
WELSH STATUTORY INSTRUMENTS

2009 No. 1551

**The Marketing of Fresh Horticultural
Produce (Wales) Regulations 2009**

PART 3

Powers of authorised officers

Other powers of an authorised officer

8.—(1) An authorised officer who has lawfully entered premises for the purposes of the enforcement of these Regulations, may for those purposes —

- (a) require any person to provide such assistance, information or facilities as the authorised officer may reasonably require;
- (b) make any enquiries, observe any activity or process, and take photographs;
- (c) inspect and search the premises;
- (d) inspect any machinery or equipment, and any other article on the premises;
- (e) inspect and take samples of any horticultural produce found on the premises;
- (f) identify, with demarcation tape or other material, horticultural produce or a specific lot of horticultural produce which is found not to be compliant with Community marketing rules;
- (g) inspect, seize and detain any container used in connection with horticultural produce;
- (h) have access to, inspect and copy any label, notice, document or record (in whatever form they are held), remove them to enable them to be copied or require copies to be made;
- (i) detach, or give permission to be detached, any re-graded label, out-graded label, labelling defect label or stop notice label when the reasons for their being affixed no longer apply;
- (j) have access to, inspect and check the data on, and operation of, any computer and any associated apparatus or material that is or has been in use in connection with a label, notice, document or record mentioned in this regulation, including data relating to deleted files and activity logs; and for this purpose may require any person having charge of, or otherwise concerned with the operation of the computer, apparatus or material to afford such assistance (including the provision of passwords) as may reasonably be required and, where these items are kept by means of a computer, may require them to be produced in a form in which they may be taken away;
- (k) seize any computers and associated equipment for the purpose of copying any data, but only if that authorised officer has a reasonable suspicion that an offence under these Regulations has been committed, and provided they are returned as soon as practicable;
- (l) seize and detain any items in sub-paragraph (h) if that authorised officer has reason to believe that they may be required as evidence in proceedings under these Regulations.

(2) Where an authorised officer takes a bulk sample of horticultural produce from a specific lot in accordance with Annex VI to Commission Regulation 1580/2007 and finds that horticultural produce not to be compliant with the Community marketing rules, the power to affix—

- (a) a re-graded label under regulation 9(1);
- (b) an out-graded label under regulation 10(1);
- (c) a labelling defect label under regulation 11(1);
- (d) a stop notice label under regulation 13(1),

may be exercised in relation to all or any of the horticultural produce or containers of horticultural produce within that lot in the same way as in relation to the bulk sample taken.

(3) An authorised officer must—

- (a) as soon as is reasonably practicable, provide to the person appearing to be responsible for any items that that authorised officer seizes and detains under paragraph (1) a written receipt identifying those items; and
- (b) as soon as is reasonably practicable after deciding that those items are no longer required, return them, apart from those to be used as evidence in court proceedings.

(4) Where an authorised officer has seized and detained items under paragraph (1) for use in evidence in court proceedings and—

- (a) it is subsequently decided—
 - (i) that no court proceedings are to be brought; or
 - (ii) that those items are no longer needed as evidence in court proceedings; or
- (b) the court proceedings are completed and no order in relation to those items has been made by the court,

an authorised officer must return the items as soon as is reasonably practicable.