
WELSH STATUTORY INSTRUMENTS

2009 No. 2470 (W.199)

ANIMALS, WALES

The Equine Identification (Wales) Regulations 2009

<i>Made</i>	- - - -	<i>7 September 2009</i>
<i>Laid before the National Assembly for Wales</i>	- -	<i>9 September 2009</i>
<i>Coming into force</i>	- -	<i>1 October 2009</i>

The Welsh Ministers have been designated⁽¹⁾ for the purposes of section 2(2) of the European Communities Act 1972⁽²⁾ in relation to the common agricultural policy of the European Community. The Welsh Ministers make the following Regulations under the powers conferred by section 2(2) of, and paragraph 1A of Schedule 2 to, the European Communities Act 1972.

These Regulations make provision for a purpose mentioned in section 2(2) of the European Communities Act 1972 and it appears to the Welsh Ministers that it is expedient for the reference in regulation 2 to the Commission Regulation to be a reference to that instrument as amended from time to time.

PART 1

Introduction

Title, application and commencement

- 1.—(1) The title of these Regulations is the Equine Identification (Wales) Regulations 2009.
- (2) These Regulations apply in relation to Wales.
- (3) These Regulations come into force on 1 October 2009.

Interpretation

- 2.—(1) In these Regulations—
 - (a) “horse” (“*ceffyl*”) means wild or domesticated solipeds within the genus *Equus* of the family Equidae, and their crosses;

(1) S.I.2005/2766. By virtue of sections 59(1) and 162 of, and paragraphs 28 and 30 of Schedule 11 to, the Government of Wales Act 2006 (c. 32), functions conferred on the National Assembly for Wales are exercisable by the Welsh Ministers.

(2) 1972 c. 68.

- (b) “local authority” (“*awdurdod lleol*”) means in relation to an area the county council or county borough council for that area; and
- (c) “the Commission Regulation” (“*Rheoliad y Comisiwn*”) means Commission Regulation (EC) No. 504/2008 (implementing Council Directives 90/426/EEC and 90/427/EEC as regards methods for the identification of equidae⁽³⁾).

(2) Any reference in these Regulations to the Commission Regulation is a reference to that instrument as amended from time to time.

(3) Expressions used both in these Regulations and in the Commission Regulation have the same meaning in these Regulations as they have in the Commission Regulation.

(4) Any reference in these Regulations to a numbered Article is a reference to the Article so numbered in the Commission Regulation.

PART 2

Enforcement of the Commission Regulation

Competent authority for the Commission Regulation

3. The Welsh Ministers are the competent authority for the purposes of the Commission Regulation.

Sale of horses

4.—(1) Any person who sells a horse must give its identification document to the buyer at the time of the sale.

(2) The buyer must, within 30 days of purchase, return the identification document for that horse to the issuing body and must notify the issuing body of the buyer’s name and address.

(3) In this regulation “sell” (“*gwerthu*”) includes any transfer of ownership.

(4) Failure to comply with this regulation is an offence.

Identification of horses within time limits

5.—(1) The owner of a horse or, if different, the keeper who has primary responsibility for it must comply with Article 3(1).

(2) Failure to comply with paragraph (1) is an offence.

(3) In accordance with Article 5(5)—

(a) only an owner may apply for an identification document, and

(b) the owner must apply for an identification document within the time limits set out in Article 5, and failure to do so is an offence.

(4) If an application for an identification document is received outside the time limits, the issuing body must stamp the identification document that the horse is not intended for slaughter for human consumption.

(3) OJ No L 149, 7.6.2008, p. 3.

Application for duplicate and replacement identification documents

6. Any person who applies for a duplicate or replacement identification document in contravention of Article 5(8) is guilty of an offence.

Importation

7. The owner of a horse who—

- (a) fails to comply with Article 8(1) (identification of imported equidae), or
- (b) fails, within 30 days, to request an issuing body to act in accordance with Article 8(2) (provision of additional information),

is guilty of an offence.

Detecting previous active marking of horses

8. A veterinary surgeon who implants a transponder into a horse must carry out the procedures set out in Article 10(1) (measures to detect previous active marking), and failure to do so is an offence.

Transponders

9.—(1) An issuing body must comply with Article 11(1) (implantation of a transponder).

(2) For the purposes of Article 11, the minimum qualification for implantation of a transponder is membership of the Royal College of Veterinary Surgeons.

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

Restriction on movement of horses without an identification document

10.—(1) The owner of a horse or, if different, the keeper who has primary responsibility for it, must comply with—

- (a) Article 13(1) (movement and transport),
- (b) Article 14(1) (derogation for smart cards), or
- (c) Article 14(3) (temporary documents).

(2) A smart card must be in a format approved by the Welsh Ministers under this regulation, and the Welsh Ministers must only authorise a smart card on being satisfied that it will operate effectively.

(3) Failure to comply with paragraph (1) is an offence.

Movement for slaughter

11. The owner of a horse or, if different, the keeper who has primary responsibility for it must comply with Article 15(1) (movement for slaughter), and failure to do so is an offence.

Issue of duplicate and replacement identification documents

12.—(1) Where an issuing body issues a duplicate identification document it must stamp an identification document as a duplicate, or classify the animal as being not intended for slaughter for human consumption, in accordance with Article 16(1).

(2) The derogation in Article 16(2) of the Commission Regulation may not be exercised.

(3) Where an issuing body issues a replacement identification document it must do so in accordance with Article 17 (issuing replacement documents).

(4) Failure to comply with this regulation is an offence.

Return of identification document upon death of a horse

13.—(1) When a horse is slaughtered or killed for disease control purposes, the official veterinary surgeon responsible for the slaughter or killing must, in accordance with Article 19(2)(a)(i), return the identification document to the issuing body as soon as is reasonably practicable.

(2) When a horse is slaughtered for human consumption, in accordance with Article 19(2)(a)(ii) the occupier of the slaughterhouse must give the identification document to the official veterinary surgeon at the slaughterhouse, who must—

- (a) record the identification number of the animal;
- (b) mark the identification document accordingly; and
- (c) send the marked identification document to the issuing body as soon as is reasonably practicable.

(3) In any other case, notwithstanding Article 19(2)(b), the owner of a horse or, if different, the keeper must return the identification document to the issuing body within 30 days of the death of the horse.

(4) The return of the identification document under this regulation is the attestation required under Article 19(1)(c).

(5) Failure to comply with this regulation is an offence.

Procedure by the issuing body upon death of a horse

14. Upon receipt of an attestation returned in accordance with Article 19(1) an issuing body must—

- (a) invalidate the identification document;
- (b) ensure that the microchip number cannot be re-used; and
- (c) destroy the invalidated identification document.

Permitted treatment for horses intended for human consumption

15.—(1) A veterinary surgeon must comply with Article 20.

(2) A veterinary surgeon must enter into an identification document the details required in paragraphs 4 (Vaccination record), 5 (Laboratory health tests) and 7 (Administration of veterinary medicinal products) of Part A of Part II (Information shown on passport) of Annex I to the Commission Regulation.

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

Databases

16.—(1) An issuing body that fails to comply with Article 21 (records on a database) is guilty of an offence.

(2) For the purposes of Article 21(3), the communication of the information to the central database must be made in accordance with a written notice served on the issuing body by the Welsh Ministers.

Prohibitions

17. It is an offence to—

- (a) destroy or deface an identification document;
- (b) alter any entry in an identification document;
- (c) make a false entry in an identification document;

- (d) make a forged identification document;
- (e) knowingly be in possession of a forged identification document; or
- (f) provide any information in an application for an identification document knowing it to be false or misleading.

Certain horses living on specified commons

18.—(1) The derogation in Article 7 is exercised.

(2) For the purposes of this regulation, “designated areas” (“*ardaloedd dynodedig*”) are areas notified by the Welsh Ministers to the Commission by 1 October 2009 containing defined populations of horses living under wild or semi-wild conditions that do not require to be identified with identification documents while they remain within the designated area.

(3) If a horse without an identification document in a designated area is treated with any veterinary medical product the owner must ensure that it is fully identified and microchipped in accordance with the Commission Regulation within 30 days of treatment, and failure to do so is an offence.

(4) It is an offence to move a horse without an identification document off the designated area unless it is marked with a sticker issued by an issuing body dated with the date on which it was attached to the horse and bearing a unique identification number.

(5) Unless the horse is aged under 12 months and is being taken for slaughter for human consumption it must also be accompanied by an application for an identification number containing its silhouette and the number of the identifying sticker.

(6) Subject to paragraph (7), the owner must apply for an identification document for a horse within 30 days of its departure from the designated area and failure to do so is an offence.

(7) Paragraph (6) does not apply in the case of a horse taken to a slaughterhouse for slaughter for human consumption but it is an offence to slaughter such a horse more than 7 days after the date on the identifying sticker.

PART 3

Powers and penalties

Enforcement

19.—(1) These Regulations are enforced by the local authority.

(2) The Welsh Ministers may direct, in relation to cases of a particular description or any particular case, that an enforcement duty imposed on the local authority under this regulation must be discharged by the Welsh Ministers and not by the local authority.

Powers of inspectors

20.—(1) An inspector may, on producing a duly authenticated authorisation if required, at all reasonable hours, enter any premises (excluding any premises not containing any horse and used only as a dwelling) for the purpose of administering and enforcing these Regulations; and in this regulation “premises” (“*mangre*”) includes any vehicle or container.

(2) An inspector may carry out all checks and examinations necessary for the enforcement of these Regulations, and in particular may—

- (a) require the production of an identification document and mark it as necessary;
- (b) require the production of any horse and mark it for identification purposes as necessary;

- (c) carry out any inquiries;
 - (d) have access to, and inspect and copy any documents or records (in whatever form they are held) relevant to these Regulations, and remove them to enable them to be copied;
 - (e) inspect and check the operation of any computer and any associated apparatus or material that is or has been in use in connection with documents or records relevant to these Regulations; and
 - (f) where a record is kept by means of a computer, require the record to be produced in a form which may be taken away.
- (3) Where an inspector has entered any premises and it is not reasonably practicable to determine whether documents on those premises are relevant to these Regulations, the inspector may seize them to ascertain whether or not they are relevant.
- (4) The inspector may be accompanied by—
- (a) such other persons as the inspector considers necessary, and
 - (b) any representative of the European Commission acting for the purpose of the enforcement of a Community obligation.
- (5) It is an offence to deface, obliterate or remove any mark applied under this regulation except under the written authority of an inspector.
- (6) In this regulation and regulation 21 “inspector” (“*arolygydd*”) means a person appointed as such by a local authority or the Welsh Ministers for the enforcement of these Regulations or under the Animal Health Act 1981(4).

Obstruction

- 21.** It is an offence—
- (a) intentionally to obstruct an inspector acting in the execution of these Regulations;
 - (b) without reasonable cause, to fail to give to an inspector acting in the execution of these Regulations any assistance or information that the inspector may reasonably require under these Regulations;
 - (c) to furnish to any person acting in the execution of these Regulations any information knowing it to be false or misleading; or
 - (d) to fail to produce a horse, document, record or identification document when required to do so to any person acting in the execution of these Regulations.

Penalties

- 22.** A person guilty of an offence under these Regulations is liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum, or
 - (b) on conviction on indictment, to a fine.

Offences by bodies corporate

- 23.—**(1) Paragraph (2) applies where a body corporate is guilty of an offence under these Regulations, and that offence is proved—
- (a) to have been committed with the consent or connivance of an officer of the body corporate, or
 - (b) to be attributable to any neglect on the part of an officer of the body corporate.

(4) 1981 c. 22.

(2) The officer, as well as the body corporate, is guilty of the offence and is liable to be proceeded against and punished accordingly.

(3) In this regulation “officer” (“*swyddog*”) means—

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

(4) Where the affairs of a body corporate are managed by its members, this regulation applies in relation to the acts and defaults of a member in connection with the member’s functions of management as if the member were an officer of the body corporate.

Offences by partnerships and unincorporated associations

24.—(1) Proceedings for an offence under these Regulations alleged to have been committed by a partnership or an unincorporated association may be brought in the name of the partnership or association.

(2) For the purposes of such proceedings—

- (a) rules of court relating to the service of documents are to have effect as if the partnership or association were a body corporate;
- (b) section 33 of the Criminal Justice Act 1925⁽⁵⁾ and Schedule 3 to the Magistrates' Courts Act 1980⁽⁶⁾ apply in relation to the partnership or association as they apply in relation to a body corporate.

(3) A fine imposed on a partnership or association on its conviction for an offence under these Regulations is to be paid out of the funds of the partnership or association.

(4) Paragraph (5) applies where an offence under these Regulations committed by a partnership is proved—

- (a) to have been committed with the consent or connivance of a partner, or
- (b) to be attributable to any neglect on the part of a partner.

(5) The partner, as well as the partnership, is guilty of the offence and is liable to be proceeded against and punished accordingly.

(6) Paragraph (7) applies where an offence under these Regulations committed by an unincorporated association is proved—

- (a) to have been committed with the consent or connivance of an officer of the association, or
- (b) to be attributable to any neglect on the part of an officer of the association.

(7) The officer, as well as the association, is guilty of the offence and is liable to be proceeded against and punished accordingly.

(8) In this regulation “officer” (“*swyddog*”) means—

- (a) an officer of the association or a member of its governing body, or
- (b) a person purporting to act in such capacity.

(9) In this regulation “partner” (“*partner*”) includes a person purporting to act as a partner.

(5) 1925 c. 86. Subsections (1) and (2) of section 33 were repealed by the Magistrates' Courts Act 1952 (c. 55), section 132 and Schedule 6; subsection (3) was amended by the Courts Act 1971 (c. 23), section 56(1) and Schedule 8, Part II, paragraph 19; subsection (4) was amended by the Courts Act 2003 (c. 39), section 109(1) and (3), Schedule 8, paragraph 71 and Schedule 10; subsection (5) was repealed by the Magistrates' Court Act 1952, section 132, Schedule 6.

(6) 1980 c. 43. Sub-paragraph 2(a) was amended by the Criminal Procedure and Investigations Act 1996 (c. 25), section 47, Schedule 1, paragraph 13, and was repealed by the Criminal Justice Act 2003 (c. 44), sections 41 and 332, Schedule 3, Part 2, paragraph 51, sub-paragraphs (1), (13)(a), and Schedule 37, Part 4 (with effect from a date to be appointed); paragraph 5 was repealed by the Criminal Justice Act 1991 (c. 53), sections 25(2) and 101(2) and Schedule 13; paragraph 6 was amended by the Criminal Justice Act 2003, section 41, Schedule 3, Part 2, paragraph 51, sub-paragraphs (1) and (13)(b) (with effect from a date to be appointed).

Revocations

25. The Horse Passports (Wales) Regulations 2005(7) are revoked.

7 September 2009

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

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations enforce Commission Regulation (EC) No. 504/2008 (“the Commission Regulation”) in relation to Wales, and revoke and replace the Horse Passports (Wales) Regulations 2005.

These Regulations provide for identification of horses and other equidae by means of an identification document and an electronic microchip inserted into the animal. The electronic microchip will contain a unique life number which is recorded on both the identification document and on a National Equine Database.

Part 2 of the Regulations create offences for breach of provisions of the Commission Regulation, and provide for the administration of veterinary medicinal products for horses intended for human consumption. This Part also makes special provisions for specified populations of horses living on certain commons.

Part 3 provides that the Regulations are enforced by the local authority, except in certain specified circumstances, and confers powers of enforcement upon inspectors.

Breach of the Regulations is an offence punishable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum, or
- (b) on conviction on indictment, to a fine.

A regulatory impact assessment has been prepared and copies are available from the Department for Rural Affairs, Welsh Assembly Government, Cathays Park, Cardiff, CF10 3NQ. It is also available on the Welsh Assembly Government website at www.wales.gov.uk.