

SL(5)304 – The Equine Identification (Wales) Regulations 2019

Background and Purpose

These Regulations supplement, and make provision for the enforcement of Commission Implementing Regulation (EU) 2015/262 (the EU Regulation), in Wales. The Regulations provide for the identification of equines, and replace the Equine Identification (Wales) Regulations 2009 (the 2009 Regulations).

Part 2 contains provisions which set out various administrative and procedural requirements. These include requirements in relation to the identification of equines and the identification document in relation to an equine.

Part 3 contains exceptions in respect of equines living under wild or semi-wild conditions.

Part 4 sets out various criminal offences for breach of these Regulations and the EU Regulation.

Part 5 contains provisions about enforcement and penalties, and gives powers to inspectors appointed by the Welsh Ministers or an enforcing authority (a local authority).

Part 6 makes provision for civil sanctions available to enforcing authorities.

Part 7 revokes the 2009 Regulations.

Procedure

Negative.

Technical Scrutiny

One point is identified for reporting under Standing Order 21.2(v) (that for any particular reason its form or meaning needs further explanation) in respect of this instrument.

Regulation 8 (in Part 2 of the Regulations) requires an owner to ask the issuing body to modify or update an equine's ID, if the responsible person (the owner or the keeper) believes that any identity details contained in the equine's ID require modification or updating. In cases where the responsible person is not the owner (but the keeper), there may be potential for an owner to not be aware of the keeper's belief that the ID needs to be amended. Regulation 8 does not include a requirement for the responsible person (where this is a keeper and not an owner) to notify the owner of their belief that amendment to the ID is necessary. 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, there is potential for an owner to commit an offence, and be punished for that offence, even where the owner did not know, and perhaps could not have known, that the equine's ID needed to be amended.

The equivalent regulations for England, The Equine Identification (England) Regulations 2018 (the English Regulations), make provision at regulation 8 for the modification of identity details. However, this requires the owner to ask the issuing body to modify or update the ID if "the owner believes that any identity details contained in the equine's ID require modification or updating". As such, the same issue does not exist in the English Regulations as is noted above for Wales. Under the English Regulations, an owner would only commit an offence in respect of non-compliance with regulation 8, if they did not ask for changes to be made that they believed were needed.



Merits Scrutiny

No points are identified for reporting under Standing Order 21.3 in respect of this instrument.

Implications arising from exiting the European Union

These Regulations are made under section 2(2) of the European Communities Act 1972 and form part of “EU-derived domestic legislation” under section 2 of the European Union (Withdrawal) Act 2018, therefore these Regulations will be retained as domestic law and will continue to have effect in Wales on and after exit day.

Committee consideration

The Committee considered the instrument at its meeting on 4 February 2019 and reports to the Assembly in line with the technical point identified and also to highlight issues as a result of the UK exiting the EU.

