
WELSH STATUTORY INSTRUMENTS

2018 No. 1215

**The Carcase Classification and Price
Reporting (Wales) Regulations 2018**

PART 5

ENFORCEMENT AND OFFENCES

Notices

17.—(1) Any notice required or authorised under these Regulations to be given to any person must be in writing.

(2) Any such notice may be given 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) Where any such notice is to be given to a body corporate, it may be given to an officer of the body.

(4) For the purpose of this regulation the proper address of any person to whom a notice is to be given is the person's last known address, except that in the case of a body corporate or an officer of the body, the proper address is the address of the registered or principal office of the body.

(5) In this regulation—

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

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

Powers of entry

18.—(1) An authorised officer may at any reasonable hour and on producing, if so required, a duly authenticated authorisation, enter an approved slaughterhouse and any associated premises in which carcasses may be handled or records relating to those carcasses may be kept, for the purpose of ascertaining whether—

- (a) any offence under these Regulations is being or has been committed on the premises; or
- (b) there is on the premises any evidence of any such offence.

(2) The officer may be accompanied by such other persons as the officer considers necessary.

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

- (a) there is reasonable ground for entry into the premises for any purpose in paragraph (1); and
- (b) any of the following conditions are met—

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- (i) admission to the premises has been refused, or a refusal is anticipated and (in either case) notice of intention to apply for a warrant has been given to the operator;
 - (ii) asking for admission, or the giving of such notice, would defeat the object of the entry;
 - (iii) the case is one of urgency; or
 - (iv) the premises are unoccupied, or the operator is temporarily absent.
- (4) A warrant granted under this regulation continues in force for three months.
- (5) An officer who enters any unoccupied premises, or premises from which the operator is temporarily absent, must leave them as effectively secured against unauthorised entry as they were before entry.

Powers of authorised officers

- 19.** An authorised officer entering premises under these Regulations may—
- (a) inspect any bovine carcase or pig carcase or part of such a carcase, or any carcase or part of a carcase which the officer reasonably suspects to be a bovine or pig carcase or part of such a carcase;
 - (b) examine any record which an operator is required to keep under regulation 11 or 16 or under the Commission Delegated Regulation or the Commission Implementing Regulation, and where any such record is kept by means of a computer, have access to and inspect and check the operation of any computer and associated apparatus or material which is or has been in use in connection with that record;
 - (c) require that copies of or extracts from any such record be produced and, where such record is kept by means of a computer, require it to be produced in a form in which it may be taken away; and
 - (d) retain any such record which the officer has reason to believe may be required as evidence in proceedings under these Regulations.

Enforcement notices

20.—(1) If the Welsh Ministers have reason to believe that a person has committed an offence under these Regulations, the Welsh Ministers may give that person an enforcement notice in accordance with paragraph (2).

- (2) An enforcement notice must—
- (a) state the Welsh Ministers' grounds for believing that an offence has been committed;
 - (b) specify the matter that constitutes the offence;
 - (c) specify what that person must stop doing, or the measures that, in the Welsh Ministers' opinion, the person must take in order to comply with these Regulations;
 - (d) require the person to stop doing the action specified in the notice, or to take the measures specified in the notice or measures at least equivalent to them, within the period (being not less than 14 days) specified in the notice;
 - (e) inform the person of the right of appeal conferred by regulation 21; and
 - (f) inform the person of the period within which such an appeal may be brought.
- (3) Any person who contravenes or fails to comply with an enforcement notice is guilty of an offence.

Appeals against enforcement notices

21.—(1) A person may appeal to a magistrates' court against an enforcement notice if that person has reason to believe that the notice should not have been given.

(2) A person may appeal within the period of one month beginning with the date on which the notice was given.

(3) The procedure is by way of complaint for an order; and the Magistrates' Court Act 1980^{M1} applies to the proceedings.

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

Marginal Citations

M1 1980 c. 43; sections 51 and 52 have been substituted by the Courts Act 2003 (c. 39), section 47.

Penalty notices

22.—(1) If the Welsh Ministers have reason to believe that a person has committed an offence under these Regulations, the Welsh Ministers may give that person a notice (a “penalty notice”) in accordance with paragraphs (2) and (3).

(2) A penalty notice may be of any amount.

(3) A penalty notice must—

- (a) give such particulars of the circumstances alleged to constitute the offence as are necessary for giving reasonable information about the offence;
- (b) state the amount of the penalty;
- (c) state the period during which, by virtue of regulation 23, proceedings will not be taken for the offence;
- (d) state the person to whom and the address at which the penalty may be paid; and
- (e) state the means by which payment of the penalty may be made.

Restriction on proceedings for penalty offence

23.—(1) Where a person is given a penalty notice—

- (a) no proceedings may be brought against that person for the offence to which that notice relates before the end of the period of 28 days, beginning on the date on which the notice was given; and
- (b) that person may not be convicted of the offence if the penalty is paid in accordance with regulation 24 before the end of that period.

(2) Paragraph (1) does not apply if the penalty notice is withdrawn in accordance with regulation 25.

Payment of penalty

24.—(1) Payment of any penalty must be made to the Welsh Ministers by sending it by post or by such method as may be specified in the penalty notice.

(2) In any proceedings a certificate purporting to be signed by or on behalf of the Welsh Ministers stating that payment of a penalty was or was not received by the date specified in the certificate is evidence of the facts stated.

Withdrawal of penalty notice

25.—(1) A penalty notice may be withdrawn if the Welsh Ministers have reason to believe that it ought not to have been given (whether to the person named in the penalty notice or otherwise).

(2) A penalty notice may be withdrawn by the Welsh Ministers giving notice to the person named in the penalty notice before or after payment of the penalty.

(3) Where a penalty notice is withdrawn, the Welsh Ministers must repay any penalty paid under the penalty notice to the person named in the penalty notice within 28 days, beginning with the date on which notice of the withdrawal of the penalty notice was sent.

Offences: European beef provisions

26. Any person who—

- (a) fails to comply with any requirement under a European beef provision; or
- (b) contravenes any prohibition contained in a European beef provision,

is guilty of an offence.

Offences: European pig provision

27.—(1) Any person who—

- (a) fails to comply with any requirement under a European pig provision; or
- (b) contravenes any prohibition contained in a European pig provision,

is guilty of an offence.

(2) But where an operator or the person responsible for the classification of pig carcasses draws up a record in compliance with the conditions referred to in regulation 15 (records instead of marking) no offence is committed by failure to comply with or contravening a Part 2 European pig provision.

(3) In this regulation, “Part 2 European pig provision” means a provision which is specified in column (2) of Part 2 of Schedule 2.

Offences: notifications by operators

28. Any person who fails to comply with any requirement of regulation 5 (notification by operators) is guilty of an offence.

Offences: licences (bovine carcasses)

29.—(1) If classification of a bovine carcass is carried out at an approved slaughterhouse—

- (a) without a licence granted under regulation 8, or
- (b) in breach of any term or condition of such a licence,

the person who carries out the classification and the operator of that slaughterhouse are each guilty of an offence.

(2) If classification of a bovine carcass is carried out at an approved slaughterhouse by means of automated grading equipment—

- (a) without a licence granted under regulation 9 for the use of that equipment at that slaughterhouse, or
- (b) in breach of any term or condition of such a licence,

the person who carries out that classification and the operator of that slaughterhouse are each guilty of an offence.

(3) Any person who makes an alteration to a licence granted under regulation 8 or 9 is guilty of an offence.

Offences: authorised grading methods (pig carcasses)

30. If classification of a pig carcass is carried out at an approved slaughterhouse using a grading method or grading technique in a manner which fails to comply with the requirements of regulation 14, the person who carries out the classification and the operator of that slaughterhouse are each guilty of an offence.

Offences: records and marks

31.—(1) Any person who fails to comply with any requirement of regulation 11 (records: bovine carcasses) or regulation 16 (records: pig carcasses) is guilty of an offence.

(2) Any person who marks a bovine carcass or part of such a carcass—

- (a) as prescribed by Article 8(1), (2)(a), (3)(a) (read with the second paragraph of Article 8(3)), (4) and (5) of the Commission Delegated Regulation, or
- (b) in a way closely resembling the marking prescribed by those provisions,

which is likely to mislead, is guilty of an offence.

(3) Any person who marks a pig carcass or part of such a carcass—

- (a) as prescribed by Article 8(1), (2)(b), (3)(c) (read with the second paragraph of Article 8(3)), (4) and (5) of the Commission Delegated Regulation, or
- (b) in a way closely resembling the marking prescribed by those provisions,

which is likely to mislead, is guilty of an offence.

Offences: obstruction etc.

32. Any person who—

- (a) without reasonable excuse, obstructs any person acting under these Regulations,
- (b) without reasonable cause, fails to give any person acting under these Regulations any assistance or information that that person may reasonably require for the purpose of carrying out functions under these Regulations,
- (c) gives any person acting under these Regulations any information knowing it to be false or misleading, or
- (d) fails to produce any document or record when required to do so by any person acting under these Regulations,

is guilty of an offence.

Period for bringing prosecution

33.—(1) Proceedings for an offence under regulations 20(3), 26, 27, 28, 29, 30, 31(1) or 32 may be brought within a period of 12 months from the date on which the prosecutor first knows of evidence sufficient, in the prosecutor's opinion, to justify proceedings.

(2) But no such proceedings may be brought more than 18 months from the commission of the offence.

(3) For the purposes of paragraph (1)—

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- (a) a certificate signed by or on behalf of the prosecutor and stating the date on which the prosecutor first knew of evidence sufficient to justify the proceedings is conclusive evidence of that fact;
- (b) a certificate stating the matter and purporting to be so signed is deemed to be so signed unless the contrary is proved.

Offences by bodies corporate

34.—(1) If an offence under these Regulations committed by a body corporate is shown to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, an officer, that officer as well as the body corporate is guilty of the offence and is 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 that member's functions of management as if that member were a director of the body.

(3) In this regulation, “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.

Defence of due diligence

35. It is a defence for a person charged with an offence under these Regulations (“P”) to prove that P took all reasonable precautions and exercised all due diligence to avoid the commission of the offence by P or by a person under P's control.

Offences: punishment

36.—(1) A person guilty of an offence under—

- (a) regulation 20(3) (enforcement notices),
- (b) regulation 26 (European beef provisions),
- (c) regulation 27 (European pig provisions),
- (d) regulation 28 (notifications by operators),
- (e) regulation 29 (licences (bovine carcasses)),
- (f) regulation 30 (authorised grading methods: pig carcasses)),
- (g) regulation 31(1) (records), or
- (h) regulation 32 (obstruction etc.),

is liable on summary conviction to a fine.

(2) A person guilty of an offence under regulation 31(2) or (3) (misleading marks etc.) is liable—

- (a) on summary conviction to a fine; or
- (b) on conviction on indictment, to a fine.

Status:

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