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WELSH STATUTORY INSTRUMENTS

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**2008 No. 420 (W.39)**

**AGRICULTURE, WALES**

**The Welsh Levy Board Order 2008**

*Made - - - - 19 February 2008*

*Coming into force in accordance with article 1*

The Welsh Ministers in exercise of the powers vested in them<sup>(1)</sup> make the following Order under the following provisions of the Natural Environment and Rural Communities Act 2006 <sup>(2)</sup>—

sections 87 to 90 and 97(1) and (2);  
paragraphs 5 to 11 of Schedule 8; and  
Schedules 9 and 10.

And section 146A of the Government of Wales Act 1998<sup>(3)</sup>.

The Welsh Ministers have consulted with such organisations as appear to them to be representative of interests substantially affected by this Order as required by section 97(5) of the Natural Environment and Rural Communities Act 2006.

A draft of this Order was laid before the National Assembly for Wales under section 97 of that Act and has been approved by a resolution of the National Assembly for Wales.

**Title and commencement**

1.—(1) The title of this Order is the Welsh Levy Board Order 2008.

(2) Articles 2, 3(1) and (2), 4, 5, 8, 9 and 10 and Schedule 2 come into force the day after this Order is made.

(3) The remainder of the Order comes into force on 1 April 2008.

**Scope**

2.—(1) This Order relates to—

- (a) the beef and sheep industry in Wales; and
- (b) the pig industry in Wales.

(2) For these purposes—

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(1) Functions conferred on the National Assembly for Wales in the Natural Environment and Rural Communities Act 2006 are exercisable by the Welsh Ministers by virtue of paragraph 30 of Schedule 11 to the Government of Wales Act 2006.

(2) 2006 c. 16.

(3) 1998 c. 38.

“beef and sheep industry” (“*diwydiant cig eidion a chig defaid*”) means all the activities comprised in the production, processing, marketing and distribution of—

- (a) cattle and sheep, including the carrying on of slaughterhouses and cattle and sheep auctions and markets;
- (b) meat and meat products (other than milk and milk products) from cattle and sheep;

“pig industry” (“*diwydiant moch*”) means all the activities comprised in the production, processing, marketing and distribution of pigs or pig products, including the carrying on of slaughterhouses and pig auctions and markets;

(3) A reference in these Regulations to “industry” (“*diwydiant*”) is a reference to one or more of these industries.

### **Establishment of the Welsh Levy Board**

3.—(1) A body called the Welsh Levy Board is established.

(2) Its purposes are—

- (a) increasing efficiency or productivity in the industry;
- (b) improving marketing in the industry;
- (c) improving or developing services that the industry provides or could provide to the community; and
- (d) improving the ways in which the industry contributes to sustainable development.

(3) Its functions are the provision of any of the services specified in Schedule 1 (functions of the Welsh Levy Board).

### **Constitution etc. of the Welsh Levy Board**

4. Schedule 2 (constitution and proceedings of the Welsh Levy Board) has effect.

### **Acting through subsidiaries and other companies**

5.—(1) The Welsh Levy Board may establish or acquire a subsidiary company for each of the industries within the scope of this Order and may establish or acquire such other subsidiary companies as may be conducive or incidental to its functions, and a reference to a subsidiary company in this Order is a reference to such a company.

(2) The Welsh Levy Board may delegate any of its functions in Schedule 1 to a subsidiary or other company but any such arrangement will not affect the responsibilities of the Welsh Levy Board under this Order.

### **Levies**

6.—(1) The Welsh Levy Board may impose a levy to enable it to provide services for each industry covered by this Order, and Schedule 3 has effect.

(2) All figures in that Schedule exclude VAT.

(3) The levies are to enable the Welsh Levy Board to—

- (a) cover its costs in providing any of the services specified in Schedule 1;
- (b) meet its administrative expenses;
- (c) further a purpose in article 3(2);
- (d) establish a reserve fund.

(4) If the rate of levy (and any higher rate for late payment of the levy) exceeds the appropriate rate set out at paragraph 1(8) of Schedule 3 Part 2 of this Order such rate of levy (and any higher rate for late payment of the levy) must be approved in advance by the Welsh Ministers.

(5) The Welsh Levy Board may delegate the collection of levy to a subsidiary company or a nominated company.

(6) Levy raised in relation to an industry may only be used in relation to that industry.

### **Estimates**

7.—(1) If any person liable to pay levy fails to notify the Welsh Levy Board or a subsidiary or nominated company of the information specified in Schedule 3 by the due date specified in that Schedule, the Welsh Levy Board or the subsidiary or nominated company may estimate the amount that should have been notified, and notify the person of the estimate.

(2) If the person fails to make a return within 28 days of notification of the estimate he or she becomes liable to pay levy on that estimate.

(3) The Welsh Levy Board may provide that a higher rate of levy is payable on the estimated amount, but that higher rate may not exceed the maximum rates provided for in Schedule 3.

### **Charges for services**

8. The Welsh Levy Board, or any subsidiary or other company, may make such charges for any services in addition to the services referred to in article 6 as appear to the Welsh Levy Board or subsidiary or nominated company to be reasonable.

### **Reserve funds etc.**

9. The Welsh Levy Board may—

- (a) establish and maintain a reserve fund for the purposes of its functions; and
- (b) borrow money and charge property.

### **Incidental Powers**

10.—(1) The Welsh Levy Board may do anything that appears to it to be conducive or incidental to the discharge of its functions.

(2) In particular it may—

- (a) enter into agreements;
- (b) acquire or dispose of property;
- (c) raise funds by means of voluntary contributions; and
- (d) accept gifts.

### **Ballots**

11.—(1) The Welsh Levy Board may hold a ballot at any time on whether or not a levy should continue.

(2) It must do so if it receives within a three month period one or more requests for a ballot signed by at least 5% of persons entitled to vote in a ballot.

(3) The three month period is calculated from the first day of any month.

(4) The maximum frequency with which ballots for the same levy can be held at the request of persons entitled to vote is 5 years.

(5) A request for a ballot is not valid if it is made before 1 April 2012.

(6) The Welsh Levy Board must immediately inform the Welsh Ministers of the result of a ballot, but the Welsh Ministers are not bound by the result.

### Who can vote

12.—(1) The following are entitled to vote in relation to the levy.

Voters	
Levy	Voters and categories
Pigs	Any person who keeps pigs in Wales
	Any person who slaughters or exports pigs in Wales
Cattle	Any person who keeps cattle in Wales
	Any person who slaughters or exports cattle in Wales
Sheep	Any person who keeps sheep in Wales
	Any person who slaughters or exports sheep in Wales

(2) The qualification for voting must be satisfied at any time in the twelve months preceding the ballot.

(3) Each person entitled to vote has one vote (if there is a partnership each partnership has one vote).

(4) Separate ballots may be held for different categories of voters.

### Report and accounts

13.—(1) For each financial year, the Welsh Levy Board must—

- (a) prepare an annual report on how it has discharged its functions during the year; and
- (b) send a copy of the report to the Welsh Ministers within such period as the Welsh Ministers direct.

(2) In this article, “financial year” (“*blwyddyn ariannol*”) means—

- (a) the period beginning with the day on which the Welsh Levy Board is established and ending with 31 March 2009; and
- (b) each subsequent period of 12 months ending with 31 March.

(3) The Welsh Levy Board must—

- (a) keep proper accounting records; and
- (b) prepare accounts in respect of each financial year.

(4) The Welsh Levy Board must submit the accounts that it prepares for a financial year to the Auditor General for Wales no later than 30 November in the following financial year.

(5) The Auditor General for Wales must—

- (a) examine, certify and report on each set of accounts submitted to him or her under this paragraph, and

- (b) no later than four months after the accounts are submitted to him or her, lay before the Assembly a copy of them as certified by him or her together with his or her report on them.

#### **Provision of information by the Welsh Levy Board**

**14.**—(1) The Welsh Levy Board must provide the Welsh Ministers with such information as they may require relating to the Welsh Levy Board’s property or to the discharge or proposed discharge of its functions.

(2) The Welsh Levy Board must also—

- (a) permit any person authorised by the Welsh Ministers to inspect and make copies of any accounts or other documents; and
- (b) provide such explanation of them as that person or the Welsh Ministers may require.

#### **Provision of information to the Welsh Levy Board**

**15.**—(1) It is an offence to provide false or misleading information relating to the requirements of this Order to the Welsh Levy Board or a subsidiary or nominated company.

(2) Any person obliged to pay levy under this Order must keep sufficient records to enable the Welsh Levy Board or a subsidiary or nominated company to establish how much levy is due, and must produce them to an officer of the Welsh Levy Board or a subsidiary or nominated company on demand; and failure to comply with this paragraph is an offence.

#### **Penalties and proceedings**

**16.**—(1) A person guilty of an offence under this Order is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(2) Proceedings for an offence under this Order may be brought within the period of 6 months beginning with the date on which evidence sufficient in the opinion of the prosecutor to warrant the proceedings came to his or her knowledge, provided that the commencement of such proceedings is not more than 2 years after the date on which the offence was committed.

(3) Where a body corporate is guilty of an offence under this Order, and that offence is proved to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of—

- (a) any director, manager, secretary or other similar person of the body corporate; or
- (b) any person who was purporting to act in any such capacity,

that person is guilty of the offence as well as the body corporate.

(4) For the purposes of this article “director” (“*cyfarwyddwr*”) in relation to a body corporate whose affairs are managed by its members, means a member of the body corporate.

(5) Where an offence under this Order that has been committed by a Scottish partnership is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a partner, he or she as well as the partnership is guilty of the offence.

19 February 2008

*Elin Jones*  
Minister for Rural Affairs, one of the Welsh  
Ministers

SCHEDULE 1

Article 3(3)

Functions of the Welsh Levy Board

1. Promoting or undertaking scientific research.
- 2.—(1) Promoting or undertaking inquiry—
  - (a) as to materials and equipment, and
  - (b) as to methods of production, management and labour utilisation.(2) Promoting or undertaking inquiry under sub-paragraph (1) includes promoting or undertaking—
  - (a) the discovery and development of—
    - (i) new materials, equipment and methods, and
    - (ii) improvements in those already in use,
  - (b) the assessment of the advantages of different options, and
  - (c) the conduct of experimental establishments and of tests on a commercial scale.
3. Promoting the production and marketing of standard products.
4. Promoting the better definition of trade descriptions and consistency in the use of trade descriptions.
5. Developing, promoting, marketing or operating—
  - (a) standards relating to the quality of products, or
  - (b) systems for the classification of products.
6. Developing, reviewing or operating schemes for the certification of products or of operations connected with production or supply of products.
7. Undertaking the certification of products, the registration of certification trade marks, and the functions of proprietors of such marks.
8. Providing or promoting the provision of—
  - (a) training for persons engaged in or proposing to be engaged in the industry, and
  - (b) their education in subjects relevant to the industry.
- 9.—(1) Promoting—
  - (a) the adoption of measures for securing safer and better working conditions, and
  - (b) the provision and improvement of amenities for persons employed.(2) Promoting or undertaking inquiry as to measures for securing safer and better working conditions.
10. Promoting or undertaking research into the incidence, prevention and cure of industrial diseases.
11. Promoting or undertaking arrangements for encouraging the entry of persons into the industry.
12. Promoting or undertaking research for improving arrangements for marketing and distributing products.
13. Promoting or undertaking research into matters relating to the consumption or use of goods and services supplied by the industry.
14. Promoting arrangements—

- (a) for co-operative organisations,
- (b) for supplying materials and equipment, and
- (c) for marketing and distributing products.

15. Promoting the development of export trade, including promoting or undertaking arrangements for publicity overseas.

16. Promoting or undertaking arrangements for better acquainting the public in the United Kingdom with the goods and services supplied by the industry and methods of using them.

17. Promoting or undertaking the collection and formulation of statistics.

18. Advising on any matters relating to the industry (other than remuneration or conditions of employment) as to which the Welsh Ministers may request the Welsh Levy Board to advise, and undertaking inquiry for the purpose of enabling the Welsh Levy Board to advise on such matters.

19. Undertaking arrangements for making available information obtained, and for advising, on matters with which the Welsh Levy Board is concerned in the exercise of any of its functions.

20. Engaging in any form of collaboration or co-operation with other persons in performing any of its functions.

## SCHEDULE 2

Article 4

### Constitution and proceedings of the Welsh Levy Board

#### Procedure

- 1.—(1) The Welsh Levy Board may determine its own procedure, and in particular it may—
- (a) determine a quorum;
  - (b) appoint committees and sub-committees to advise it in the exercise of any of its functions; and
  - (c) determine the quorum and procedure of any those committees.
- (2) Any committee may include members who are not members of the Welsh Levy Board.

#### Members' terms of office and removal from office

- 2.—(1) The term of office of the chairman or a board member may not exceed four years.
- (2) A member may resign by giving written notice to the Welsh Ministers.
- (3) The Welsh Ministers may remove a member who—
- (a) has been absent from meetings of the Welsh Levy Board for a period of longer than 6 months without the permission of the Welsh Levy Board,
  - (b) becomes bankrupt or makes an arrangement with his or her creditors or (in Scotland) has his or her estate sequestrated, or
  - (c) in the opinion of the Welsh Ministers has become unable, unfit or unsuitable to carry out his or her duties.
- (4) A person who ceases to be a member or ceases to be chair or deputy chair is eligible for reappointment to that office.
- (5) A member of the board must immediately disclose any direct or indirect interest in any contract or other matter proposed or discussed by the board.

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(6) The disclosure must be recorded in the minutes of the Welsh Levy Board, and that member must not take part after the disclosure in any discussion or decision of the board on that contract, but the member may, nevertheless, be taken into account for the purpose of constituting a quorum of the board.

#### **Voting etc.**

3. Each member (including the chair) has one vote, and if a vote is tied the person who is chair of the meeting has a casting vote.

#### **Remuneration and allowances**

4.—(1) The Welsh Levy Board may pay to its members any expenses properly incurred by them in carrying out its business, and may pay such remuneration and allowances as the Welsh Ministers determine.

(2) If—

- (a) a person ceases to be a member, and
- (b) it appears to the Welsh Ministers that there are special circumstances which make it appropriate for the person to receive compensation,

the Welsh Ministers may direct the board to pay the person such amount as the Welsh Ministers determine.

(3) The Welsh Levy Board may pay to committee members any expenses properly incurred by them in carrying out its business, and may pay such remuneration and allowances as may be determined by the Welsh Ministers.

#### **Employees**

5. The Welsh Levy Board may appoint such employees as it determines, and may pay to them such remuneration and other allowances, and make such provision for pensions, as it determines.

## SCHEDULE 3

Article 6

### Levies

## **PART 1**

### Introduction

#### **Subsidiary and other companies**

1. Where the Welsh Levy Board has established or acquired a subsidiary or nominated company for any of the activities specified in this Schedule, references to the Welsh Levy Board are references to that subsidiary or other company.

#### **Partnerships**

2. In this Schedule “person” (“*person*”) includes a partnership.



## PART 2

### Cattle, sheep and pigs

#### Levy on cattle, sheep and pigs

1.—(1) A person who is the occupier of a slaughterhouse (“the slaughterer”) must pay a levy on all cattle, sheep and pigs slaughtered.

(2) Any person who exports live cattle, sheep or pigs (“an exporter”) must pay a levy.

(3) The levy is based on the number of animals slaughtered or exported.

(4) The levy consists of two parts, the producer levy and the slaughter or export levy.

(5) The Welsh Levy Board may make provision for a reduction of the slaughter levy and export levy to cover the administrative costs of the slaughterer or exporter in administering the levy.

(6) If a slaughterer or exporter buys an animal for slaughter or export, he or she must deduct the producer levy from the price he or she pays, and hold it on trust for the Welsh Levy Board.

(7) If a slaughterer slaughters an animal without buying it, he or she must charge the owner both the producer levy and the slaughter levy, and hold it on trust for the Welsh Levy Board.

(8) The maximum rate of levy is in accordance with the following table.

#### Maximum levy for cattle, sheep and pigs

<i>Levy category</i>	<i>Maximum rate of levy per head (£)</i>
Cattle — slaughterer or exporter (except calves)	1.75
Cattle (except calves) — producer	5.25
Calf <sup>(a)</sup> — slaughterer or exporter	0.50
Calf <sup>(a)</sup> — producer	0.50
Sheep — slaughterer or exporter	0.20
Sheep — producer	0.60
Pigs — slaughterer or exporter	0.275
Pigs — producer	1.075

(a) For these purposes a calf is an animal under six months old (in the case of an exported animal) or an animal with a dressed slaughter weight of less than 68 kg (in the case of a slaughtered animal).

#### Exceptions

2.—(1) Levy is not payable for animals imported from another member State and slaughtered within 3 months in the case of cattle and 2 months in the case of pigs or sheep.

(2) Levy is not payable if an animal is subject to compulsory slaughter or the entire carcase is declared as unfit for human consumption by the official veterinarian.

#### Returns by a slaughterhouse occupier

3.—(1) A slaughterer must notify the Welsh Levy Board, by the end of each Wednesday, of the number of animals subject to levy slaughtered in the previous week up to the end of Sunday, broken down into types of animal.

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(2) If a slaughterer estimates that the total number of animals that will be slaughtered will be fewer than 25 each week in total, he or she may apply to the Welsh Levy Board to be registered as a small operator; and if the Welsh Levy Board agrees to so register him or her, he or she must notify the Board on or before the fifteenth day of each month of the number of animals subject to levy slaughtered in the previous month broken down into types of animal.

(3) Failure to comply with this paragraph is an offence.

#### **Payment of the levy by slaughterhouse occupiers**

4. An occupier of a slaughterhouse must pay the levy due for animals slaughtered in any month within 15 days from the end of the month.

#### **Returns and payment of the levy by exporters**

5.—(1) An exporter must notify the Welsh Levy Board, within 30 days of the end of the month, of the number of animals exported the previous month, and failure to do so is an offence.

(2) He or she must pay the levy on invoice.

#### **Enforcement**

6.—(1) A person appointed by the Welsh Levy Board may, on producing a duly authenticated document showing his or her authority if required, enter any slaughterhouse at any reasonable hour to check any records to ensure that the correct levy has been paid.

(2) It is an offence to obstruct any person acting under this paragraph or to fail to produce records on demand.

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### **EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order creates a new body, the Welsh Levy Board (“the Board”) which has functions and duties relating to the beef, sheep and pig industries in Wales. The Order contains provisions for the constitution and proceedings of the Board.

The Board may raise levies relating to each industry (article 6). Details of payment of the levies, and the maximum permitted levy, are set out in Schedule 3. Under that Schedule, failure to make a return relating to a levy is an offence.

If demanded by a set number of levy payers, the Board must hold a ballot on whether or not the levy system should continue (articles 11 and 12).

There are offences relating to the provision of information to the Welsh Levy Board and record-keeping (article 14).

The penalty for breach of the Order is a fine not exceeding level 5 on the standard scale (currently £5,000).

A full regulatory appraisal of the effect that this instrument will have is available from the Welsh Assembly Government, Cathays Park, Cardiff CF10 3NW.

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