
WELSH STATUTORY INSTRUMENTS

2010 No. 1671

The Eggs and Chicks (Wales) Regulations 2010

PART 5

Miscellaneous provisions

Enforcement

- 17.**—(1) Each food authority must—
- (a) enforce the provisions mentioned in Schedule 2, as read with regulation 9, and the provisions mentioned in Schedule 3, as read with regulation 16, insofar as they apply to—
 - (i) the retail sale of eggs within their area;
 - (ii) the sale of eggs to a mass caterer in their area; and
 - (iii) the use of eggs within their area.
 - (b) enforce the provisions of regulation 20(3) and (4) in the case of a direction given by an authorised officer who is authorised by the food authority (“a food authority officer”);
 - (c) enforce the provisions of regulation 20(6) in the case of a pack or container secured by a food authority officer;
 - (d) enforce the provisions of regulation 20(11) and (12) in the case of the disturbance or removal of any item or computer equipment in contravention of the terms of a notice given by a food authority officer;
 - (e) enforce the provisions of regulation 22(3) in the case of a compliance notice given by a food authority officer;
 - (f) enforce the provisions of regulation 22(7) in the case of a compliance notice given by a food authority officer; and
 - (g) enforce the provisions of regulation 26 in the case of an obstruction of a food authority officer.
- (2) The Welsh Ministers may enforce the provisions mentioned in Schedule 2, as read with regulation 9, and the provisions mentioned in Schedule 3, as read with regulation 16, insofar as they apply to the retail sale of eggs, the sale of eggs to a mass caterer or the use of eggs.
- (3) The Welsh Ministers must—
- (a) enforce the provisions mentioned in Schedule 1, as read with regulation 5;
 - (b) enforce the provisions mentioned in Schedule 2, as read with regulation 9, and the provisions mentioned in Schedule 3, as read with regulation 16, insofar as they do not apply to the retail sale of eggs, the sale of eggs to a mass caterer or the use of eggs;
 - (c) enforce the provisions of regulation 20(3) and (4) in the case of a direction given by an authorised officer who is authorised by the Welsh Ministers (“an officer of the Welsh Ministers”);

- (d) enforce the provisions of regulation 20(6) in the case of a pack or container secured by an officer of the Welsh Ministers;
 - (e) enforce the provisions of regulation 20(11) and (12) in the case of the disturbance or removal of any item or computer equipment in contravention of the terms of a notice given by an officer of the Welsh Ministers;
 - (f) enforce the provisions of regulation 22(3) in the case of a compliance notice given by an officer of the Welsh Ministers;
 - (g) enforce the provisions of regulation 22(7) in the case of a compliance notice given by an officer of the Welsh Ministers;
 - (h) enforce the provisions of regulation 24(4); and
 - (i) enforce the provisions of regulation 26 in the case of an obstruction of an officer of the Welsh Ministers.
- (4) In this regulation—
- “retail sale” (“*manwerthu*”) means any sale other than a sale for use or resale in the course of a trade or business; and
- “sale” (“*gwerthu*”) includes possession for sale and offer, exposure and advertising for sale.

Duty to give assistance and provide information

18.—(1) The Welsh Ministers must give any food authority such assistance and information as they may reasonably request for the purpose of helping them perform their duties under these Regulations, and the Welsh Ministers may share any other information obtained by them with any food authority (although not requested by the authority) for the purpose of helping them perform those duties.

(2) In paragraph (1) “information” (“*gwybodaeth*”) means information obtained by the Welsh Ministers as the competent authority designated by regulation 6(1), as the competent authority designated by regulation 10(1) or as an enforcement authority.

(3) The Welsh Ministers may use information obtained by them as the competent authority designated by regulation 6(1), or as the competent authority designated by regulation 10(1), for the purpose of helping them perform their duties as an enforcement authority under these Regulations.

(4) The Welsh Ministers may use information obtained by them as an enforcement authority under these Regulations for the purpose of helping them perform their duties as the competent authority designated by regulation 6(1) or as the competent authority designated by regulation 10(1).

(5) Each food authority must give any other food authority or the Welsh Ministers such assistance and information as they may reasonably request for the purpose of helping them perform their duties under these Regulations, and each food authority may share any other information obtained by them as an enforcement authority with any other food authority or with the Welsh Ministers (although not requested by the authority or the Welsh Ministers) for the purpose of helping them perform their duties under these Regulations.

(6) In paragraph (5) “information” (“*gwybodaeth*”) means information obtained by a food authority as an enforcement authority.

Powers of entry

19.—(1) An authorised officer may enter any premises at any reasonable hour for the purpose of ensuring that the provisions of these Regulations are being complied with.

[^{F1}(2) The authorised officer may be accompanied by such other persons as the officer considers necessary.]

(3) An authorised officer must not exercise the powers under paragraph (1) or (2) except on the production, if so required, of a duly authenticated document showing their authority.

(4) Admission to any premises used only as a private dwellinghouse may not be demanded as of right unless 24 hours notice of the intended entry has been given to the occupier or the entry is in accordance with a warrant granted under this regulation.

(5) If a justice of the peace, on sworn information in writing, is satisfied of the matters mentioned in paragraph (6), they may sign a warrant permitting an authorised officer to enter any premises, if needs be by reasonable force.

(6) The matters are that—

- (a) there are reasonable grounds for believing that Condition A or B is met; and
- (b) Condition C, D or E is met.

(7) Condition A is that on the premises there are items of the type mentioned in regulation 20(1)(a) or documents or records of the type mentioned in regulation 20(1)(e) and that their inspection is likely to disclose evidence of a contravention of, or failure to comply with, these Regulations.

(8) Condition B is that a contravention of, or failure to comply with, these Regulations has occurred, is occurring or is about to occur on those premises.

(9) Condition C is that admission to the premises has been, or is likely to be, refused, and that the occupier has been informed (whether orally or in writing) that a warrant may be applied for.

(10) Condition D is that admission to the premises has been, or is likely to be, refused, and informing the occupier that a warrant under this regulation may be applied for may defeat the object of the entry.

(11) Condition E is that the premises are unoccupied or that the occupier is temporarily absent and it may defeat the object of the entry to await their return.

(12) A warrant granted under paragraph (5)—

- (a) is valid for one month, beginning with the day on which it is granted; and
- (b) must be produced for inspection to the person (if there is one) who appears to the officer to be the occupier, or the person in charge, of the premises.

(13) An authorised officer who enters any premises that are unoccupied or where the occupier is temporarily absent must leave the premises as effectively secured against unauthorised entry as when they found them.

^{F2}(14)

F1 Reg. 19(2) substituted (31.12.2020) by [The Food \(Miscellaneous Amendments\) \(Wales\) \(EU Exit\) Regulations 2019 \(S.I. 2019/732\)](#), regs. 1(2), **3(5)(a)**; 2020 c. 1, Sch. 5 para. 1(1)

F2 Reg. 19(14) omitted (31.12.2020) by virtue of [The Food \(Miscellaneous Amendments\) \(Wales\) \(EU Exit\) Regulations 2019 \(S.I. 2019/732\)](#), regs. 1(2), **3(5)(b)**; 2020 c. 1, Sch. 5 para. 1(1)

Powers of an authorised officer

20.—(1) An authorised officer (“O”) entering premises under regulation 19 may—

- (a) inspect the premises, and any plant, machinery or equipment on those premises, and any of the following items found on those premises—
 - (i) eggs;
 - (ii) eggs for hatching;
 - (iii) packs or other containers for eggs, eggs for hatching or chicks; and

- (iv) labels relating to eggs, eggs for hatching or chicks;
 - (b) search the premises;
 - (c) take samples;
 - (d) carry out any inquiries, examinations or tests;
 - (e) have access to, and inspect and copy, any documents or records (in whatever form they are held) relating to matters covered by these Regulations, and remove them to enable them to be copied;
 - (f) have access to, and inspect and check the data on, and operation of, any computer, and any associated electronic storage device or apparatus (“computer equipment”) that is, or has been in use in connection with, the documents or records mentioned in sub-paragraph (e), including data relating to deleted files and activity logs; and for this purpose O may require any person having charge of, or otherwise concerned with the operation of, the computer equipment to afford to O such assistance (including the provision of usernames and passwords) as O may reasonably require, and, during the course of the checks, O may recover data held on the computer equipment; and
 - (g) where a document or record mentioned in sub-paragraph (e) is kept by means of a computer, require the record to be produced in a form in which it may be taken away.
- (2) O may direct (“a regulation 20(2) direction”) a person (“P”) appearing to them to be in charge of the items or premises mentioned below that the following must be left undisturbed for as long as is reasonably necessary for the purpose of any examination or investigation—
- (a) any one or more of the items mentioned in paragraph (1)(a)(i) to (iv);
 - (b) any document or record mentioned in paragraph (1)(e);
 - (c) any computer equipment mentioned in paragraph (1)(f); and
 - (d) any premises on or in which any of those items are found.
- (3) P is guilty of an offence if they fail to comply with a regulation 20(2) direction given to them by O.
- (4) A person, other than O and P, who knows about a regulation 20(2) direction is guilty of an offence if (although the direction was not given to them) they disturb any item or premises in contravention of the terms of the direction.
- (5) If an examination or investigation will not be carried out immediately after a direction has been given under paragraph (2), O may apply tape to the packs or other containers for eggs or eggs for hatching that are subject to that direction, or otherwise secure them pending the examination or investigation.
- (6) A person who knows that packs or other containers for eggs or eggs for hatching have been taped or otherwise secured by O (pursuant to paragraph (5)) is guilty of an offence if they interfere with any of those packs or containers unless authorised to do so, in writing, by O.
- (7) O may seize and detain any item of the type mentioned in paragraph (1)(a)(i) to (iv) or document or record mentioned in paragraph (1)(e) that O has reason to believe may be required as evidence in proceedings under these Regulations.
- (8) O may seize as liable to destruction any item of the type mentioned in paragraph (1)(a)(i) to (iv) that O reasonably believes contravenes any provision of these Regulations.
- (9) O may seize any computer equipment for the purpose of copying documents or records of the type mentioned in paragraph (1)(e), and for checking the data on, and operation of, any computer equipment that is, or has been, in use in connection with, those documents or records (and in doing so may recover data), provided it is returned as soon as practicable and, in any event, within 28 days, beginning with the day on which the equipment is seized.

(10) If O is not able to remove an item or computer equipment seized under paragraph (7), (8) or (9) immediately, they may—

- (a) mark it in any way that they see fit; and
- (b) give the person (“P”) appearing to them to be in charge of the item or computer equipment a notice (“a regulation 20(10) notice”)—
 - (i) identifying it;
 - (ii) requiring the item or computer equipment to be left undisturbed until it is collected by O; and
 - (iii) prohibiting the removal of the item or computer equipment from the premises on which it was found until it is collected by O.

(11) P is guilty of an offence if they fail to comply with a regulation 20(10) notice given to them by O.

(12) A person, other than O and P, who knows about a regulation 20(10) notice, is guilty of an offence if (although the notice was not given to them) they disturb or remove an item or computer equipment in contravention of the terms of the notice.

(13) O must not exercise the powers under this regulation except on the production, if so required, of a duly authenticated document showing their authority.

(14) In this regulation “premises” includes any place and any vehicle, trailer, stall or moveable structure.

Procedure on seizure

21.—(1) An authorised officer (“O”) must follow the procedures set out in this regulation if they seize anything under regulation 20(7), (8) or (9).

(2) O must give to the person appearing to O to be in charge of the premises from which the seized item or computer equipment is seized (“the premises”) a notice that must state—

- (a) what O has seized;
- (b) when O seized it;
- (c) the grounds for the seizure of the item or equipment; and
- (d) the address to which, and the period during which, a claim may be made for the return of the item or equipment.

(3) But where the premises are unoccupied, or no-one appears to O to be in charge of the premises, O must attach a notice to a conspicuous part of the premises, or to some conspicuous object on the premises, containing the information mentioned in sub-paragraphs (a) to (d) of paragraph (2).

(4) A person having a proprietary interest in the seized item or computer equipment (including a creditor who has a debt secured on the item or computer equipment) may notify the enforcement authority of any claim that the seized item or equipment was not liable to seizure, setting out the grounds for the claim in full.

(5) The claim must be made within 28 days of the seizure, beginning on the day on which the seized item or computer equipment is seized, to the address specified in the seizure notice.

(6) If a notification of a claim is not received within 28 days in respect of an item seized under regulation 20(7), the enforcement authority may retain the seized item for as long as necessary while it is being held for the purpose of any criminal investigation or proceedings or for use as evidence at a trial.

(7) If a notification of a claim is received within 28 days in respect of an item seized under regulation 20(7), the enforcement authority must—

- (a) return the seized item within 14 days, beginning with the day on which the claim is received; or
 - (b) retain the seized item for as long as necessary while it is being held for the purpose of any criminal investigation or proceedings, or for use as evidence at a trial, but it must notify the claimant that the seized item is being retained, and of the reason why it is being retained within 14 days, beginning with the day on which the claim is received.
- (8) If a notification of a claim is not received within 28 days in respect of an item seized under regulation 20(8), the enforcement authority may—
- (a) if a decision is taken by the enforcement authority not to destroy the seized item but to retain it for the purpose of any criminal investigation or proceedings, or for use as evidence at a trial, retain the seized item for as long as necessary for one of those purposes, but the enforcement authority must—
 - (i) notify the relevant person that the seized item is being retained, and of the reason why it is being retained, within 14 days of the expiry of the claim period, beginning with the day after the claim period expires; or
 - (ii) where the enforcement authority does not know who the relevant person is, and this cannot be ascertained after reasonable enquiries have been made by the enforcement authority, attach a notice to a conspicuous part of the premises, or a conspicuous object on those premises, within 14 days of the expiry of the claim period, beginning with the day after the claim period expires, stating that the seized item is being retained, and the reason why it is being retained; or
 - (b) destroy the seized item within 28 days, beginning with the day after the 28 day claim period expires, if it reasonably believes that the item contravenes these Regulations, and—
 - (i) notify the relevant person that the seized item has been destroyed within 14 days of its destruction, beginning with the day on which the item is destroyed (or the last day of its destruction where the destruction of the item takes place on more than one day); or
 - (ii) where the enforcement authority does not know who the relevant person is, and this cannot be ascertained after reasonable enquiries have been made by the enforcement authority, attach a notice to a conspicuous part of the premises, or to a conspicuous object on those premises, within 14 days of the destruction of the item, beginning with the day on which the item is destroyed (or the last day of its destruction where the destruction of the item takes place on more than one day) stating that the seized item has been destroyed.
- (9) In paragraph (8) the “relevant person” (“*person perthnasol*”) means—
- (a) if the enforcement authority knows the identity of a person with a proprietary interest in the seized item, that person or (where they know the identity of more than one person with a proprietary interest in the seized item) each of those persons; or
 - (b) if the enforcement authority does not know the identity of a person with a proprietary interest in the seized item, the person appearing to them to be in charge of the premises.
- (10) In the case of any item destroyed under paragraph (8)(b), the enforcement authority may recover the following costs as a debt from any person who had a proprietary interest in the item immediately before its destruction (apart from a creditor who has a debt secured on the item)—
- (a) the costs of the removal and transport of the item from the premises to the place at which it is stored;
 - (b) the costs of the storage of the item for up to 28 days;
 - (c) any costs for the removal and transport of the item if it is moved from one place of storage to another place of storage;

- (d) the costs of the transport of the item from the place of storage to the place of destruction; and
 - (e) the costs of the destruction of the item.
- (11) If a notification of a claim is received within 28 days in respect of an item seized under regulation 20(8), the enforcement authority must—
- (a) return the seized item within 14 days, beginning with the day on which the claim is received;
 - (b) if a decision is taken by the enforcement authority not to destroy the seized item but to retain it for the purpose of any criminal investigation or proceedings or for use as evidence at a trial, retain the item for as long as necessary for one of those purposes but the enforcement authority must notify the claimant that the seized item is being retained, and of the reason why it is being retained, within 14 days of the claim, beginning with the day on which the claim is received; or
 - (c) within 14 days of the claim, beginning with the day on which the claim is received, take proceedings (“regulation 21(11)(c) proceedings”) in a magistrates' court for an order giving them authority to destroy the item.
- (12) In regulation 21(11)(c) proceedings the magistrates' court may—
- (a) authorise the enforcement authority to destroy the seized item;
 - (b) authorise the enforcement authority to retain the item for the purpose of any criminal investigation or proceedings, or for use as evidence at a trial, for as long as necessary for one of those purposes; or
 - (c) require the enforcement authority to return the item to the claimant and impose a deadline by which this must be done.
- (13) If, in regulation 21(11)(c) proceedings, the magistrates' court authorises the enforcement authority to destroy the seized item, the court may also make an order requiring the claimant (but not a claimant who is a creditor with a debt secured on the item) to pay such of the following costs as the court may specify—
- (a) the costs of the removal and transport of the item from the premises to the place at which it is stored;
 - (b) the costs of the storage of the item for up to 28 days;
 - (c) any costs for the removal and transport of the item if it is moved from one place of storage to another place of storage;
 - (d) the costs of the transport of the item from the place of storage to the place of destruction; and
 - (e) the costs of the destruction of the item.
- (14) If a notification of a claim is received within 28 days in the case of any computer equipment seized under regulation 20(9), the enforcement authority must—
- (a) return the seized computer equipment within seven days of the claim, beginning with the day on which the claim is received, or, if shorter, within the remainder of the maximum 28 day period provided for in regulation 20(9); or
 - (b) take proceedings in a magistrates' court within seven days of the claim, beginning with the day on which the claim is received unless there are seven days or less remaining before the expiry of the maximum 28 day period provided for in regulation 20(9), for an order authorising the enforcement authority to retain the seized computer equipment in accordance with the requirements laid down in regulation 20(9).

(15) If, in the case of any computer equipment seized under regulation 20(9), the magistrates' court authorises the enforcement authority to retain the seized computer equipment, the court may impose conditions as to the basis on which the equipment may continue to be retained, including the imposition of a deadline by which the equipment must be returned that is shorter than the 28 day maximum period provided for in regulation 20(9).

(16) The procedure in a magistrates' court under this regulation is by way of complaint and the Magistrates' Courts Act 1980 ^{M1} applies to the proceedings.

Marginal Citations

M1 1980 c. 43.

Compliance notices

22.—(1) If an authorised officer (“O”) has reasonable grounds for believing that any person (“P”) is failing to comply with these Regulations, O may, by notice (a “regulation 22(1) compliance notice”), require P to take such steps as O may specify (or steps at least equivalent to them), within such period as O may specify, to secure that the non-compliance does not continue or recur.

(2) A regulation 22(1) compliance notice must—

- (a) state O's grounds for their belief;
- (b) specify the matters that constitute the failure to comply with these Regulations;
- (c) specify what P must stop doing, or the measures that, in O's opinion, P must take in order to comply with these Regulations;
- (d) require P to stop doing the action specified in the notice, or take the measures specified in the notice, or measures at least equivalent to them, within the period mentioned in the notice;
- (e) inform P of their right of appeal to a magistrates' court conferred by regulation 23; and
- (f) inform P of the period within which such an appeal may be brought.

(3) A person is guilty of an offence if they fail to comply with a regulation 22(1) compliance notice given to them under paragraph (1).

(4) If O has reasonable grounds for believing that any item mentioned in paragraph (5) does not comply in any one or more respects with the requirements mentioned in Schedule 1, 2 or 3, O may, by notice (a “regulation 22(4) compliance notice”), instruct the person (“P”) who appears to O to be in charge of the premises on which the relevant item is found that, unless otherwise directed in writing by O, the relevant item must not be removed from those premises until it complies with those requirements.

(5) The items are—

- (a) eggs;
- (b) eggs for hatching;
- (c) packs or other containers for eggs, eggs for hatching or chicks; and
- (d) labels relating to eggs, eggs for hatching or chicks.

(6) A regulation 22(4) compliance notice must—

- (a) state O's grounds for their belief;
- (b) specify the matters that constitute the failure to comply;
- (c) specify the measures that, in O's opinion, must be taken in order to secure compliance;

- (d) inform P of the right of appeal to a magistrates' court; and
- (e) inform P of the period within which such an appeal may be brought.

(7) P is guilty of an offence if they remove an item to which a regulation 22(4) compliance notice given to them by O relates from the premises on which it was found by O in contravention of the terms of that notice unless directed in writing by O to do so.

(8) A person, other than O and P, who knows about a regulation 22(4) compliance notice, is guilty of an offence if they remove an item to which the notice relates (although the notice was not given to them) from the premises on which it was found by O in contravention of the terms of that notice unless directed in writing by O to do so.

Appeals

23.—(1) Any person who is aggrieved by a decision specified in paragraph (2) may appeal against that decision to a magistrates' court.

(2) A specified decision for the purpose of paragraph (1) is—

- (a) a decision by the Welsh Ministers to refuse to register an establishment as a pedigree breeding establishment, other breeding establishment or hatchery under Article 2(1) of Commission Regulation (EC) No 617/2008, or to withdraw such a registration;
- (b) a decision by the Welsh Ministers to refuse to authorise an undertaking as a packing centre to grade eggs under the first sub-paragraph of Article 5(2) of Commission Regulation (EC) No 589/2008, or to withdraw such an authorisation;
- (c) a decision by an authorised officer to impose a regulation 22(1) compliance notice; or
- (d) a decision by an authorised officer to impose a regulation 22(4) compliance notice.

(3) Section 37(3), (5) and (6) of the Act has effect in relation to an appeal under this regulation as it has effect in relation to an appeal under that section, but with the omission—

- (a) in subsection (3), of the words “, or an appeal to such a court for which provision is made by regulations under Part II of this Act,”;
- (b) of subsection 5(b), and the word “or” immediately preceding it; and
- (c) in subsection (6)(a), of the words “or to the sheriff”.

(4) The withdrawal of a registration or authorisation referred to in paragraph (2) does not take effect until the time for appealing against it has expired, and, if an appeal is lodged, until the appeal is finally disposed of or withdrawn.

Record-keeping requirements

24.—(1) The Welsh Ministers may by notice direct any person carrying on any activity regulated by a provision mentioned in Schedule 1, 2 or 3 to comply with any of the requirements mentioned in paragraph (2).

(2) The requirements are—

- (a) to keep, or cause to be kept, such records as the Welsh Ministers may reasonably require for the purposes of enforcing any such provision;
- (b) to provide the Welsh Ministers with such information derived from such records as they may require by the times mentioned in the notice; and
- (c) to retain such records for such period as the Welsh Ministers may reasonably require.

(3) But the Welsh Ministers must not give a direction under paragraph (1) unless the records to which the direction relates are of a type that are normally kept in the course of a business by persons carrying on any activity regulated by a provision mentioned in Schedule 1, 2 or 3 and—

- (a) the direction will be given on or before 16 January 2010 and the Welsh Ministers reasonably suspect that the person to whom the direction will be given has contravened, or failed to comply with, any provision mentioned in Schedule 1, 2 or 3 since the coming into force of these Regulations;
 - (b) the direction will be given on or before 16 January 2010, the person to whom the direction will be given has been convicted of an offence under regulation 5, 9 or 16 of these Regulations and the Welsh Ministers reasonably suspects that, since the conviction, that person—
 - (i) has continued to contravene, or fail to comply with, the provision mentioned in Schedule 1, 2 or 3 to which that person's conviction relates; or
 - (ii) has contravened, or failed to comply with, some other provision mentioned in Schedule 1, 2 or 3;
 - (c) the direction will be given on or after 17 January 2010 and the Welsh Ministers reasonably suspect that the person to whom the direction will be given has contravened, or failed to comply with, any provision mentioned in Schedule 1, 2 or 3 within the six month period immediately before the direction is given; or
 - (d) the direction will be given on or after 17 January 2011, the person to whom the direction will be given has been convicted of an offence under regulation 5, 9 or 16 of these Regulations within the six month period immediately before the giving of the direction, and the Welsh Ministers reasonably suspect that, since the conviction, that person—
 - (i) has continued to contravene, or fail to comply with, the provision mentioned in Schedule 1, 2 or 3 to which that person's conviction relates; or
 - (ii) has contravened, or failed to comply with, some other provision mentioned in Schedule 1, 2 or 3.
- (4) A person is guilty of an offence if they do not comply with any requirement imposed on them by a direction given by the Welsh Ministers under paragraph (1).

Publication of enforcement information

25.—(1) An enforcement authority must publicise the cases in which items seized under regulation 20(8) have been destroyed and shall do so in such manner as it sees fit.

(2) But an enforcement authority must not publicise the destruction of any item seized under regulation 20(8) where it considers that it would be inappropriate to do so.

(3) An enforcement authority must publicise the cases in which compliance notices have been given by it under regulation 22 and shall do so in such manner as it sees fit.

(4) But an enforcement authority must not publicise an compliance notice given by it under regulation 22—

- (a) until the time for appealing against the imposition of the compliance notice has passed;
- (b) during the period that any appeal against the imposition of the compliance notice is ongoing;
- (c) where an appeal against the imposition of the compliance notice is successful; or
- (d) in any other case where the enforcement authority considers that it would be inappropriate to do so.

Obstruction

26. A person (“P”) is guilty of an offence if they—

- (a) obstruct any person acting in the execution of these Regulations (“O”);

- (b) fail to give to O any assistance or information that O may reasonably require of P for the performance of O's functions under these Regulations;
- (c) furnish any false or misleading information to O; or
- (d) fail to produce a record when required to do so to O.

Fine

27. A person guilty of an offence under regulation 5, 9, 16, 20(3), (4), (6), (11) or (12), 22(3), (7) or (8), 24(4) or 26 is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Extended period for bringing prosecutions

28.—(1) Proceedings for an offence under these Regulations may be commenced within the period of one year from the date on which evidence sufficient in the opinion of the prosecutor to warrant the proceedings came to the prosecutor's knowledge.

(2) But no such proceedings may be commenced by virtue of paragraph (1) more than three years after the commission of the offence.

(3) For the purposes of this regulation—

- (a) a certificate signed by or on behalf of the prosecutor and stating the date on which evidence sufficient in the prosecutor's opinion to warrant the proceedings came to the prosecutor's knowledge is conclusive evidence of that fact; and
- (b) a certificate stating that matter and purporting to be so signed, is deemed to be so signed unless the contrary is proved.

Offences by bodies corporate etc.

29.—(1) Where an offence committed by a body corporate (other than a limited liability partnership or a Scottish partnership) is proved to have been committed with the consent or connivance of, or is attributable to the neglect of, an officer of the body corporate, or a person purporting to act in such a capacity, that officer or person (as well as the body corporate) is guilty of the offence and is liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, paragraph (1) applies in relation to the acts and defaults of a member, and a person purporting to act in such a capacity, in connection with the member's functions of management as it applies to an officer of a body corporate.

(3) Where an offence committed by an unincorporated body (other than an unincorporated partnership) is proved to have been committed with the consent or connivance of, or is attributable to the neglect on the part of, any officer or a person purporting to act in such a capacity, that officer or person (as well as the unincorporated body) is guilty of the offence and liable to be proceeded against and punished accordingly.

(4) Where an offence committed by a partnership (including a limited liability partnership and a Scottish partnership) is proved to have been committed with the consent or connivance of, or is attributable to the neglect of a partner, or a person purporting to act in such a capacity, the partner or person (as well as the partnership) is guilty of the offence and liable to be proceeded against and punished accordingly.

(5) In this regulation "offence" ("*tramgwydd*") means an offence under these Regulations.

Giving of penalty notice for penalty offence

30. An enforcement authority may give a penalty notice to a person (“P”) where the authority has reason to believe that P has committed an offence under regulation 16 by contravening or failing to comply with a provision of Regulation (EC) No 2160/2003 mentioned in column 1 of Schedule 3.

Contents of penalty notice

31. A penalty notice given by an enforcement authority must—

- (a) give such particulars of the circumstances alleged to constitute the penalty offence as are necessary for giving reasonable information about the offence;
- (b) state the amount of the penalty;
- (c) state the period during which, by virtue of regulation 33, proceedings will not be taken for the offence;
- (d) state the person to whom, and the address at which, the penalty may be paid; and
- (e) state that payment must not be made in cash.

Amount of penalty

32.—(1) The amount of the penalty is to be determined by the enforcement authority and must not be less than £100 or more than £4,500.

(2) The factors to be taken into account by the enforcement authority in determining the amount of the penalty may include (but are not limited to) one or more of the factors mentioned in Schedule 4.

Restriction on proceedings for penalty offence

33.—(1) Where a person (“P”) is given a penalty notice—

- (a) no proceedings may be brought against P for the penalty offence to which that notice relates before the end of the period of 28 days, beginning with the day on which they were given the notice; and
- (b) P may not be convicted of the offence if the penalty is paid in accordance with regulation 34 before the end of that period.

(2) Paragraph (1) does not apply if the penalty notice is withdrawn in accordance with regulation 37.

Payment of penalty

34.—(1) Payment of any penalty must be made to the person mentioned in the penalty notice by sending it by post or by such method as may be mentioned in the notice.

(2) Payment of any penalty must not be made in cash.

Certificate of payment or non-payment of a penalty

35. In any proceedings a certificate purporting to be signed by or on behalf of the enforcement authority, stating that payment in respect of a penalty notice was or was not received on or before a date mentioned in the certificate, is evidence of the facts stated.

Penalty receipts

36. Penalties paid to an enforcement authority must be paid into the Welsh Consolidated Fund.

Withdrawal of penalty notice

37.—(1) A penalty notice may be withdrawn by an enforcement authority which has reason to believe that it ought not to have been given (whether to the person named in the penalty notice or otherwise).

(2) A penalty notice may be withdrawn by the enforcement authority giving notice to the person named in the penalty notice before or after the payment of the penalty.

(3) Where an enforcement authority withdraws a penalty notice it must repay any penalty paid under the penalty notice to the person named in the penalty notice within 28 days, beginning with the day on which the notice of the withdrawal of the penalty notice is given.

Giving of notices

38.—(1) Any notice required to be given under these Regulations to any person must be in writing and may be given to them by—

- (a) delivering it to them;
- (b) leaving it at their proper address;
- (c) sending it to them by prepaid post at that address; or
- (d) subject to paragraph (9), by being sent to them by an electronic communication.

(2) The notice may be given to a body corporate by being given to an officer of that body.

(3) The notice may be given to a limited liability partnership, Scottish partnership or unincorporated partnership by being given to a partner or a person having the control or management of the partnership business.

(4) The notice may be given to any other unincorporated body by being given to an officer of the unincorporated body.

(5) For the purposes of this regulation and section 7 of the Interpretation Act 1978^{M2} (service of documents by post) in its application to this regulation, the proper address of any person to whom a notice is to be given is—

- (a) in the case of a body corporate, the address of the registered or principal office of the body;
- (b) in the case of a limited liability partnership or a Scottish partnership, the address of the registered or principal office of the partnership;
- (c) in the case of an unincorporated partnership or any other unincorporated body, the address of the principal office of the partnership or body;
- (d) in the case of a person to whom the notice is given in reliance on any of paragraph (2), (3) or (4), the proper address of the body corporate, partnership or other unincorporated body in question; and
- (e) in any other case, the last known address of the person in question.

(6) For the purposes of paragraph (5) the references to “the principal office” in relation to a company which is registered outside the United Kingdom, a partnership which is carrying on business outside the United Kingdom and any other unincorporated body which has its principal office outside the United Kingdom, include a reference, in each case, to their principal office within the United Kingdom (if any).

(7) Paragraph (8) applies if a person to be given a notice under these Regulations has specified an address (“the specified address”) within the United Kingdom other than their proper address (as decided under paragraph (5)) as the one at which they, or someone on their behalf, will accept documents of the same description as a notice given under these Regulations.

(8) The specified address is also to be treated for the purposes of this regulation and section 7 of the Interpretation Act 1978 in its application to this regulation as the person's proper address.

(9) If a notice under these Regulations to be given to a person is sent by an enforcement authority by an electronic communication, it is to be treated as given only if—

- (a) the person to whom the notice is given has indicated a willingness to the enforcement authority to receive notices by an electronic communication and provided an address suitable for that purpose; and
- (b) the notice is sent to the address provided by that person.

(10) In this regulation—

“body corporate” (“*corff corfforaethol*”) does not include a limited liability partnership or a Scottish partnership; and

“electronic communication” (“*cyfathrebiad electronig*”) has the same meaning as in section 15(1) of the Electronic Communications Act 2000^{M3}.

Marginal Citations

M2 1978 c. 30. Section 15(1) was amended by paragraph 158 of Schedule 17 to the [Communications Act 2003 \(c. 21\)](#).

M3 2000 c. 7.

Application of various provisions of the Act

39.—(1) The following provisions of the Act apply for the purposes of these Regulations with the modifications mentioned in paragraph (2)—

- section 3 (presumptions that food intended for human consumption);
- section 20 (offences due to fault of another person);
- section 21^{M4} (defence of due diligence);
- section 29 (procurement of samples);
- section 30(8) (documentary evidence);
- section 44 (protection of officers acting in good faith); and
- section 46(1) (expenses of authorised officers).

(2) The modifications are—

- (a) any reference in the provisions specified in paragraph (1) to the Act (or a Part of the Act) must be construed as a reference to these Regulations;
- (b) any reference in the provisions specified in paragraph (1) to an authorised officer, or an officer of an enforcement authority or food authority, must be construed as a reference to an authorised officer as defined in regulation 3(1) of these Regulations;
- (c) in relation to section 20, the reference to that section must be construed as including a reference to that section as applied to these Regulations by paragraph (1);
- (d) in relation to section 21(2), the words “section 14 or 15 above” must be replaced with the words “these Regulations”;
- (e) in relation to section 29—
 - (i) in paragraph (b)(ii), the reference to section 32 must be construed as including a reference to regulation 20 of these Regulations; and

- (ii) in paragraph (d), the omission of the words “or of regulations or orders made under it”;
- (f) in relation to section 30(8)(a), the omission of the words “under subsection (6) above”; and
- (g) in relation to section 44, any reference to a food authority must be construed as a reference to an enforcement authority.

Marginal Citations

M4 Section 21(2) was amended by [S.I. 2004/3279](#).

Transitional provision

40. Any written authority granted to any person to act in matters arising under or in relation to the Eggs (Marketing Standards) Regulations 1995 ^{M5} or the Eggs and Chicks (Wales) Regulations 2009 ^{M6} has effect as if it referred to these Regulations.

Marginal Citations

M5 [S.I. 1995/1544](#), revoked by [S.S.I. 2005/332](#) in relation to Scotland, [S.I. 2007/2245](#) in relation to England and [S.I. 2009/793](#) (W.71) in relation to Wales.

M6 [S.I. 2009/793](#).

Changes to legislation:

There are currently no known outstanding effects for the The Eggs and Chicks (Wales) Regulations 2010, PART 5 .