

PARK PLACE



A Coach and Horses Driven through the Statute Book in Wales?

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The Theory (cont)

Legislation (Wales) Act 2019



- **5 Equal status of Welsh and English language texts**
- *(1) This section applies where an [Act of Senedd Cymru] is enacted, or a Welsh subordinate instrument is made, in Welsh and English.*
- *(2) The Welsh language text and the English language text have equal status for all purposes.*

The Practice

R (Driver)-v-Rhondda Cynon Taf CBC
[2020] EWHC 2071 (Admin)

- Paragraph 65 of the judgment
- *“The Council also submitted that because the position of the word “only” does not matter in the English text, then the position of the words “yn unig” in the Welsh text does not matter either. This is a bold submission to make; in my judgment it is misplaced where the Welsh text has equal standing with the English text; and I consider it to be wrong. The meaning of the Welsh text is not derived by construing the meaning of the English text, and then applying that meaning across to the Welsh text, which is what this submission seeks to do. That is not considering the two language texts as having equal effect.”*



The Practice

R (Driver)-v-Rhondda Cynon Taf CBC [2020] EWHC 2071 (Admin)

Paragraphs 79 & 80 of the judgment



“Given the Welsh text of the Act has equal status with the English, the texts of both have to be construed. The meaning must be consistent across the texts in both languages.....The Council's submissions wholly ignore the Welsh text, then conclude (after construing the English text) that the Welsh text must have the same meaning, or does not matter. I do not consider that to be the correct approach to legislation passed in Wales, both in Welsh and in English, the text of each language having an equal status to the other”.

“.....The Council's contended for meaning also requires one to ignore the Welsh text. The Claimant's contended for meaning is consistent both in the Welsh language and English language versions, and does not require one to read additional or further words into the introductory passage of section 50(2) that are not there. It is by far the preferable construction.”

On Appeal

R (Driver)-v-Rhondda Cynon Taf CBC
[2020] EWCA Civ 1759



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- Paragraphs 12 & 14 of the judgment on appeal
- *“The aim of interpreting legislation is to determine the intention of the legislature. Where legislation is enacted in two languages of equal standing, and the parties submit that there is, or may be, a conflict, difference or distinction between the two language versions, detailed analysis of each version may be necessary.”*
- *“We accept that there may be cases where it would be highly desirable for the court to have Welsh language expertise. In this case, however, we did not feel we were handicapped in deciding the question of construction that arose. The court was able to engage in oral debate with counsel about the proper meaning of the Welsh text. The questions of interpretation of the Welsh text of section 50 that arose were accessible to non-Welsh speakers, as the judge's judgment at first instance amply demonstrated. We agree that the use of expert evidence or translations of the Welsh language is inadequate. The court must engage with the Welsh text and Welsh rules of syntax. But we believe, as this judgment will demonstrate, that we have been able to do so fully and competently in this case.*

Conclusion



- To paraphrase the Welsh Bard, Dylan Thomas
- (After one of the songs, the town's preacher, Reverend Eli Jenkins, exclaims (with unintentional irony):
- “***Praise the Lord! We are a bilingual nation!***”

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Diolch am wrando

Thanks for listening

Rhodri Williams QC