

SL(5)402 – The Equine Identification (Wales) (Amendment) Regulations 2019

Background and Purpose

These Regulations amend the Equine Identification (Wales) Regulations 2019 (the 2019 Regulations). to substitute 'responsible person' in regulation 8 with 'owner'. These Regulations ensure that the system of equine identification set out by Regulation 2015/262 functions effectively in Wales. This system includes requirements in relation to the identification of equines and the identification document in relation to an equine, the marking of equines by way of a transponder, and a central database.

Procedure

Negative.

Technical Scrutiny

No points are identified for reporting under Standing Order 21.2 in respect of this instrument.

Merits Scrutiny

Two points are identified for reporting under Standing Order 21.3 in respect of this instrument.

1. Standing Order 21.3(ii) – that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Assembly

The Regulations were made on 19 March, laid on 20 March and will come into force on 28 March 2019,. As such, they breach the 21 day rule in section 11A(4) of the Statutory instruments Act 1946.

The Explanatory Memorandum states as follows, at paragraph 2:

...The SI is being laid under the 'Negative Procedure' with deviation from the standard 21 day laying period. Breaching the 21 day rule will allow the Regulations to come into force before the 29th March when the UK withdraws from the EU, and on which date the 2019 Regulations will also be subject to amendment by the Equine Identification (Wales) (Amendment) (EU Exit) Regulations 2019 in order to ensure the effective operation of the Regulations following withdrawal of the UK from the EU. A breach of the 21 day rule is therefore thought necessary and justifiable in this case...

By letter dated 20 March 2019, Rebecca Evans AM, the Minister for Finance and Trefnydd notified the Presiding Officer that it had been necessary to breach the 21 day rule to allow the Regulations to come into force before 29 March when the UK withdraws from the EU, and on which date the Equine Identification (Wales) Regulations 2019 will also be subject to amendment by the Equine Identification (Wales) (Amendment) (EU Exit) Regulations 2019 in order to ensure the effective operation of the Regulations following withdrawal of the UK from the EU.

We note the Government's explanation for the breach of the 21 day rule in this case. On balance, we consider that it was important to ensure that this amendment was made to the legislation as soon as was possible, and before the UK leaves the European Union.



2. Standing Order 21.3(ii) – that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Assembly

The 2019 Regulations were made on 15 January 2019 and laid before the National Assembly on 17 January 2019. On 30 January, the Committee identified one point for reporting under Standing Order 21.2(v) (that for any particular reason its form or meaning needs further explanation) in respect of the 2019 Regulations¹. The Minister for Environment, Energy and Rural Affairs agreed that an amending Statutory Instrument would be drafted which substituted 'responsible person' in regulation 8 of the 2019 Regulations with 'owner'. This change addresses the concern raised by the Committee. We are pleased that the Minister agreed that an amendment to the 2019 Regulations would be beneficial, and that the amending instrument has been laid within two months of receiving the Committee's report.

Implications arising from exiting the European Union

These Regulations are made in exercise of the powers contained in section 2(2) of the European Communities Act 1972, and will become part of retained EU law on exit day.

Government Response

No government response is required.

Legal Advisers

Constitutional and Legislative Affairs Committee

27 March 2019

¹ This was that Regulation 8 of the 2019 Regulations required an owner to ask the issuing body to modify or update an equine's ID, if the responsible person (the owner or the keeper) believed 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 have been potential for an owner to not be aware of the keeper's belief that the ID needed to be amended. As such there was 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.

