WELSH STATUTORY INSTRUMENTS

2008 No. 420 (W.39)

AGRICULTURE, WALES

The Welsh Levy Board Order 2008

Made - - - - 19 February 2008

Coming into force in accordance with article 1

The Welsh Ministers in exercise of the powers vested in them(**1**) make the following Order under the following provisions of the Natural Environment and Rural Communities Act 2006 (**2**)—

sections 87 to 90 and 97(1) and (2);

paragraphs 5 to 11 of Schedule 8; and

Schedules 9 and 10.

And section 146A of the Government of Wales Act 1998(**3**).

The Welsh Ministers have consulted with such organisations as appear to them to be representative of interests substantially affected by this Order as required by section 97(5) of the Natural Environment and Rural Communities Act 2006.

A draft of this Order was laid before the National Assembly for Wales under section 97 of that Act and has been approved by a resolution of the National Assembly for Wales.

Title and commencement

1.—(1) The title of this Order is the Welsh Levy Board Order 2008.

(2) Articles 2, 3(1) and (2), 4, 5, 8, 9 and 10 and Schedule 2 come into force the day after this Order is made.

(3) The remainder of the Order comes into force on 1 April 2008.

Scope

2.—(1) This Order relates to—

(a) the beef and sheep industry in Wales; and

(b) the pig industry in Wales.

(2) For these purposes—

(**1**) Functions conferred on the National Assembly for Wales in the Natural Environment and Rural Communities Act 2006 are exercisable by the Welsh Ministers by virtue of paragraph 30 of Schedule 11 to the Government of Wales Act 2006.

(**2**) 2006 c. 16.

(**3**) 1998 c. 38.

"beef and sheep industry" ("*diwydiant cig eidion a chig defaid*") means all the activities comprised in the production, processing, marketing and distribution of—

(a) cattle and sheep, including the carrying on of slaughterhouses and cattle and sheep auctions and markets;

(b) meat and meat products (other than milk and milk products) from cattle and sheep;

"pig industry" ("*diwydiant moch*") means all the activities comprised in the production, processing, marketing and distribution of pigs or pig products, including the carrying on of slaughterhouses and pig auctions and markets;

(3) A reference in these Regulations to "industry" ("*diwydiant*") is a reference to one or more of these industries.

Establishment of the Welsh Levy Board

3.—(1) A body called the Welsh Levy Board is established.

(2) Its purposes are—

(a) increasing efficiency or productivity in the industry;

(b) improving marketing in the industry;

(c) improving or developing services that the industry provides or could provide to the community; and

(d) improving the ways in which the industry contributes to sustainable development.

(3) Its functions are the provision of any of the services specified in Schedule 1 (functions of the Welsh Levy Board).

Constitution etc. of the Welsh Levy Board

4. Schedule 2 (constitution and proceedings of the Welsh Levy Board) has effect.

Acting through subsidiaries and other companies

5.—(1) The Welsh Levy Board may establish or acquire a subsidiary company for each of the industries within the scope of this Order and may establish or acquire such other subsidiary companies as may be conducive or incidental to its functions, and a reference to a subsidiary company in this Order is a reference to such a company.

(2) The Welsh Levy Board may delegate any of its functions in Schedule 1 to a subsidiary or other company but any such arrangement will not affect the responsibilities of the Welsh Levy Board under this Order.

Levies

6.—(1) The Welsh Levy Board may impose a levy to enable it to provide services for each industry covered by this Order, and Schedule 3 has effect.

(2) All figures in that Schedule exclude VAT.

(3) The levies are to enable the Welsh Levy Board to—

(a) cover its costs in providing any of the services specified in Schedule 1;

(b) meet its administrative expenses;

(c) further a purpose in article 3(2);

(d) establish a reserve fund.

(4) If the rate of levy (and any higher rate for late payment of the levy) exceeds the appropriate rate set out at paragraph 1(8) of Schedule 3 Part 2 of this Order such rate of levy (and any higher rate for late payment of the levy) must be approved in advance by the Welsh Ministers.

(5) The Welsh Levy Board may delegate the collection of levy to a subsidiary company or a nominated company.

(6) Levy raised in relation to an industry may only be used in relation to that industry.

Estimates

7.—(1) If any person liable to pay levy fails to notify the Welsh Levy Board or a subsidiary or nominated company of the information specified in Schedule 3 by the due date specified in that Schedule, the Welsh Levy Board or the subsidiary or nominated company may estimate the amount that should have been notified, and notify the person of the estimate.

(2) If the person fails to make a return within 28 days of notification of the estimate he or she becomes liable to pay levy on that estimate.

(3) The Welsh Levy Board may provide that a higher rate of levy is payable on the estimated amount, but that higher rate may not exceed the maximum rates provided for in Schedule 3.

Charges for services

8. The Welsh Levy Board, or any subsidiary or other company, may make such charges for any services in addition to the services referred to in article 6 as appear to the Welsh Levy Board or subsidiary or nominated company to be reasonable.

Reserve funds etc.

9. The Welsh Levy Board may—

(a) establish and maintain a reserve fund for the purposes of its functions; and

(b) borrow money and charge property.

Incidental Powers

10.—(1) The Welsh Levy Board may do anything that appears to it to be conducive or incidental to the discharge of its functions.

(2) In particular it may—

(a) enter into agreements;

(b) acquire or dispose of property;

(c) raise funds by means of voluntary contributions; and

(d) accept gifts.

Ballots

11.—(1) The Welsh Levy Board may hold a ballot at any time on whether or not a levy should continue.

(2) It must do so if it receives within a three month period one or more requests for a ballot signed by at least 5% of persons entitled to vote in a ballot.

(3) The three month period is calculated from the first day of any month.

(4) The maximum frequency with which ballots for the same levy can be held at the request of persons entitled to vote is 5 years.

(5) A request for a ballot is not valid if it is made before 1 April 2012.

(6) The Welsh Levy Board must immediately inform the Welsh Ministers of the result of a ballot, but the Welsh Ministers are not bound by the result.

Who can vote

12.—(1) The following are entitled to vote in relation to the levy.

Voters	
Levy	Voters and categories
Pigs	Any person who keeps pigs in Wales
	Any person who slaughters or exports pigs in Wales
Cattle	Any person who keeps cattle in Wales
	Any person who slaughters or exports cattle in Wales
Sheep	Any person who keeps sheep in Wales
	Any person who slaughters or exports sheep in Wales

(2) The qualification for voting must be satisfied at any time in the twelve months preceding the ballot.

(3) Each person entitled to vote has one vote (if there is a partnership each partnership has one vote).

(4) Separate ballots may be held for different categories of voters.

Report and accounts

13.—(1) For each financial year, the Welsh Levy Board must—

(a) prepare an annual report on how it has discharged its functions during the year; and

(b) send a copy of the report to the Welsh Ministers within such period as the Welsh Ministers direct.

(2) In this article, "financial year" ("*blwyddyn ariannol*") means—

(a) the period beginning with the day on which the Welsh Levy Board is established and ending with 31 March 2009; and

(b) each subsequent period of 12 months ending with 31 March.

(3) The Welsh Levy Board must—

(a) keep proper accounting records; and

(b) prepare accounts in respect of each financial year.

(4) The Welsh Levy Board must submit the accounts that it prepares for a financial year to the Auditor General for Wales no later than 30 November in the following financial year.

(5) The Auditor General for Wales must—

(a) examine, certify and report on each set of accounts submitted to him or her under this paragraph, and

(b) no later than four months after the accounts are submitted to him or her, lay before the Assembly a copy of them as certified by him or her together with his or her report on them.

Provision of information by the Welsh Levy Board

14.—(1) The Welsh Levy Board must provide the Welsh Ministers with such information as they may require relating to the Welsh Levy Board's property or to the discharge or proposed discharge of its functions.

(2) The Welsh Levy Board must also—

(a) permit any person authorised by the Welsh Ministers to inspect and make copies of any accounts or other documents; and

(b) provide such explanation of them as that person or the Welsh Ministers may require.

Provision of information to the Welsh Levy Board

15.—(1) It is an offence to provide false or misleading information relating to the requirements of this Order to the Welsh Levy Board or a subsidiary or nominated company.

(2) Any person obliged to pay levy under this Order must keep sufficient records to enable the Welsh Levy Board or a subsidiary or nominated company to establish how much levy is due, and must produce them to an officer of the Welsh Levy Board or a subsidiary or nominated company on demand; and failure to comply with this paragraph is an offence.

Penalties and proceedings

16.—(1) A person guilty of an offence under this Order is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(2) Proceedings for an offence under this Order may be brought within the period of 6 months beginning with the date on which evidence sufficient in the opinion of the prosecutor to warrant the proceedings came to his or her knowledge, provided that the commencement of such proceedings is not more than 2 years after the date on which the offence was committed.

(3) Where a body corporate is guilty of an offence under this Order, and that offence is proved to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of—

(a) any director, manager, secretary or other similar person of the body corporate; or

(b) any person who was purporting to act in any such capacity,

that person is guilty of the offence as well as the body corporate.

(4) For the purposes of this article "director" ("*cyfarwyddwr*") in relation to a body corporate whose affairs are managed by its members, means a member of the body corporate.

(5) Where an offence under this Order that has been committed by a Scottish partnership is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a partner, he or she as well as the partnership is guilty of the offence.

Elin Jones
Minister for Rural Affairs, one of the Welsh Ministers

19 February 2008