
WELSH STATUTORY INSTRUMENTS

2017 No. 691

**The Marketing of Fruit Plant and Propagating
Material (Wales) Regulations 2017**

PART 4

Enforcement

Inspectors

- 16.**—(1) The Welsh Ministers must appoint inspectors for the purposes of these Regulations.
(2) An inspector has the powers set out in this Part of the Regulations.

Entry and inspection of land and premises

17.—(1) For the purposes of enforcing these Regulations, an inspector has power, on producing a duly authenticated authorisation, to enter any land or premises (except any premises used wholly or mainly as a private dwelling house) at any reasonable hour by giving reasonable notice.

(2) But the requirement to give notice is not necessary—

- (a) where reasonable efforts to agree an appointment have failed;
- (b) where an inspector has reasonable suspicion of a failure to comply with these Regulations;
- (c) in an emergency.

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

- (a) there are reasonable grounds to enter that land or premises for the purpose of enforcing these Regulations; and
- (b) any of the conditions in paragraph (4) are met.

(4) The conditions are—

- (a) entry to the premises has been, or is likely to be, refused, and notice of the intention to apply for a warrant has been given to the occupier;
- (b) asking for admission to the premises, or giving notice, would defeat the object of the entry;
- (c) entry is required urgently;
- (d) the premises are unoccupied or the occupier is temporarily absent.

(5) A warrant is valid for three months.

(6) An inspector entering any land or premises may be accompanied by any person (up to a maximum of 4 persons), equipment, materials or vehicle as the inspector considers necessary for the purposes of this regulation.

(7) An inspector entering any premises which are unoccupied or from which the occupier is temporarily absent must leave them as effectively secured against unauthorised entry as they were before entry.

Search and examination of items on land and premises

18.—(1) Where an inspector exercises the power conferred by regulation 17, the inspector may—

- (a) open any container;
- (b) carry out any searches, inspections, measurements and tests;
- (c) take samples;
- (d) have access to, and inspect, any books, documents or records (in whatever form they are held) relating to these Regulations and remove them to enable them to be copied;
- (e) photograph or copy anything whose production the inspector has power to require under sub-paragraph (d);
- (f) photograph anything which the inspector has reasonable cause to believe may be relevant in connection with the enforcement of these Regulations;
- (g) seize any computers and associated equipment for the purpose of copying documents provided that they are returned as soon as practicable.

(2) Any person who accompanies an inspector in accordance with this regulation may perform any of the inspector’s functions but only under the supervision of that inspector.

Information notice

19. An inspector may, by notice served on any person, require that person to provide such information as is specified in the notice in such form and within such period following service of the notice or at such time as is so specified.

Prohibition on movement notice

20. An inspector may, by notice served on any person, prohibit that person from moving plant material from any premises where the inspector has reasonable grounds to suspect the plant material fails to comply with the requirements of these Regulations.

Enforcement and prohibition notice

21.—(1) An inspector may serve a notice on any person who contravenes, or who the inspector has reasonable grounds to suspect may contravene, these Regulations—

- (a) requiring that person to act in accordance with the Regulations (an “enforcement notice”);
- (b) prohibiting that person from acting in breach of them (a “prohibition notice”).

(2) The notice must give reasons for serving it and, if appropriate, specify what action must be taken and give time limits.

Appeals against notices

22.—(1) Any person who is aggrieved by a decision of an inspector to serve a notice under this Part may appeal to a magistrates’ court.

(2) The procedure on appeal to a magistrates' court is by way of complaint and the Magistrates' Courts Act 1980(1) applies to the proceedings.

(3) The period within which an appeal must be brought is 28 days from the service of the notice or, in the case of an enforcement notice, the period specified in the notice, whichever ends earlier.

(4) A notice served under this Part must state—

- (a) the right of appeal to a magistrates' court;
- (b) the period in which such an appeal may be brought.

(5) On an appeal under this regulation, the court may either cancel or affirm the notice and, if it affirms the notice, it may do so either in its original form or with such modifications as it thinks fit.

Compliance with notices

23. A notice served under this Part must be complied with at the expense of the person on whom it is served and, if it is not complied with, an inspector may arrange for it to be complied with at the expense of that person.

Offences and penalties

24.—(1) It is an offence for a person to—

- (a) fail to comply with a notice served under—
 - (i) regulation 19 (information notice);
 - (ii) regulation 20 (prohibition on movement notice);
 - (iii) regulation 21(1)(a) (enforcement notice);
 - (iv) regulation 21(1)(b) (prohibition notice);
- (b) fail, without reasonable excuse, to give any assistance that a person may require for the performance of that person's functions under these Regulations;
- (c) intentionally obstruct an inspector in the exercise of any powers conferred by these Regulations.

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

Offences by bodies corporate

25.—(1) If an offence committed under these Regulations 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) 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 the member's functions of management as if the member were a director of the body.

(3) In paragraph (1), "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.

(1) 1980 c. 43; sections 51 and 52 have been substituted by section 47 of the Courts Act 2003 (c. 39). Sections 53 and 54 have been amended by section 17(6) of the Crime and Courts Act 2013 (c. 22).

Status: *This is the original version (as it was originally made).*
