WELSH STATUTORY INSTRUMENTS

2007 No. 3461 (W.306)

FOOD, WALES

The Meat (Official Controls Charges) (Wales) (No. 2) Regulations 2007

Made - - - -	*5 December 2007*
Laid before the National Assembly for Wales - -	*10 December 2007*
Coming into force - -	*31 December 2007*

The Welsh Ministers make the following Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972(**1**).

The Welsh Ministers are designated for the purposes of that section in relation to measures relating to food (including drink) including the primary production of food(**2**).

As required by Article 9 of Regulation (EC) No. 178/2002 of the European Parliament and of the Council laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety(**3**) there has been open and transparent public consultation during the preparation of the following Regulations.

Title, application and commencement

1. The title of these Regulations is the Meat (Official Controls Charges) (Wales) (No. 2) Regulations 2007, they apply in relation to Wales and come into force on 31 December 2007.

Interpretation

2. In these Regulations —

"accounting period" ("*cyfnod cyfrifyddu*") means a period of less than a year determined by the Agency;

"the Agency" ("*yr Asiantaeth*") means the Food Standards Agency;

(**1**) 1972 c. 68.
(**2**) S.I. 2005/1971. By virtue of section 162 of and paragraphs 28 and 30 of Schedule 11 to the Government of Wales Act 2006, functions conferred on the National Assembly for Wales by this designation are exercisable by the Welsh Ministers.
(**3**) OJ No. L31, 1.2.2002, p.1, as last amended by Commission Regulation (EC) No. 575/2006 amending Regulation (EC) No. 178/2002 of the European Parliament and of the Council as regards the number and names of the permanent Scientific Panels of the European Food Safety Authority (OJ No. L100, 8.4.2006, p.3).

"agreed slaughterhouse staff costs" ("*costau staff lladd-dy a gytunwyd*") means, in respect of any slaughterhouse at which poultry or lagomorphs are slaughtered —

(a) the proportion (expressed as a sum of money) of the salaries (including overtime payments and employers' pension and National Insurance contributions) paid to the staff at that slaughterhouse in respect of an accounting period that the Agency and the operator of the slaughterhouse may agree as being attributable to any such staff assisting with official controls by carrying out certain tasks there during that period under Article 5.6 of Regulation 854/2004; plus

(b) 25% of that sum;

"cutting plant" ("*safle torri*") means an establishment which is used for boning and/or cutting up fresh meat for placing on the market and which —

(a) is approved or conditionally approved under Article 31.2 of Regulation 882/2004; or

(b) (although lacking the approval or conditional approval that it requires under Article 4.3 of Regulation 853/2004) was, on 31 December 2005, operating as licensed cutting premises under the Fresh Meat (Hygiene and Inspection) Regulations 1995(**4**) or the Poultry Meat, Farmed Game Bird Meat and Rabbit Meat (Hygiene and Inspection) Regulations 1995(**5**);

"cutting up" ("*torri*") has the meaning that it bears in Regulation 853/2004 and "cut up" is construed accordingly;

"Directive 2004/41" ("*Cyfarwyddeb 2004/41*"), "Regulation 178/2002" ("*Rheoliad 178/2002*"), "Regulation 852/2004" ("*Rheoliad 852/2004*"), "Regulation 853/2004" ("*Rheoliad 853/2004*"), "Regulation 854/2004" ("*Rheoliad 854/2004*"), "Regulation 882/2004" ("*Rheoliad 882/2004*"), "Regulation 1688/2005" ("*Rheoliad 1688/2005*"), "Regulation 2073/2005" ("*Rheoliad 2073/2005*"), "Regulation 2074/2005" ("*Rheoliad 2074/2005*"), "Regulation 2075/2005" ("*Rheoliad 2075/2005*") and "Regulation 2076/2005" ("*Rheoliad 2076/2005*") have the meanings respectively given to them in Schedule 1;

"domestic ungulates" ("*carnolion domestig*") has the meaning given to it in point 1.2 of Annex I to Regulation 853/2004;

"employers' National Insurance contributions" ("*cyfraniadau yswiriant gwladol cyflogwyr*") means those social security contributions for which employers are liable under Part I of the Social Security Contributions and Benefits Act 1992(**6**);

"establishment" ("*sefydliad*") has the meaning given to it in Article 2.1(c) of Regulation 852/2004;

"farmed game" ("*anifeiliaid hela a ffermir*") has the meaning given to it in point 1.6 of Annex I to Regulation 853/2004;

"food business operator" ("*gweithredydd busnes bwyd*") has the meaning given to it in Article 3.3 of Regulation 178/2002;

"fresh meat" ("*cig ffres*") has the meaning given to it in point 1.10 of Annex I to Regulation 853/2004;

"game" ("*anifeiliaid hela*") has the meaning that it bears in Regulation 853/2004;

"game-handling establishment" ("*sefydliad trin anifeiliaid hela*") means any establishment in which game and game meat obtained after hunting are prepared for placing on the market and which —

(**4**) S.I. 1995/539, revoked with effect from 1 January 2006 by S.I. 2005/3292 (W.252)
(**5**) S.I. 1995/540, revoked with effect from 1 January 2006 by S.I. 2005/2292 (W.252).
(**6**) 1992 c. 4.

(a) is approved or conditionally approved under Article 31.2 of Regulation 882/2004; or

(b) (although lacking the approval or conditional approval that it requires under Article 4.3 of Regulation 853/2004) was, on 31 December 2005, operating as a licensed wild game processing facility under the Wild Game Meat (Hygiene and Inspection) Regulations 1995(**7**);

"game meat" ("*cig anifeiliaid hela*") has the meaning that it bears in Regulation 853/2004;

"lagomorphs" ("*lagomorffiaid*") has the meaning given to it in point 1.4 of Annex I to Regulation 853/2004;

"meat" ("*cig*") has the meaning given to it in point 1.1 of Annex I to Regulation 853/2004;

"official controls" ("*rheolaethau swyddogol*") means the controls performed by the Agency under Regulation 854/2004—

(a) at slaughterhouses, game-handling establishments and cutting plants, for the verification of compliance with the provisions of Regulation 853/2004 in so far as they apply in relation to meat of domestic ungulates, meat from poultry and lagomorphs, meat of farmed game or as the case may be meat of wild game; and

(b) at slaughterhouses, for the verification of compliance with the provisions of the Welfare of Animals (Slaughter or Killing) Regulations 1995(**8**) insofar as they apply in relation to animals slaughtered there for human consumption;

"official controls charge" ("*ffi rheolaethau swyddogol*") means the charge calculated in accordance with Schedule 2 and notified in accordance with regulation 3(1), (2) or (3);

"operator" ("*gweithredydd*") means a food business operator who is carrying on the business of a slaughterhouse, game-handling establishment or cutting plant or his or her duly authorised representative;

"placing on the market" ("*rhoi ar y farchnad*") has the meaning given to it in Article 3.8 of Regulation 178/2002;

"poultry" ("*dofednod*") has the meaning given to it in point 1.3 of Annex I to Regulation 853/2004;

"premises" ("*mangre*") means any slaughterhouse, game-handling establishment or cutting plant;

"slaughterhouse" ("*lladd-dy*") means an establishment used for slaughtering and dressing animals, the meat of which is intended for human consumption and which —

(a) is approved or conditionally approved under Article 31.2 of Regulation 882/2004; or

(b) (although lacking the approval or conditional approval that it requires under Article 4.3 of Regulation 853/2004) was, on 31 December 2005, operating as a licensed slaughterhouse under the Fresh Meat (Hygiene and Inspection) Regulations 1995 or the Poultry Meat, Farmed Game Bird Meat and Rabbit Meat (Hygiene and Inspection) Regulations 1995;

"verification" ("*gwirhau*") means checking, by examination and provision of objective evidence; and

"wild game" ("*anifeiliaid hela gwyllt*") has the meaning given to it in point 1.5 of Annex I to Regulation 853/2004.

(**7**) S.I. 1995/2148, revoked with effect from 1 January 2006 by S.I. 2005/3292 (W.252).
(**8**) S.I. 1995/731, amended by S.I. 1999/400, S.I. 1999/1820 and S.I. 2000/656.

Charges

3.—(1) The Agency must, subject to the following provisions of this regulation, notify the operator of each slaughterhouse, game-handling establishment and cutting plant in which official controls have been exercised in any accounting period of an official controls charge in respect of those official controls as soon as practicable after the end of that period.

(2) Where the Agency cannot comply with paragraph (1) because it has insufficient information available to it to enable it to calculate the official controls charge for any accounting period in respect of any such premises as are specified in that paragraph, it must notify the operator of those premises of an interim charge, being such amount as the Agency estimates (having regard to the information it has) the official controls charge to be.

(3) Where the Agency has notified an operator of an interim charge in accordance with paragraph (2), and sufficient information becomes available to the Agency to calculate the official controls charge, it must calculate that charge and —

(a) where it exceeds the interim charge, notify the operator of the final charge, being the amount by which the official controls charge exceeds the interim charge; or

(b) subject to paragraph (6), where it is less than the interim charge, credit to the operator the amount by which the interim charge exceeds the official controls charge.

(4) Any charge notified to an operator under paragraph (1), (2) or (3) is payable by the operator to the Agency on demand.

(5) Where any agreed slaughterhouse staff costs have been used to calculate a charge falling to be notified under paragraph (1), (2) or (3), those costs must be set off against the amount of that charge in calculating the actual charge notified thereunder, provided that no refund may be made to the relevant operator.

(6) Where under paragraph (3)(b) a sum is to be credited to an operator, the Agency may if it so determines pay such sum to the operator concerned instead of crediting it to the operator.

Withdrawal of official controls

4. Where the Agency has had judgment entered against an operator of any premises for any sum which is payable to it under regulation 3(4) and the operator fails within a reasonable time thereafter to satisfy the judgment, the Agency may (regardless of any other legal remedy open to it) refuse to exercise any further official controls at those premises until the judgment has been satisfied.

Information

5.—(1) Any person must, on demand being made by the Agency, supply —

(a) such information as the Agency may reasonably require for the purpose of calculating the official controls charge or notifying an operator of it; and

(b) such evidence as the Agency may reasonably require to enable it to verify information supplied under sub-paragraph (a).

(2) Any person who —

(a) in purported compliance with paragraph (1), knowingly or recklessly furnishes information which is false or misleading in a material particular; or

(b) without reasonable excuse, fails to comply within a reasonable time with a demand made under paragraph (1),

is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Revocation

6. The Meat (Official Controls Charges) (Wales) Regulations 2007(**9**) are revoked.

G. Thomas
Under authority of the Minister for Health and Social Services, one of the Welsh Ministers

5 December 2007

(**9**) S.I. 2007/843 (W.75).