

Welsh Statutory Instrument 2005 No. 586 (W.50)

The Salmonella in Laying Flocks (Survey Powers) (Wales) Regulations 2005

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STATUTORY INSTRUMENTS

2005 No. 586 (W.50)

AGRICULTURE, WALES

ANIMAL HEALTH

**The Salmonella in Laying Flocks (Survey Powers) (Wales)
Regulations 2005**

Made

8 March 2005

Coming into force

31 March 2005

The National Assembly for Wales, being designated^[1] for the purposes of section 2(2) of the European Communities Act^[2] in relation to the common agricultural policy of the European Community and also being designated^[3] for the purposes of section 2(2) of the European Communities Act in relation to measures in the veterinary and phytosanitary fields for the protection of public health, in exercise of the powers conferred on it by that section 2(2) hereby makes the following Regulations:

Title, commencement and application

1. - (1) These Regulations may be cited as the Salmonella in Laying Flocks (Survey Powers) (Wales) Regulations 2005 and shall come into force on 31 March 2005.

(2) These Regulations apply to Wales only.

Interpretation

2. In these Regulations -

"the Commission Decision" ("*Penderfyniad y Comisiwn*") means Commission Decision 2004/665/EC;

"inspector" ("*arolygydd*") means a person appointed to be an inspector for the purpose of these Regulations by the National Assembly for Wales, or by a local authority;

"laying hen" ("*iâr ddodwy*") means any bird of the species *Gallus gallus* that produces eggs for human consumption;

"local authority" ("*awdurdod lleol*") means the council or county borough council as the case may be;

"premises" ("*mangreuedd*") includes land with or without buildings but does not include any place used only as a dwelling; and

"the Technical Specifications" ("*y Manylebion Technegol*") mean those technical specifications referred to at Article 5 of the Commission Decision which are entitled "Baseline Study on the Prevalence of Salmonella in Laying Flocks of *Gallus gallus* in the EU".

Selection of Premises

3. The National Assembly for Wales shall be responsible for selection of premises, in accordance with the Technical Specifications, for sampling.

Inspectors' Powers - Entry

4. An inspector shall, on producing, if requested, some duly authenticated document showing the inspector's authority, have the right at all reasonable hours to enter premises which have been selected for sampling, in accordance with the Technical Specifications, for the purpose of taking samples as required by the Commission Decision and for the purposes of regulation 8.

Inspectors' Powers - General

5. An inspector may for the purpose of sampling required by the Commission Decision and for the purposes of regulations 3 and 8 -

(a) make inquiries of any person and request that person to provide any information and documentation, including records, that appear to the inspector to be, or likely to be, relevant;

- (b) examine, retain or copy any records including computerised records that appear to the inspector to be, or likely to be, relevant;
- (c) take and retain such samples, including samples from laying hens, carcasses of laying hens and faecal and environmental material, in accordance with the Technical Specifications, as well as all other samples that the inspector considers necessary for the purpose of sampling required by the Commission Decision;
- (d) take with him or her such vehicles and equipment as the inspector considers necessary;
- (e) be accompanied by such other persons as the inspector considers necessary; and
- (f) require the occupier or person in charge of those premises or any employee or agent of that occupier or person in charge of those premises to provide to the inspector such assistance, co-operation, information and documentation including records, computerised or otherwise, as the inspector may reasonably require.

Offences

6. Any person who -

- (a) intentionally obstructs any person acting in the execution of these Regulations;
- (b) without reasonable cause, fails to comply with regulation 5(f) above;
- (c) provides to any person acting in the execution of these Regulations any information which that person knows to be false or misleading; or
- (d) without reasonable cause, fails to produce documentation, including records, or information, to any person acting in the execution of these Regulations when required to do so by that person;

shall be guilty of an offence.

Penalties

7. - (1) A person who is guilty of an offence under these Regulations shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(2) Where a body corporate is guilty of an offence under these Regulations, 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 officer of the body corporate;
- (b) any person who was purporting to act in any such capacity; or
- (c) in the case of a partnership, a partner or person who was purporting to

act as such,

any such person, as well as the body corporate or partnership, shall be guilty of the offence and be liable to be proceeded against and punished accordingly.

(3) For the purposes of paragraph (2), "director", in relation to a body corporate whose affairs are managed by its members, includes a member of the body corporate.

Enforcement

8. - (1) These Regulations shall be enforced by a local authority.

(2) The National Assembly for Wales may direct, in relation to cases of a particular description or a particular case, that any duty imposed on a local authority under paragraph (1) shall be discharged by the National Assembly for Wales and not by the local authority.

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998^[4]

D. Elis-Thomas

The Presiding Officer of the National Assembly

8 March 2005

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which apply to Wales only, implement Commission Decision 2004/665/EC which requires Member States to carry out a survey for salmonella prevalence in laying flocks (O.J. No. L 303/30) in accordance with certain technical specifications referred to in Article 5 of the Commission Decision.

These Regulations -

(a) designate the National Assembly for Wales as the competent authority for the purpose of selecting premises for sampling (regulation 3);

(b) provide powers for inspectors to enter premises on which flocks of laying hens are present for the purposes of implementing the Commission Decision and for the purposes of enforcement (regulation 4);

(c) provide powers for inspectors to obtain information and documentation for the purposes of selecting premises for sampling and provide powers for inspectors on entering premises to make inquiries, examine and retain records, take samples, require assistance, be

accompanied by other persons and take equipment and vehicles on to the premises, for the purpose of carrying out sampling under these Regulations (regulation 5);

(d) prescribe offences and penalties (regulation 6 and 7); and

(e) provide for enforcement by the local authority except where the National Assembly for Wales directs otherwise (regulation 8).

A Regulatory Appraisal has been produced for this instrument. Copies may be obtained from the Animal and Plant Health Division of the Welsh Assembly Government, Cathays Park, Cardiff CF10 3NQ.

Notes:

[1] S.I. 1999/2788.[back](#)

[2] 1972.c.68[back](#)

[3] S.I. 2001/3495.[back](#)

[4] 1998 c.38[back](#)

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