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WELSH STATUTORY INSTRUMENTS

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**2009 No. 1372**

**The Swine Vesicular Disease (Wales) Regulations 2009**

**PART 7**

Inspection, enforcement and miscellaneous provisions

**Notices**

**32.**—(1) Any notice required or authorised under these Regulations to be served on any person must be in writing and may be amended, suspended or revoked in writing at any time.

(2) Any such notice may be served by—

- (a) delivering it to the person;
- (b) leaving it at the person's proper address; or
- (c) sending it by post to the person at that address.

(3) Any such notice may—

- (a) in the case of a body corporate, be served on an officer of the body, and
- (b) in the case of a partnership, be served on a partner or a person having the control or management of the partnership business.

(4) For the purposes of this regulation and section 7 of the Interpretation Act 1978(1) (service of documents by post) in its application to this regulation, the proper address of any person on whom a notice is to be served is the person's last known address except that—

- (a) in the case of service on a body corporate or an officer of the body, the proper address is the address of the registered or principal office of the body, and
- (b) in the case of service on a partnership, a partner or a person having the control or management of the partnership business, the proper address is the address of the principal office of the partnership.

(5) If the name or address of any occupier of premises on whom a notice is to be served under these Regulations cannot, after reasonable inquiry, be ascertained, the notice may be served by leaving it conspicuously affixed to a building or object on the premises.

(6) In this regulation—

“body corporate” (“*corff corfforaethol*”) includes a limited liability partnership,

“director” (“*cyfarwyddwr*”), in relation to a body corporate whose affairs are managed by its members, means a member of the body corporate,

“officer” (“*swyddog*”), in relation to a body corporate, means any director, manager, secretary or other similar officer of the body corporate,

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

and references to serving include references to similar expressions (such as giving or sending).

## Licences

### 33

- (1) A licence granted under these Regulations must be in writing and may be—
- (a) general or specific;
  - (b) subject to conditions; and
  - (c) amended, suspended or revoked in writing at any time.
- (2) A person moving anything under the authority of a specific licence must—
- (a) carry the licence or a copy of it at all times during the movement, and
  - (b) on demand by an inspector or an officer of the Welsh Ministers, produce the licence or copy and allow a copy or extract to be taken,

and failure to do so is an offence.

- (3) A person moving anything under the authority of a general licence must—
- (a) carry, at all times during the movement, a consignment note containing details of—
    - (i) what is being transported, including the quantity,
    - (ii) the date of the movement,
    - (iii) the names of the consignor and consignee,
    - (iv) the address of the place from which the movement started and of the destination,
  - (b) on demand by an inspector or an officer of the Welsh Ministers, produce the consignment note and allow a copy or extract to be taken, and
  - (c) keep the consignment note for at least six months,

and failure to do so is an offence.

(4) It is an offence to fail to comply with or to breach a condition of any licence granted under these Regulations.

(5) If a pig has been moved to premises under a licence, a veterinary inspector may serve a notice on the occupier of the premises of destination imposing such movement restrictions relating to pigs on those premises as are necessary to prevent the risk of spreading swine vesicular disease virus, and failure to comply with such a notice is an offence.

(6) Except where otherwise directed by the Welsh Ministers, licences granted in Scotland or England for activities which could be licensed in Wales under these Regulations have effect in Wales as if they were licences granted under these Regulations, and the provisions of this regulation apply accordingly.

## Powers of inspectors

**34.**—(1) An inspector may, on producing a duly authenticated authorisation if requested, enter any premises, at any reasonable hour for the purpose of enforcing these Regulations, and for these purposes “premises” (“*mangre*”) includes a vehicle or trailer.

- (2) An inspector entering any premises may—
- (a) inspect the premises, vehicle or container and any plant, machinery or equipment;
  - (b) take samples;
  - (c) seize and destroy any thing that may spread swine vesicular disease virus;
  - (d) detain or isolate any animal or thing;
  - (e) mark for identification purposes any animal or thing;

- (f) require any animal or thing (including a vehicle) to be moved to a specified destination;
- (g) carry out any inquiries, examinations and tests;
- (h) have access to, and inspect and copy any documents or records (in whatever form they are held) relevant to these Regulations, and remove them to enable them to be copied;
- (i) inspect and check the operation of any computer and any associated apparatus or material that is or has been in use in connection with records; and
- (j) require the cleansing and disinfection of any part of the premises or any thing.

(3) Where an inspector has entered any premises and it is not reasonably practicable to determine whether documents on those premises are relevant to these Regulations, the inspector may seize them to ascertain whether or not they are relevant.

- (4) The inspector may be accompanied by—
- (a) such other persons as the inspector considers necessary, and
  - (b) any representative of the European Commission acting for the purpose of the enforcement of a Community obligation.

#### **Powers relating to pigs living in the wild**

**35.** In relation to pigs living in the wild a veterinary inspector and, when acting under the direction of a veterinary inspector, an inspector, another officer of the Welsh Ministers or any other person with the necessary expertise may—

- (a) undertake surveillance for such pigs;
- (b) capture them;
- (c) take samples from them;
- (d) kill them if the veterinary inspector is satisfied that—
  - (i) it is not possible to take samples from them without killing them; or
  - (ii) they are spreading or may spread swine vesicular disease virus to other pigs.

#### **Notices relating to movement**

**36.—**(1) If a pig has been moved in contravention of any provision of these Regulations or any licence or notice served under these Regulations, a veterinary inspector may serve a notice on the occupier of the premises—

- (a) detaining the pig on the premises, and any other pigs on the premises, or
- (b) requiring the occupier to move any pigs on the premises to other premises specified in the notice.

(2) If a pig has been moved to premises under such notice, a veterinary inspector may serve a notice on the occupier of the premises of destination imposing such movement restrictions relating to pigs on those premises as are necessary to prevent the risk of spreading swine vesicular disease virus.

(3) Failure to comply with such a notice is an offence.

#### **Suspension or restriction of rights of way in a protection zone**

**37.—**(1) With the prior written consent of the Welsh Ministers, an inspector may suspend or restrict the exercise of a right of way (including a public footpath) in a protection zone by causing a sign to that effect to be appropriately displayed.

(2) It is an offence to remove or alter a sign displayed under this regulation except under the direction of an inspector.

- (3) The suspension or restriction continues until—
  - (a) the protection zone is ended, or
  - (b) all relevant notices are removed under the direction of an inspector.

#### **Change of occupier of premises under restriction**

**38.** If there is a change of occupier of premises under restriction under these Regulations, the new occupier must allow the old occupier to enter the premises to feed any animal during the period of restriction and for seven days following its end, and failure to do so is an offence.

#### **Powers of inspectors in case of default**

**39.** If any person fails to comply with a requirement in or under these Regulations, an inspector may take such steps as that inspector considers necessary to ensure the requirement is met at the expense of that person.

#### **Compensation**

**40.—(1)** The Welsh Ministers must pay compensation for pigs killed or slaughtered under these Regulations.

(2) If the pig was affected with swine vesicular disease the compensation is its value immediately before it became so affected (less any price received by the owner at slaughter).

(3) Otherwise the compensation is its value immediately before it was killed or slaughtered.

(4) The Welsh Ministers must pay compensation for anything seized (unless it is returned) under these Regulations at its value at the time of seizure.

#### **Obstruction**

**41.** It is an offence—

- (a) to obstruct anyone acting in the execution of these Regulations;
- (b) without reasonable cause, to fail to give to any person acting in the execution of these Regulations any assistance or information that that person may reasonably require under these Regulations;
- (c) to furnish to anyone acting in the execution of these Regulations any information knowing it to be false or misleading; or
- (d) to fail to produce a record when required to do so to any person acting in the execution of these Regulations.

#### **Offences and penalties**

**42.—(1)** A person guilty of an offence under these Regulations 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 six months or both.

### Offences by bodies corporate

43.—(1) Where a body corporate is guilty of an offence under these Regulations, and that offence is proved to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of—

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

that person is guilty of the offence as well as the body corporate.

(2) For the purposes of this regulation “director” (“*cyfarwyddwr*”), in relation to a body corporate whose affairs are managed by its members, means a member of the body corporate.

### Offences by partnerships and unincorporated associations

44.—(1) Proceedings for an offence under these Regulations 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, and
- (b) section 33 of the Criminal Justice Act 1925(2) and Schedule 3 to the Magistrates' Courts Act 1980(3) apply in relation to the partnership or association as they apply in relation to a body corporate.

(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) Where an offence under these Regulations committed by a partnership is proved to have been committed with the consent or connivance of, or to 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” (“*partner*”) includes a person purporting to act as a partner.

(5) Where an offence under these Regulations 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” (“*swyddog*”) means an officer of the association or a member of its governing body, or a person purporting to act in such capacity.

### Enforcement

45.—(1) These Regulations are enforced by the local authority.

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- (2) 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' Court Act 1952, section 132, Schedule 6.
  - (3) 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).

(2) The Welsh Ministers may direct, in relation to cases of a particular description or in relation to particular cases, that the Welsh Ministers will enforce these Regulations instead.

#### **Exceptional circumstances**

- 46.** The Welsh Ministers may for the purpose of ensuring the health or welfare of any animal—
- (a) license a person to carry out any action that is otherwise prohibited under these Regulations; or
  - (b) exempt a person, by notice, from any requirement under these Regulations.

#### **Revocations**

- 47.—**(1) The following are revoked insofar as they relate to Wales—
- (a) the Swine Vesicular Disease Order 1972**(4)**;
  - (b) the Swine Vesicular Disease (Amendment) Order 1973**(5)**; and
  - (c) the Swine Vesicular Disease (Compensation) Order 1972**(6)**.

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**(4)** S.I.1972/1980.  
**(5)** S.I. 1973/101.  
**(6)** S.I.1972/2014.