

Government Response to draft CLAC Report on The Equine Identification (Wales) Regulations 2019

This response refers to the Technical point raised in the draft CLAC report on the Equine Identification (Wales) Regulations 2019, in respect of regulation 8 (in Part 2 of the Regulations). Regulation 8 requires an owner to ask the issuing body to modify or update an equine's ID, if the responsible person (the owner or keeper) believes that any identity details contained in the equine's ID require modification or updating. The point raised by CLAC relates to cases where the responsible person is the keeper (not the owner), where there may be potential for an owner to be unaware of the keeper's belief that the ID needs to be amended. Regulation 22(1) provides that an owner is guilty of an offence if the owner breaches a prohibition, or fails to comply with a requirement that applies to an owner, including under Part 2. As such, CLAC's concern is that there is potential for an owner to commit an offence, and to be punished for that offence, where the owner did not know, and perhaps could not have known, that the equine's ID needed to be amended.

We have carefully considered the technical point raised. When drafting regulation 8, reliance was placed on Article 3(3) of Commission Regulation (EU) 2015/262 (as regards the methods for the identification of equidae) which provides: *'Member States and the issuing bodies referred to in Article 5(1)(a) and Article 5(1)(b) may require that the application to an issuing body for obtaining an identification document as provided for in Article 11 or for modifying identification details in an existing identification document as provided for in Article 27 is to be submitted by the owner'*. This approach was taken so as to achieve consistency with the obligation on an owner to make the application for an equine ID. We recognise that regulation 8 of the Equine Identification (Wales) Regulations 2019 does not place an express responsibility on the responsible person – where that person is the keeper – to notify the owner if the keeper believes that any identity details contained in the equine's ID require modification or updating. We are of the view this is not strictly necessary, in light of the wording of Article 3(2) of Regulation 2015/262: *'where the keeper is not the owner or one of the owners of the equine animal, it shall act in accordance with this Regulation on behalf of and in agreement with the owner'*. In practice, the relationship between keeper and owner tends to be a strong one, in which information concerning the need to modify identity details within an equine ID would flow freely between the parties.

On reflection, and recognising that an owner is guilty of an offence where there is failure to comply with the requirement under regulation 8, we recognise that an amendment to regulation 8 would aid clarity. Having considered the issue in light of the point identified, we intend to make amending Regulations as soon as possible, so as to provide that where the owner believes that any identity details contained in the equine's ID require modification or updating, whether pursuant to Article 27(1) or otherwise, the owner must ask the issuing body to modify or update the ID. This will mirror the position adopted under the equivalent regulations for England, and remove

the potential for an owner to be unaware of the keeper's belief that the ID needs to be amended. It will involve drafting a short SI, which will substitute 'responsible person' in regulation 8 with 'owner', and can be made under the negative resolution procedure. We believe that this addresses the point raised in the draft CLAC report.