

CONTROL OF HORSES ACT 2014

EXPLANATORY NOTES

INTRODUCTION

1. These Explanatory Notes are for the Control of Horses (Wales) Act 2014 which was passed by the National Assembly for Wales on 10 December 2013 and received Royal Assent on 27 January 2014. They have been prepared by the Department for Sustainable Futures of the Welsh Government to assist the reader of the Act. The Explanatory Notes should be read in conjunction with the Act but are not part of it.

COMMENTARY ON SECTIONS

Section 1 – Overview

2. This section summarises what the Act permits local authorities to do when horses are without lawful authority in public places or other land without the consent of the occupier.

Section 2 – Power of local authority to seize horses

3. A local authority has the power to seize and impound a horse which is on the highway or any other public place the local authority has responsibility for. It also has this power if a horse is on other land in its area without the consent of the occupier of that land, as long as the occupier agrees to the local authority seizing and impounding it. The local authority must have reasonable grounds to believe the horse is on the land without lawful authority before it can use these powers.

Section 3 – Notices about seizure etc.

4. The local authority is required to post a written notice within 24 hours of seizing a horse under section 2, at or near the place where the horse was seized stating the date and time it was seized and detailing how contact may be made with the local authority. It must also within 24 hours of seizing a horse, give written notices to a constable (to inform the local police force of its actions) and to any person who appears to be the owner or a person acting on behalf of the owner of the horse.
5. The local authority must take reasonable steps to establish the identity of the owner of the horse as soon as reasonably practicable following its seizure. If, within 7 days of seizing a horse under section 2, the local authority ascertains that a person who has not already been given written notice under the Act, is the owner of the horse, the local authority must within 24 hours, give a written notice to that person. If a notice is issued in these circumstances (i.e. notice given under section 3(4)), the 7 days period recommences from the date of this notice.
6. The notices given under sections 3(3) and 3(4) must be dated and include a description of the horse, and the date, time and place at which the horse was seized together with contact details of the local authority.

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7. A notice to a person believed to be, or to be acting on behalf of, the owner of a horse must also state why the local authority believes that person to be either the owner of the horse or a person acting on behalf of the owner. The notice must set out the effect of the operation of section 5 (disposal of impounded horses) including the date on which the powers under, section 5 (3) to sell, or otherwise dispose of, the horse (including arranging for its destruction) will become available. A notice issued to a constable must also state who else has been served with a notice.

Section 4 – Costs of seizure etc.

8. The owner is liable to pay the local authority any costs reasonably incurred in the seizure and impounding of the horse and in feeding and maintaining it while it has been impounded. The Act does not require the local authority to return the horse until such costs incurred are paid. General law requires the horse to be looked after while under local authority care.
9. The local authority must give notice to the owner of the amount it considers the owner is liable to pay with an explanation of how the amount has been determined.
10. That notice must also inform the owner that they have a right to refer a dispute as to the costs claimed by the local authority to the Welsh Ministers and to inform them how they may exercise that right.

Section 5– Disposal of impounded horses

11. **Section 5** provides powers for the local authority to sell or otherwise dispose of the horse, including arranging for its destruction. Destruction will be carried out in as humane a manner as possible. This section applies subject to section 7 (Resolution of disputes about amounts payable).
12. The provisions in this section will apply if after the period of 7 days beginning either on the date that a notice is placed under section 3(1) or given under subsection (4), no person has notified the local authority that they are either the owner of the horse or acting on behalf of the owner of the horse. Section 5 will also apply subject to section 7, if the owner has contacted the local authority but has either not complied with section 4(1) or has been given notice under section 4(3) about their liability for costs and has not paid those costs 7 days from receiving that notice.
13. The local authority may also recover any costs it may incur in relation to any arrangements for the disposal or destruction of the horse under this section. This section also provides that where there are no proceeds arising from the disposal of the horse, the local authority may seek to obtain its costs of disposal from the owner. Where there are proceeds arising from the disposal of the horse, but the costs incurred by the local authority exceeds the amount of those proceeds, the owner is liable to pay the local authority the amount of that excess.
14. The local authority must give notice to the owner of the amount it considers the owner is liable to pay in connection with the disposal of the horse with an explanation of how the amount has been determined.
15. In that notice the local authority must also advise the owner that they have a right to refer a dispute to the Welsh Ministers, as to the costs claimed by the local authority and how to exercise that right.
16. This section also provides that the local authority is required to pay the owner of the horse any proceeds arising from the disposal of the horse where the proceeds exceed the amount of the costs incurred by the local authority; but if a local authority has previously made a payment to a person it reasonably believes to be the owner it is not required to repay any other person.

Section 6 – Record of horses dealt with

17. The local authority is required under this section to keep a register of all horses seized under section 2 of the Act and that register must contain a brief description of the horse, a statement of the date, time and place at which the horse was seized and when it was impounded and details of the steps taken to establish the owner. In addition if the horse has been disposed of, the details and manner in which the horse was disposed of under section 5. The register must be open to inspection by members of the public (either in person or on the internet) at all reasonable times.

Section 7 – Resolution of disputes about amounts payable

18. This section applies where the owner of a horse disputes the amount the local authority claims they are liable to pay to them under section 4(1) or 5(4); or the amount payable to the owner by the local authority under section 5(5).
19. The owner of the horse may, within 7 days of receiving a notice under section 4(3) or 5(7), refer the dispute to the Welsh Ministers for resolution. The owner must give, in that notice to the Welsh Ministers, a statement of the reasons for disputing the amount claimed. The Welsh Ministers must forward any such notice to the local authority concerned and they may require that local authority to provide them with any information which they consider may assist them in resolving the dispute. The local authority concerned may also make representation to the Welsh Ministers within 7 days of receiving notice from the Welsh Ministers, of the referral by the owner.
20. The Welsh Ministers must resolve the dispute as soon as is reasonably practicable in all the circumstances.
21. If the dispute is in relation to section 4(1), the local authority may not dispose of the horse until the dispute is resolved.

Section 8 – Consequential repeals

22. This section sets out the relevant provisions contained in the three local Acts which cease to have effect as they will be unnecessary as a result of the coming into force of this Act. These repeals are as follows:
- (a) section 29 of the [Cardiff City Council Act 1984 \(c.xv\)](#);
 - (b) in section 15(8) of the [Mid Glamorgan County Council Act 1987 \(c.vii\)](#), the words “horses (including ponies, mules, jennets),”; and
 - (c) in section 35(7) of the [West Glamorgan Act 1987 \(c.viii\)](#), the word “horses”.

Section 9 – Interpretation

23. This section sets out the definitions for a “horse” and a “local authority” within this Act.

Section 10 – Commencement and short title

24. This section confirms when the Act comes into force and establishes the Act’s title as the ‘Control of Horses (Wales) Act 2014’.

RECORD OF PROCEEDINGS IN NATIONAL ASSEMBLY FOR WALES

25. The following table sets out the dates for each stage of the Act’s passage through the National Assembly for Wales. The Record of Proceedings and further information on the passage of this Act can be found on the National Assembly for Wales’ website at:

<http://www.senedd.assemblywales.org/mgIssueHistoryHome.aspx?IId=7815>

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<i>Stage</i>	<i>Date</i>
Introduced	14 October 2013
Stage 1 – Debate	22 October 2013
Stage 2 Scrutiny Committee – consideration of amendments	14 November 2013
Stage 3 Plenary - consideration of amendments	10 December 2013
Stage 4 Approved by the Assembly	10 December 2013
Royal Assent	27 January 2014