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WELSH STATUTORY INSTRUMENTS

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**2009 No. 3364**

**The Sheep and Goats (Records, Identification and Movement) (Wales) Order 2009**

**PART 12**

Miscellaneous

**Identification and recording of animals for export**

**36.**—(1) A keeper must identify all animals consigned for export in accordance with Article 4(2) (a) and (b) and Article 9(3) of the Council Regulation.

(2) Once an animal identified before 31 December 2009 is consigned for export the keeper must record its individual identity in the holding register and may not export that animal until 30 days after its identity has been recorded.

**Defence related to movement for emergency veterinary treatment**

**37.** It is a defence for any person charged with an offence of contravening or failing to comply with any provision in this Order relating to the movement of an animal from a holding without attaching or applying the required means of identification to prove that the animal was moved from the holding for the purposes of emergency veterinary treatment.

**Powers of inspectors**

**38.**—(1) An inspector may, for any purpose relating to the enforcement of this Order—

- (a) collect, pen and mark any animal and require a keeper to arrange for the collection, penning, marking and securing of any animal;
- (b) require the keeper to produce or copy any document or record;
- (c) remove and retain any document or record;
- (d) have access to, and check the operation of, any computer and any associated apparatus or material which is or has been used in connection with records;
- (e) where a record is kept by means of a computer, require the record to be produced in a form which may be taken away;
- (f) require the production of any unused identification devices, and record their numbers;
- (g) take with them a representative of the European Commission acting for the purposes of Article 12 of the Council Regulation, or any people or things they consider necessary.

(2) A person required to do anything by an inspector acting under paragraph (1) must, unless they have reasonable cause, do so without delay and proof of any such reasonable cause lies on that person.

### **Power to prohibit movement of animals**

**39.**—(1) An inspector may, by serving notice on a keeper, prohibit the movement of sheep onto or from the holding specified in the notice, if they are satisfied that the prohibition is necessary for the proper enforcement of this Order in relation to that flock.

(2) An inspector may, by serving notice on a keeper, prohibit the movement of goats onto or from the holding specified in the notice, if they are satisfied that the prohibition is necessary for the proper enforcement of this Order in relation to that herd.

(3) A notice served under this article may be amended or revoked by further notice at any time.

### **False information**

**40.** No person may furnish information which they know to be false or misleading to a person acting under this Order.

### **Alteration of identification marks**

**41.** No person may alter, obliterate or deface the information on any identification mark attached to an animal under—

- (a) the Council Regulation;
- (b) this Order or any provision that gives effect to the Council Regulation in England, Scotland, or Northern Ireland;
- (c) the previous Orders; or
- (d) Council Directive [92/102/EEC](#), in the case of an animal marked in another member State in accordance with that Directive.

### **Offences by bodies corporate**

**42.**—(1) If an offence against the Animal Health Act 1981 committed by a body corporate is shown—

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

the officer as well as the body corporate is guilty of the offence and liable to be proceeded against and punished accordingly.

(2) If the affairs of a body corporate are managed by its members, paragraph (1) applies in relation to the acts and defaults of a member in connection with their functions of management as if they were a director of the body.

(3) “Officer”, in relation to a body corporate, means a director, member of the committee of management, chief executive, manager, secretary or other similar officer of the body, or a person purporting to act in any such capacity.

### **Offences by partnerships and unincorporated associations**

**43.**—(1) Proceedings for an offence under this Order 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(1) and Schedule 3 to the Magistrates' Courts Act 1980(2) apply in relation to the partnership or associations 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 this Order is to be paid out of the funds of the partnership or association.

(4) Where an offence under this Order committed by a partnership is proved to have been committed with the consent or connivance of, or be attributable to any neglect on the part of, a partner, that partner (as well as the partnership) is guilty of the offence and is liable to be proceeded against and punished accordingly.

For these purposes, "partner" includes a person purporting to act as a partner.

(5) Where an offence under this Order committed by an unincorporated association is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, an officer of the association, that officer (as well as the association) is guilty of the offence and is liable to be proceeded against and punished accordingly.

For these purposes, "officer" means an officer of the association or a member of its governing body or a person purporting to act in such a capacity.

## **Enforcement**

**44.**—(1) This Order is 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 a local authority by this Order must be discharged by the Welsh Ministers and not by the local authority.

## **Revocations**

**45.** The Sheep and Goats (Records, Identification and Movement) (Wales) Order 2008(3) is revoked.

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(1) 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, and by the Magistrates' Courts Act 1980 (c. 43), section 154 and Schedule 7, paragraph 5; subsection (5) was repealed by the Magistrates' Courts Act 1952, section 132, Schedule 6.

(2) 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).

(3) S.I.2008/130 (W.17).