

Environment, Planning and Countryside Committee

EPC(2) 13-06(p3) Explanatory Memorandum

To: Business Committee

From: Carwyn Jones AM

Minister for Environment, Planning and Countryside

Animals, Wales

Animal Health

The sheep and goats (records, identification and movement) (Wales) (Amendment) order 2006

Summary

This Order makes further provision for the administration and enforcement in Wales of Council Regulation (EC) No. 21/2004 by establishing an improved system for the identification and registration of ovine (Sheep) and caprine (Goats) animals, It amends The Sheep and Goats (Records, Identification and Movement) (Wales) Order 2006.

1. This Memorandum is submitted to the Assembly's Business Committee in relation to The Sheep and Goats (Records, Identification and Movement) (Wales) (Amendment) Order 2006, in accordance with Standing Order 24.6.

2. A copy of the Instrument is submitted with this Memorandum.

Enabling Power

3. The powers enabling this Instrument to be made are contained in sections 1, 8(1) and 83(2) of the Animal Health Act 1981. These powers have been transferred to the National Assembly for Wales. Responsibility for issues relating to the content of this Order have been delegated to my portfolio as Minister for Environment, Planning and Countryside. Under the post-2007 arrangements, we foresee that this legislation would follow the Negative procedure.

Effect

4. This Order makes further provision for the administration and enforcement in Wales of Council

Regulation (EC) No.21/2004 by providing an improved system of identification to aid traceability of sheep and goat movements and to link rules to the payments of EU subsidy. It will tighten up the national identification system for sheep and goats by introducing the changes outlined in paragraph 5 below, in order to satisfy the European Commission that the UK national system provides equivalent traceability to that provided in the 21/2004 Regulation. Regulation 21/2004 requires that all sheep and goats born after 9 July 2005 to be double tagged, i.e. that they would be individually identified with two identical tags bearing the same identification information, at the holding of birth. However, the UK negotiated a temporary derogation in July 2005, that originally ran until 30 April 2006, which enables it to continue with its existing national system for a single holding of birth tag and subsequent movement tags. This temporary derogation has been extended until 30 June 2007, subject, in part, to this legislation being introduced.

5. The Order will introduce the following changes to the current system:

- keepers will have to replace lost or illegible eartags within 28 days of noticing their loss or illegibility. Currently, they have to replace such tags as soon as possible or at least within 6 months;
- all animals for export or intra-community trade must be double tagged with identical holding of birth tags, at the "holding of origin" (the holding prior to leaving the UK, unless this is an assembly centre, in which case it is the holding immediately prior to the assembly centre); and
- administrative sanctions will be introduced, such that movement restrictions can be applied on whole flocks/herds and animals, in the event of non-compliance with the law.

6. It is necessary to agree these improvements in order to secure an extension to the national derogation from double tagging beyond April 2006 until the introduction of mandatory electronic identification (EID), which could be as early as 1 January 2008.

Target Implementation

7. It is intended that the proposed Instrument be made on 7 November 2006 and come into force on 1 January 2007. Failure to implement the legislation in a timely manner may damage the decision on extending the temporary derogation UK obtained from the requirement to double tag. The derogation expires in July 2007 and failure to obtain an extension could result in the UK being required to implement double tagging.

8. England, Scotland and Northern Ireland have all committed to having similar amending legislation in place by the end of the year.

Financial Implications

9. The cost to the Assembly of operating the system of administrative sanctions is difficult to determine but are likely to be small. However, failure to introduce these provisions could result in financial implications as there would be a risk that the Commission would take action against the UK

for failing to fully implement the EC Regulation.

10. The introduction of administrative sanctions will potentially affect sheep and goat keepers who fail to comply with 21/2004 Regulation and this Order. It will mean they are unable to move some or all of their animals until they can demonstrate they are complying with the law.

11. The requirement to tag export animals with identical holding of birth tags will affect exporters. It will mean that they have to apply a second identical holding of birth tag at the export holding. However, applying two identical eartags for export animals is required under European law and has been since July 2005. As such, it affects all Member States equally. Until now, the UK had adopted a liberal interpretation of the law but the Commission has pointed out to us that we have been acting incorrectly. The countries to whom we export sheep are demanding identical tags, therefore, if exporters do not comply they will have their consignments rejected.

12. In 2005, 12,488 sheep were exported from Wales. Based on current numbers, the additional cost to exporters is limited to the difference in price between an X tag i.e. a tag that can currently be applied to animals being moved to another Member State, and an identical holding of birth tag. The X tag contains the UK flock number of the holding of export and a unique individual number. Some additional organisation will be required by the Local Veterinary Inspector (LVI) who are private veterinary surgeons appointed throughout Great Britain by the then Minister of Agriculture, Fisheries and Food to carry out as agents of the Minister, or the Secretaries of State for Scotland and Wales, to ensure the correct match up tag is applied to the right animal. Provided export levels remain as they are, the additional cost of tags for the export industry in Wales will be around £22, 500 a year. This assumes an additional cost of £1.80 per tag (£2.20 for a match up tag, £0.40 for an X tag, all costs include postage).

Regulatory Appraisal

13. A Regulatory Appraisal has been carried out in relation to this Instrument and is attached.

Consultation

With Stakeholders

14. As the Commission did not agree to extend the derogation until 19 July 2006, there was not sufficient time to undertake a consultation exercise in relation to this Order as the legislation is required to be introduced by January 2007 in order to secure the derogation.

15. However, an informal consultation has already taken place with officials and industry representatives, in the form of a meeting held on 19 June 2006. A list of attendees is attached at Annex A to the Regulatory Appraisal. The industry have given their agreement in principle to the proposed amendments to the legislation. I also wrote to key stakeholders namely: the National Farmers Union; the Farmers Union of Wales; the Country Land and Business Association and the National Sheep Association, on 10 August 2006 advising them of the proposed amendments.

16. In November 2005, an 8-week consultation was undertaken, which sought views on proposals to implement certain areas of Regulation EC No. 21/2004 i.e. the date of the Annual Inventory, the responsibility for replacing tags lost at market, holding definition and the introduction of an Ear Tag Allocation System (ETAS). Respondents had some concerns but on the whole they were supportive of the proposals, as they were aware that these were being introduced in order to maintain the existing UK ID system.

With Subject Committee

17. The Order was notified to the Environment, Planning and Countryside Committee in my oral report of 13 July 2006. Unfortunately, agreement to tightening the UK tagging requirements for export animals was sought by the Commission after this date. Therefore, as the Assembly was in recess it was not possible to include the item on the list of forthcoming legislation put to the Committee. However, on 24 July 2006 I sent a letter to the Chair of Environment, Planning and Countryside Committee informing him of this additional provision to the Order and confirming that the industry had been made aware of this proposed change and was content that it be introduced in order to maintain the existing UK ID system. No comments have been received.

18. I made further reference to this legislation in my oral report to Committee on 28 September 2006.

Recommended Procedure

19. Subject to the views of the Business Committee, I recommend that this Order proceeds to Plenary under the Standard procedure to give Members an opportunity to debate the Order.

Compliance

20. The proposed legislation will (as far as is applicable):

- have due regard to the principle of equality of opportunity for all people (Government of Wales Act 1998 section 120);
- be compatible with the Assembly's scheme for sustainable development (section 121);
- be compatible with Community law (section 106);
- be compatible with the Assembly's human rights legislation (section 107); and
- be compatible with any international obligations binding the UK Government and the Assembly (section 108).

21. The information in this Memorandum has been cleared with the Legal Services Department (LSD).

22. Drafting Lawyer – Chrisan Kamalan Ext: 5633.

23. Head of Division – Dr Christianne Glossop Ext: 3377

24. Policy Division contact – Huw Jones 01267 245 004

Carwyn Jones

September 2006

Minister for Environment, Planning and Countryside