
WELSH STATUTORY INSTRUMENTS

2014 No. 3223

The Common Agricultural Policy (Integrated Administration and Control System and Enforcement and Cross Compliance) (Wales) Regulations 2014

PART 2

INTEGRATED ADMINISTRATION AND CONTROL SYSTEM AND ENFORCEMENT

Applications

3.—(1) For the purposes of Article 13(1) of the Horizontal Implementing Regulation and Article 12 of the Horizontal Delegated Regulation, the final date on which a single application, aid application or payment claim may be submitted to the Welsh Ministers is 15th May or, if 15th May is a Saturday, Sunday, Bank Holiday or other public holiday, the next working day.

(2) In paragraph (1)—

- (a) “Bank Holiday” (“*Gŵyl Banc*”) means a day specified in paragraph 1 of Schedule 1 to the Banking and Financial Dealings Act 1971(1);
- (b) “payment claim” (“*hawliad am daliad*”) means a claim for support under the integrated system as provided by Article 67(2) of the Horizontal Regulation;
- (c) “working day” (“*diwrnod gwaith*”) means a day which is not a Saturday, Sunday, Bank Holiday or other public holiday.

Minimum size of agricultural area

4. For the purposes of Article 72(1) of the Horizontal Regulation, the minimum size of an agricultural parcel in respect of which a single application may be made is 0.1 hectare.

Recovery of undue payments

5.—(1) Where a beneficiary is liable to repay all or part of a direct payment in accordance with Article 7(1) of the Horizontal Implementing Regulation, the amount of the repayment, together with the interest on that amount calculated in accordance with regulation 6, is recoverable as a debt.

(2) In any legal proceedings brought pursuant to paragraph (1), a certificate of the Welsh Ministers which—

- (a) sets out the London interbank offered rate (LIBOR) applicable during a specified period; and
- (b) includes a statement that the Bank of England or the coordinating body notified the Welsh Ministers of that rate for that period,

(c) is evidence of the rate applicable during that period.

(3) In this regulation, “the coordinating body” (“*corfy cydgysylltu*”) means the coordinating body referred to in Article 7(4) of the Horizontal Regulation.

Interest

6.—(1) Interest may be charged in respect of each day of the period referred to in Article 7(2) of the Horizontal Implementing Regulation and for this purpose the rate of interest applicable on any day is one percentage point above the sterling three month London interbank offered rate (LIBOR) on that day.

Powers of entry

7.—(1) An authorised person may exercise any of the powers specified in this regulation and regulations 8 and 9 for the purpose of—

- (a) enforcing—
 - (i) the European Regulations except Chapters III and IV of Title V of the Horizontal Regulation; or
 - (ii) these Regulations;
- (b) providing a control report in accordance with Article 54(1) of the Horizontal Regulation;
- (c) determining whether there has been a non-compliance.

(2) An authorised person, on producing, if so required, a duly authenticated document showing that person’s authority, may at any reasonable hour enter any land or premises other than premises used wholly or mainly as a private dwelling.

(3) Paragraph (2) does not affect any right of entry conferred by a warrant issued in accordance with paragraph (4).

(4) A justice of the peace may by signed warrant permit an authorised person to enter any land or premises, if necessary by reasonable force, if the justice, sworn on information in writing, is satisfied that—

- (a) there are reasonable grounds for an authorised person to enter the land or premises for any purpose mentioned in paragraph (1); and
- (b) one of the conditions in paragraph (5) is met.

(5) The conditions are that—

- (a) entry to the land or premises has been refused, or is likely to be refused, and—
 - (i) notice of the intention to apply for a warrant has been served on the occupier, or
 - (ii) no such notice has been served on the occupier because serving such a notice would interfere with the purpose or effectiveness of the entry;
- (b) entry is required urgently; or
- (c) the premises are unoccupied or the occupier is temporarily absent.

(6) A warrant is valid for three months.

(7) An authorised person entering any land or premises by virtue of this regulation may be accompanied by—

- (a) any representative of the European Commission; and
- (b) such other persons as the authorised person considers necessary for any purpose mentioned in paragraph (1).

(8) An authorised person who enters any unoccupied premises must leave them as effectively secured as they were before entry.

Powers of inspection etc

8.—(1) An authorised person who has entered any land or premises in exercise of a power conferred by regulation 7 may—

- (a) carry out any inquiries, checks, examinations, measurements and tests;
- (b) take samples;
- (c) inspect all or any part of the land, whether it is farmed or is withdrawn from agricultural production, or premises;
- (d) inspect any livestock, crops, machinery or equipment;
- (e) mark any animal or other thing for identification purposes;
- (f) have access to, inspect, copy and print any documents or records (in whatever form they are held) or remove such documents to enable them to be copied or retained as evidence;
- (g) have access to, inspect and check the operation of, any computer and any associated apparatus or material which is or has been in use in connection with the documents or records;
- (h) take a photograph of, or record in digital form, anything on the land;
- (i) remove anything reasonably believed to be evidence of any non-compliance;
- (j) remove a carcass on the land or premises for the purpose of carrying out a post-mortem examination on it.

(2) An authorised person who enters any land or premises under a power under other legislation may exercise any of the powers specified in this regulation for the purposes of enforcing these Regulations.

(3) Paragraph (1) applies in relation to a person referred to in regulation 7(7)(b) when such person is acting under the instructions of an authorised person, as if such person were an authorised person.

Assistance to authorised persons

9. The beneficiary in respect of any land or premises entered by an authorised person in exercise of a power conferred by regulation 7 and any employee, servant or agent of that beneficiary, must give an authorised person (“AP”) such assistance as AP may reasonably request so as to enable AP to exercise any power conferred on AP by regulation 7 or 8.

Offences and penalties

10.—(1) It is an offence for any person to—

- (a) intentionally obstruct any person acting in execution of these Regulations;
- (b) without reasonable cause, proof of which lies with that person, fail to give any person acting in execution of these Regulations any assistance or information that that person may reasonably require under these Regulations; or
- (c) knowingly or recklessly furnish to any person acting in execution of these Regulations any information that is false or misleading in any material particular.

(2) A person guilty of an offence under paragraph 1(a) or (b) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(3) A person guilty of an offence under paragraph (1)(c) is liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding three months, or both; or
- (b) on conviction on indictment, to a fine, or to imprisonment for a term not exceeding two years, or both.

(4) Subject to paragraph (5), for an offence under paragraph (1) proceedings must be brought within the period of six months from the date on which evidence sufficient in the opinion of the prosecutor to justify proceedings came to the prosecutor's knowledge.

(5) No proceedings for an offence under paragraph (1) may begin more than two years after the date of the commission of the offence.

(6) For the purposes of this regulation, a certificate signed by or on behalf of the prosecutor and stating the date on which evidence sufficient, in the opinion of the prosecutor, to justify the proceedings came to their knowledge is conclusive of that fact.

Liability of directors etc

11.—(1) If an offence under regulation 10 committed by a body corporate is proved—

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

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

(2) In paragraph (1), “officer” (“*swyddog*”) means—

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

(3) If the affairs of a body corporate are managed by its members, paragraph (1) applies in relation to the acts and omissions of a member in connection with the member's functions of management as it applies to an officer of a body corporate.

Offences by bodies corporate, partnerships and unincorporated associations

12.—(1) Proceedings for an offence under regulation 10 alleged to have been committed by a partnership or unincorporated association may be brought against the partnership or association 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 have effect as if the partnership or unincorporated association were a body corporate, and
- (b) section 33 of the Criminal Justice Act 1925(2) (procedure on charge of offence against corporation) and Schedule 3 to the Magistrates Courts' Act 1980(3) (corporations),

apply in relation to the partnership or association as they apply in relation to a body corporate.

(2) 1925 c. 86. Subsections (1), (2) and (5) 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 2, 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.

(3) 1980 c. 43. Paragraph 2(a) of Schedule 3 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(1) and (13)(a), and Schedule 37, Part 4 (partly commenced by S.I. 2012/1320 and S.I. 2012/2574 and with full 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 repealed by the Criminal Justice Act 2003, section 41, Schedule 3, Part 2, paragraph 51(1) and (13)(b) (partly commenced by S.I. 2012/1320 and S.I. 2012/2574 and with full effect from a date to be appointed).

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

(4) If an offence under regulation 10 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 the negligence of a partner,

that partner, as well as the partnership, is guilty of the offence and liable to be proceeded against and punished accordingly.

(5) If an offence under regulation 10 committed by a body corporate is proved—

(a) to have been committed with the consent of an officer, or

(b) to be attributable to the negligence of an officer,

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

(6) If an offence under regulation 10 committed by an unincorporated association (other than a partnership) is proved—

(a) to have been committed with the consent or connivance of an officer of the association or member of its governing body, or

(b) to be attributable to the negligence of that officer or member,

that officer or member, as well as the association, is guilty of the offence and liable to be proceeded against and punished accordingly.

(7) In paragraphs (4), (5) and (6), any reference to an officer, partner or member, as the case may be, includes any person purporting to act in such capacity.

(8) In this regulation—

(a) “partnership” (*“partneriaeth”*) does not include a limited liability partnership;

(b) “unincorporated association” (*“cymdeithas anghorfforedig”*) does not include a partnership.