WELSH STATUTORY INSTRUMENTS

2007 No. 1627 (W.137)

ANIMALS, WALES

ANIMAL HEALTH

The Animals and Animal Products (Import and Export) (Wales) (Laboratories, Circuses and Avian Quarantine) Regulations 2007

Made - - - -	*7 June 2007*
Laid before the National Assembly For Wales - -	*8 June 2007*
Coming into force - -	*1 July 2007*

The Welsh Ministers are designated(**1**) for the purposes of section 2(2) of the European Communities Act 1972(**2**) in relation to the Common Agricultural Policy of the European Community.

In accordance with section 56(1) of the Finance Act 1973(**3**), the Treasury consent to the making of these Regulations.

The Welsh Ministers make these Regulations in exercise of the powers vested in them by section 2(2) of the European Communities Act 1972 and by section 56(1) and (2) of the Finance Act 1973:

Title, application and commencement

1. The title of these Regulations is the Animals and Animal Products (Import and Export) (Wales) (Laboratories, Circuses and Avian Quarantine) Regulations 2007; they apply in relation to Wales and come into force on 1 July 2007.

Amendment to the Animals and Animal Products (Import and Export) (Wales) Regulations 2006

2. The Animals and Animal Products (Import and Export) (Wales) Regulations 2006(**4**) are amended as follows.

3.—(1) Regulation 1 is amended as follows.

(2) In paragraph (2)—

(**1**) S.I. 2005/2766. By virtue of sections 59(1) and 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.
(**2**) 1972 c. 68.
(**3**) 1973 c. 51. Functions transferred to the Welsh Ministers by section 59(5) of the Government of Wales Act 2006 (c. 32).
(**4**) S.I. 2006/1536 (W.153), amended by S.I. 2006/2128 (W.198) and S.I. 2006/3452 (W.313).

(a) for the definition of "captive bird", substitute—

""captive birds" means birds as defined in Article 3(a) of Commission Regulation (EC) No. 318/2007(**5**)

(b) after the definition of "inspector", insert—

""inspector rate" is the rate determined under regulation 31(2)(a);";

(c) for the definitions of "quarantine centre" and "quarantine facility", substitute—

""quarantine centre" in relation to captive birds and "quarantine facility" mean a centre or facility, as the case may be, for which approval is required for the purposes of Article 11 of Commission Regulation (EC) 318/2007;".

(d) in the definition of "quarantine manager" for "regulation 19(11)" substitute "regulation 19(10)".

(3) In paragraph (3)—

(a) omit the definition of "Commission Decision 2000/666/EC"; and

(b) after the definition of "Commission Regulation (EC) No. 282/2004", insert—

""Commission Regulation (EC) No. 318/2007" means Commission Regulation (EC) No. 318/2007 laying down animal health conditions for imports of certain birds into the Community and the quarantine conditions thereof;".

(4) In paragraph (4), for "Commission Decision 2000/666/EC", substitute "Commission Regulation (EC) No. 318/2007.".

(5) Insert a new paragraph (7) as follows —

"(7) Any reference to the EC Regulations Directives and Decisions referred to in this regulation is a reference to those instruments as amended from time to time.".

4. After regulation 5(6) insert—

"(7) For the purposes of Commission Regulation (EC) No. 1739/2005 laying down animal health requirements for the movement of circus animals between member States(**6**) the Welsh Ministers are the competent authority, and may charge such fee as they consider will enable them to meet the expenses incurred by them when registering a circus or animal act under Article 4 of that Regulation.

(8) Such fee must be paid by the applicant for registration and will be due after submission of the application upon the written demand of the Welsh Ministers.

(9) A demand under paragraph (8) may be addressed to the applicant concerned at his or her last known address, whether or not it is his or her address for business.

(10) No operator may contravene Article 8(3) of Commission Regulation (EC) No. 1739/2005 (obliging operators of circuses, and animal acts to which the Regulation applies, to retain for at least five years the information in their registers of animals and of venues).

(11) In paragraph (10), "operator" means a circus operator within the meaning of Commission Regulation (EC) No. 1739/2005, or the operator of an animal act in so far as that Regulation applies to him or her.".

5. In regulation 9—

(a) in paragraph (4), after "Mycoplasma" insert "and Salmonella";

(b) omit paragraph (5).

(**5**) OJ No. L84, 24.3.2007, p. 7.
(**6**) OJ No. L279, 22.10.2005, p. 47.

6. In regulation 16, for paragraph (4) substitute—

"(4) No person may import a captive bird unless it is from an approved breeding establishment as defined in Article 3(b) of Commission Regulation (EC) No. 318/2007.".

7. In regulation 18, for paragraph (3), substitute—

"(3) In relation to a captive bird, the importer or his or her agent must at the expense of the importer ensure that—

(a) the bird is conveyed from the border inspection post referred to in paragraph (2) to an approved quarantine centre or approved quarantine facility in accordance with Article 7 of Commission Regulation (EC) No. 318/2007 (which provides for the direct transport of birds to approved quarantine facilities or centres); and

(b) the bird is placed and remains in quarantine at that approved quarantine centre or approved quarantine facility in accordance with Article 11(1) of Commission Regulation (EC) No. 318/2007 (which requires birds to be quarantined for at least 30 days).".

8. For regulation 19 substitute—

"**Quarantine of captive birds**

19.—(1) No person may operate a quarantine centre or quarantine facility for the quarantine of captive birds pursuant to Article 11(1) of Commission Regulation (EC) No. 318/2007 unless the quarantine centre or quarantine facility has been approved by the Welsh Ministers.

(2) Schedule 8 (quarantine of captive birds) has effect.

(3) A quarantine manager must—

(a) ensure that the quarantine centre or quarantine facility is maintained and operated in accordance with—

(i) the minimum conditions in Chapter 1 of Annex IV to Commission Regulation (EC) No. 318/2007 (requirements as to construction and equipment);

(ii) paragraph (1)(a) and (c) of Chapter 2 of that Annex (management requirements); and

(iii) any other conditions attached to an approval granted under this regulation;

(b) provide such information to the Welsh Ministers as they may request to enable them to comply with Article 17(2) of Commission Regulation (EC) No. 318/2007 (requiring annual reports from member States to the European Commission as to the number of imported birds, mortality rates and confirmed cases of disease);

(c) provide such assistance to any veterinary inspector carrying out the functions of the official veterinarian under Commission Regulation (EC) No. 318/2007 as that veterinary inspector may reasonably require.

(4) In relation to any consignment of captive birds placed in quarantine pursuant to Article 11(1) of Commission Regulation (EC) No. 318/2007, the quarantine manager must —

(a) ensure compliance with the following Articles of that Commission Regulation—

(i) 10(1)(b) (requiring notification of the arrival of a consignment at the quarantine centre or quarantine facility);

(ii) 11(1);

(iii) 12(2) and (3) (imposing requirements in relation to the use of sentinel birds); and

(iv) 15 (requiring action where Chlamydophyla psittaci is suspected);

(b) ensure there is surveillance of the captive birds during their quarantine which is adequate for the purposes of the Regulation, and consult with and seek the supervision of a veterinary inspector in respect of any analyses or treatments required under the Regulation;

(c) ensure compliance with the management requirements in paragraphs 2 to 10, and 12 to 15 of Chapter 2 of Annex IV to the Regulation;

(d) where any captive bird or sentinel bird dies during quarantine, make its carcase available to the veterinary inspector for examination in the official laboratory.

(5) No person may—

(a) contravene any requirement in paragraphs 4 to 6 of Chapter 2 of Annex IV to Commission Regulation (EC) No. 318/2007;

(b) in relation to a captive bird or a sentinel bird which dies during quarantine, remove or dispose of its carcase during the quarantine of captive birds, unless he or she is authorised to do so by a veterinary inspector;

(c) release captive birds in breach of Article 16 of Commission Regulation (EC) No. 318/2007 (requiring written authorisation by the official veterinarian for the release of birds from quarantine).

(6) A person is unauthorised for the purpose of paragraph 4 of Chapter 2 of Annex IV to Commission Regulation (EC) No. 318/2007 (which prohibits unauthorised persons from entering quarantine centres and quarantine facilities), unless, in relation to a quarantine centre or quarantine facility—

(a) he or she is the quarantine manager;

(b) he or she is a member of staff who enters with the authority of the quarantine manager;

(c) he or she has been authorised to enter by the Welsh Ministers or by a veterinary inspector; or

(d) he or she otherwise enters in fulfilment of a statutory function in relation to animal health, animal welfare or species conservation which he or she is appointed by the Welsh Ministers or by the local authority to perform.

(7) In so far as not provided for under regulation 30, a veterinary inspector may, in relation to the quarantine of captive birds,—

(a) enter a quarantine centre or quarantine facility to check compliance with these Regulations or with an approval granted under this regulation, or to assess whether it is appropriate to grant such an approval;

(b) inspect and arrange for copies to be taken of any documents or records (including those in electronic form) which he or she reasonably considers relevant for checking compliance as described in sub-paragraph (a); and

(c) take samples and carry out official veterinary supervision.

(8) A veterinary inspector exercising powers under this regulation must produce, if required to do so, some duly authenticated document showing his or her authority to exercise those powers.

(9) For the purposes of sampling and testing required under or in connection with Commission Regulation (EC) No. 318/2007, the Veterinary Laboratories Agency (an executive agency of Defra) is the official laboratory.

(10) In this regulation and Schedule 8—

(a) "official veterinary supervision" means the functions of the official veterinarian under Commission Regulation (EC) No. 318/2007 in relation to a consignment of captive birds to which Article 11(1) of that Commission Regulation applies;

(b) "quarantine manager" means the person in charge of a quarantine centre or quarantine facility for which approval is required pursuant to Article 11 of Commission Regulation (EC) No. 318/2007;

(c) references to sampling and the taking of samples are to the taking of samples required under that Commission Regulation, or which are taken for purposes of reaching a suspected or confirmed diagnosis of Chlamydophyla psittaci.".

9. In regulation 21, for paragraphs (2) and (3), substitute—

"(2) A veterinary inspector —

(a) must take or require to be taken, the action required under Article 13(1) and (2) of Commission Regulation (EC) No. 318/2007 in relation to avian influenza or Newcastle disease suspected at a quarantine centre or quarantine facility where captive birds are quarantined, imposing such restrictions as are required by that Article;

(b) must, where the Welsh Ministers grant a derogation provided for in Article 14 of that Commission Regulation (relating to findings of low pathogenic avian influenza or Newcastle disease), take or require to be taken such further measures and impose such restrictions as are required under Article 14;

(c) who requires action to be taken by, or imposes restrictions upon, a quarantine manager or other person under this paragraph, must do so by serving notice specifying the action or restrictions to be taken or observed.

(3) In the event of non-compliance by a quarantine manager with Article 15 of Commission Regulation (EC) No. 318/2007 (requiring treatment of birds suspected of infection with Chlamydophyla psittaci), a veterinary inspector may treat the captive birds concerned, or cause them to be treated, as required by Article 15, and must serve notice extending the period of quarantine required under Commission Regulation (EC) No. 318/2007.".

10. For regulation 31, substitute—

"**Recovery of expenses and determination of charges**

31.—(1) The consignor, his or her representative and the person in charge of any animal or animal product are jointly and severally liable for any reasonable expenses arising out of or in connection with the exercise of any power conferred on an inspector by these Regulations relating to that animal or animal product.

(2) In relation to any activity undertaken by an inspector for which a charge may be made at the inspector rate—

(a) the Welsh Ministers will determine a rate which represents the reasonable costs and expenses incurred in employing an inspector to undertake that activity during any given unit of time;

(b) the Welsh Ministers will publish the current inspector rate on the Welsh Assembly Government website;