

Constitutional and Legislative Affairs Committee Draft Report

CLA94)-02-14

CLA348 - The Single Common Market Organisation (Consequential Amendments) (Wales) Regulations 2013

These Regulations amend a number of Regulations as a result of Regulation (EU) 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 (“the 2013 Regulation”).

Regulation 2013 repealed (subject to transitional and final provisions) the earlier Single Common Market Organisation - Council Regulation (EC) No 1234/2007 of 22 October 2007 (“Council Regulation 2007”) establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products.

Procedure: Negative

Technical Scrutiny

The following points are identified for reporting under Standing Order 21.2 in respect of this instrument –

1. The Regulations make use of the power to provide that references to European legislation are to be ‘as amended from time to time’. That power is contained in paragraph 1A of Schedule 2 to the European Communities Act 1972. The power is correctly footnoted on page 4 of the Regulations, but should also have been cited alongside section 2(2) of that Act in the opening paragraph of the Preamble.

[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 in respect of this instrument

The 2013 Regulation was agreed in Brussels on the 16th December to come into force on the 1st January. As European Regulations have direct effect, that may have been sufficient time from an European perspective, but

provided very little time for Member States to correct cross-references in domestic legislation particularly at that time of year.

The result is that, on this occasion, the description of the 2013 Regulation in these Regulations does not follow the normal practice when citing European legislation. The conventional citation would have been to 'Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007' with 'Regulation (EU) No 1308/2013' being the defined term.

The discrepancy in dates appears to result from the Regulation having been agreed on the 16th December, but signed off on the 17th. The defined term 'the 2013 Regulation' is not incorrect, but the departure from normal drafting style deserves this explanation. The Regulation number should also be inserted as a footnote to assist readers of these Regulations.

[Standing Order 21.3(i) - that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Assembly]

Legal Advisers
Constitutional and Legislative Affairs Committee

January 2014