made by local authorities for their contributions to the rating pool will be inaccurate as they will be based on the previous years' population figures which are now out of date.

Standing Order 15.2

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

Schedule 8 para 4 (6) of the Local Government Finance Act 1988, requires that the Regulations in their application to a particular financial year (including regulations amending or revoking others) shall not be effective unless they come into force before 1 January in the preceding financial year. The 2008 Regulations are stated as coming into force on 31 December 2008, and regulation 2 (1) states that the 1992 Regulations are amended as follows in relation to financial years beginning on or after 1 April 2008. In order for the coming into force date of 31 December 2008 to be correct, the date in regulation 2 (1) should be 1 April 2009 and not 1 April 2008, and so there appears to be doubt as to whether the 2008 Regulations are intra vires (Standing Order 15.2 (i)).

The error is a typographical error, and it is understood that the erroneous provision will be corrected before the regulations come into force.

Dr Dai Lloyd AM
Chair, Subordinate Legislation Committee
18 November 2008

Government have responded as follows:-

The Government accepts that there is a typographical error within regulation 2(1) of the Non-Domestic Rating Contributions (Wales) (Amendment) Regulations 2008, and that the date therein should read 1 April 2009. The Government intends to revoke and remake the Regulations as soon as possible and in any event no later than the 21 November 2008.