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WELSH STATUTORY INSTRUMENTS

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**2009 No. 2614 (W.212)**

**ANIMALS, WALES**

**The Tuberculosis Eradication (Wales) Order 2009**

*Made* - - - - 28 September 2009  
*Laid before the National*  
*Assembly for Wales* - - - 30 September 2009  
*Coming into force* - - - 21 October 2009

The Welsh Ministers—

being satisfied that tuberculosis exists among the wild members of the badger species in Wales which has been or is being transmitted from badgers to animals of any kind in the area;

being satisfied that destruction of wild members of the badger species in that area is necessary in order to eliminate or substantially reduce the incidence of tuberculosis in animals of any kind in the area; and

after consultation with the Countryside Council for Wales in accordance with section 21(3) of the Animal Health Act 1981<sup>(1)</sup>,

in exercise of the powers conferred by sections 1, 21(2), (4) and (5), 72 and 86(1) of the Animal Health Act 1981<sup>(2)</sup>, make the following Order:

**Title, commencement and interpretation**

1.—(1) The title of this Order is the Tuberculosis Eradication (Wales) Order 2009 and it comes into force on 21 October 2009.

(2) In this Order—

“the Act” (“*y Ddeddf*”) means the Animal Health Act 1981;

“authorised officer” (“*swyddog awdurdodedig*”) means—

- (a) an officer of the Welsh Assembly Government;
- (b) a veterinary inspector; and
- (c) any person, who, not being such an officer or inspector, is authorised by the Welsh Ministers to exercise the power conferred by this Order.

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<sup>(1)</sup> 1981 c. 22.

<sup>(2)</sup> Section 86(1) is cited for the meaning given to “the Minister”. Functions under the Act are exercisable by the Welsh Ministers (in relation to Wales), by virtue of the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672); the National Assembly for Wales (Transfer of Functions) Order 2004 (S.I. 2004/3044); and section 162 of and paragraph 30 of schedule 11 to the Government of Wales Act 2006 (c. 32).

“badger” (“*mochyn daear*”) means an animal belonging to the species *Meles meles* of the order Carnivore; and

“carcase” (“*carcas*”) includes part of a carcase.

### **Application of Order for the purposes of section 21 of the Animal Health Act 1981**

2. For the purposes of section 21 (destruction of wildlife) of the Animal Health Act 1981 this Order—

- (a) applies to Wales;
- (b) applies to tuberculosis; and
- (c) relates to the species of badger.

### **Destruction of badgers**

3.—(1) The authorised officer may destroy badgers using one of the methods set out in paragraph (2).

- (2) The badgers must be—
  - (a) trapped in a cage and either—
    - (i) shot; or
    - (ii) given a lethal injection; or
  - (b) shot without being trapped in a cage.

(3) The carcase of any badger destroyed under this Order is the property of the Welsh Ministers and must not be removed from the land or premises on which it was destroyed or in any way disposed of without the authority of the Welsh Ministers.

### **Vaccination of badgers**

4. An authorised officer may treat badgers with vaccine for the purpose of preventing the spread of tuberculosis.

### **Powers of entry**

5.—(1) An authorised officer may enter any premises, except a dwelling house, for the purpose of treating badgers with vaccine.

(2) The powers conferred by this article and by section 22 of the Act (powers of entry for s.21) extend to the taking of any action which is necessary to, or is otherwise required in connection with—

- (a) treating badgers with vaccine; or
  - (b) destroying badgers.
- (3) The authorised officer may take with him or her—
- (a) such other persons as he or she thinks necessary to give such assistance as he or she thinks necessary;
  - (b) such equipment as he or she thinks necessary.

(4) The authorised officer may require any person on the land or premises who falls within paragraph (5) to give such assistance as may reasonably be required for the purpose of vaccinating badgers.

- (5) The following persons fall within this paragraph—
  - (a) the occupier of the land or premises;

- (b) a person appearing to the authorised officer to be under the direction or control of the occupier.
- (6) If the authorised officer enters any unoccupied land or premises, the land or premises must be left as effectively secured against entry as the authorised officer found them.

### **Offences**

- 6. It is an offence against the Act for a person—
  - (a) to take into captivity, harbour, conceal or otherwise protect wild members of the badger species with intent to prevent their destruction or their being treated with vaccine;
  - (b) in any other way to obstruct or interfere with anything which has been, is being or is to be done or used in connection with that destruction or their being treated with vaccine; or
  - (c) to aid, abet, counsel or procure another person to commit such an act.

28 September 2009

*Elin Jones*  
Minister for Rural Affairs, one of the Welsh  
Ministers

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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## EXPLANATORY NOTE

*(This note is not part of the Order)*

The Welsh Ministers are satisfied that tuberculosis exists in the wild badger population in Wales; that the disease has been or is being transmitted from badgers to cattle in Wales and that the destruction of wild badgers in Wales is necessary in order to eliminate or substantially reduce the incidence of tuberculosis in animals of any kind in Wales.

The Order provides that the destruction of badgers must be accomplished by trapping and either shooting or giving a lethal injection, or by shooting without trapping. The carcase of a badger so destroyed is the property of the Welsh Ministers and may not be removed without their authority.

The Order provides that the authorised officer may treat badgers with vaccine for the purpose of preventing the spread of tuberculosis.

The Order provides that the authorised officer may enter premises, except a dwelling house, and do other things as are necessary or required in connection with vaccinating or destroying badgers.

The Order provides that it is an offence against the Act for a person —

- (a) to take into captivity, harbour, conceal or otherwise protect wild members of the badger species with intent to prevent their destruction or their being treated with vaccine; or
- (b) in any other way to obstruct or interfere with anything which has been, is being or is to be done or used in connection with that destruction or their being treated with vaccine; or
- (c) to aid, abet, counsel or procure another person to commit such an act.