

REGULATORY APPRAISAL

ANIMALS, WALES

ANIMAL HEALTH

THE SHEEP AND GOATS (RECORDS, IDENTIFICATION AND MOVEMENT) (WALES) (AMENDMENT) ORDER 2006

Background

1. Council Regulation (EC) 21/2004 requires Member States to establish a system for the identification and registration of ovine (Sheep) and caprine (Goats) animals and also amends Regulation (EC) No. 1782/2003 and Directives 92/102/EEC and 64/432/EEC.
2. The Regulation was adopted in December 2003 and it requires all sheep and goats born after 9 July 2005 to be double tagged at the holding of birth. However, the UK negotiated a derogation, which enables it to continue with its existing national system. The national system requires the application of a single holding of birth tag and subsequent movement tags. This system provides comparable traceability to the system provided for in the 21/2004 Regulation.
3. The derogation was first secured in July 2005, but only on a temporary basis, until 30 April 2006. After this expired a second temporary derogation was negotiated, which expires on 30 June 2007. Both derogations were only granted following inspections by the Food and Veterinary Office (FVO), a directorate of the Directorate General for Health and Consumer Protection of the European Commission, inspectors. On both occasions, the inspectors were not fully satisfied with the system in place, and required changes to be introduced. The amendments proposed and contained in The Sheep and Goats (Records, Identification and Movement) (Wales) Order 2006, which came into force on 5 April 2006, were to meet the Commission's terms for granting the most recent derogation. Had the UK not committed to making legislative changes to the current Order, we would already be preparing legislation to introduce double tagging.

Purpose and intended effect of the measure

4. The objective of the legislative change is to tighten up the national identification system for sheep and goats by introducing the changes outlined in paragraph 5 below, in order to satisfy the European Commission that the UK national system provides equivalent traceability to that provided for in the 21/2004 Regulation. Regulation 21/2004 requires that all sheep and goats born after 9 July 2005 to be double tagged, i.e. that they would be individually identified with two identical tags bearing the same identification information, at the holding of birth. However, the UK negotiated a temporary derogation in July 2005 that originally ran until 30 April 2006, which enables it to continue with its existing national system for a single holding of birth tag and subsequent movement tags. This temporary derogation has been extended until 30 June 2007, subject, in part, to this legislation being introduced.

5. The proposed changes are as follows:

- keepers are to replace lost or illegible eartags within 28 days of noticing their loss or illegibility. Currently, they have to replace such tags as soon as possible or at least within 6 months;
- all animals for export or intra-community trade must be double tagged with identical holding of birth tags, at the “holding of origin” (the holding prior to leaving the UK, unless this is an assembly centre, in which case it is the holding immediately prior to the assembly centre); and
- administrative sanctions are to be introduced, such that movement restrictions can be applied on whole flocks or herds and animals, in the event of non-compliance with the law.

6. These improvements are necessary in order to secure an extension to the national derogation from double tagging beyond June 2007 until the introduction of mandatory electronic identification (EID), which could be as early as 1 January 2008. Also, it has been agreed with the Commission that these legislative changes will be in place by December 2006.

Risk Assessment

7. Failure to implement the legislation in a timely manner may damage the decision on extending the temporary derogation UK obtained from the requirement to double tag. The derogation expires in July 2007 and failure to obtain an extension could result in the UK being required to implement double tagging. It is anticipated that an extension beyond July 2007 would last until the introduction of mandatory electronic identification, which could be as early as 1 January 2008. There is also a risk of Single Farm Payment cross compliance disallowance at national level if a Member State fails to implement in full the provisions of Regulation EC No. 21/2004, as it is a cross compliance measure.

Options

Option 1 - Do Nothing

8. Doing nothing would result in the national derogation being lost in 2007 and the UK having to introduce double tagging. This would have a serious impact on the sheep industry.

Option 2 – Make the Legislation

9. Implementation of this Order to introduce the 28-day rule to replace lost or damaged tags will affect practically all sheep and goat keepers. As they will have to replace lost or damaged tags within 28 days of noticing the need, which should not present keepers with any difficulty but will provide an improved system of identification to aid traceability of sheep and goat movements. Currently, tags need to be replaced within 6 months.

Benefits

10. Implementing double tagging would have precluded the mandatory use of movement tags (S tags) for animals born after 9 July 2005. These were introduced as a response to foot and mouth disease and are considered a vital component of our current system of traceability. Furthermore, in the run up to 2008 and the possible introduction of mandatory electronic identification, the Regulation does not provide for any practical measures that could provide equivalent traceability. Therefore, we considered that double tagging would represent a retrograde step in terms of providing traceability between holdings and disease control. Quantifying the benefit of the current high level of traceability is difficult, but the recent Cost-Benefit Analysis report into Foot and Mouth Disease control strategies (the FMD CBA) allows us to get an indicative idea of the possible benefits to be realised by having good traceability in the event of an FMD outbreak.
11. The 28-day rule, to replace lost or damaged tags will also benefit the Rural Inspectorate for Wales (RIW), which will be the delivery agent for the new statutory sheep and goat inspection regime being introduced in 2007. It means that inspectors will be better able to follow up cases of lost/damaged tags to ensure that they have been replaced as required.
12. The introduction of administrative sanctions, in relation to movement restrictions, will provide an effective means of penalising keepers for breaking the law. Currently, the only meaningful sanctions available are prosecutions (of which there are very few) and docking of a percentage of the single farm payment. It is also anticipated that administrative sanctions will also increase levels of compliance. Therefore, there would be improved traceability of animals, supporting both disease control and veterinary public health.
13. A further benefit to implementing this Order will be that the UK will be in a position to negotiate a further extension of the national derogation. This benefits all sheep and goat keepers, as double tagging would be problematic for the industry. In addition, the legislation will enable the Assembly to continue with the national system introduced in 2002, following FMD. In the context of the UK, this provides better traceability of animals between holdings (on account of movement tags).

Costs

14. The cost to the Assembly of operating the system of administrative sanctions is difficult to determine but are likely to be small. However, failure to introduce these provisions could result in financial implications as there would be a risk that the Commission would take action for failing to fully implement the EC Regulation.
15. The introduction of administrative sanctions will potentially affect sheep and goat keepers who fail to comply with 21/2004 Regulation and this Order. It will mean they are unable to move some or all of their animals until they can demonstrate they are complying with the law.

16. The requirement to tag export animals with identical holding of birth tags will affect exporters. It will mean that they have to apply a second identical holding of birth tag at the export holding.
17. However, applying two identical eartags for export animals is required under European law and has been since July 2005. As such, it affects all Member States equally. Until now, the UK had adopted a liberal interpretation of the law but the Commission has pointed out to us that we have been acting incorrectly. The countries to whom we export sheep are demanding identical tags, therefore if exporters do not comply they will have their consignments rejected.
18. In 2005, only 12, 488 sheep were exported from Wales. Based on current numbers, the additional cost to exporters is limited to the difference in price between a X tag, i.e. a tag that can currently be applied to animals being moved to another Member State, and an identical holding of birth tag. The X tag contains the UK flock number of the holding of export and a unique individual number. Some additional organisation by the Local Veterinary Inspector (LVI) who are private veterinary surgeons appointed throughout Great Britain by the then Minister of Agriculture, Fisheries and Food to carry out as agents of the Minister, or the Secretaries of State for Scotland and Wales will be required to ensure the correct match up tag is applied to the right animal., Provided export levels remain as they are, the additional cost of tags for the export industry in Wales will be around £22,500 a year. This assumes an additional cost of £1.80 per tag (£2.20 for a match up tag, £0.40 for an X tag, all costs include postage).

Consultation with small business: Small Firms Impact Test

19. A small firms impact assessment was not carried out on this occasion. This is because these 3 changes tighten legislation and should apply equally to all businesses. The requirement to identify animals under EC Regulation 21/2004 applies to any natural or legal person with responsibility for sheep and goats even on a temporary basis. There is no provision within the Regulation to apply for a derogation from having to identify sheep and goats. However, an assessment was carried out in relation to the existing legislation (The Sheep and Goats (Records, Identification and Movement) (Wales) Order 2006). For this assessment a small business was considered to be the typical family managed farm. The results suggested that the legislation was unlikely to have a negative impact on competition in this sector. The cost of compliance with the legislation would be greater for larger sheep and goat units, because they keep more animals. Headage costs should be broadly similar for all size of units.

Consultation

With Stakeholders

20. As the Commission did not agree to extend the derogation until 19 July 2007, there was not sufficient time to undertake a consultation exercise in relation to this Order as the legislation is required to be introduced by January 2007.
21. However, an informal consultation has already taken place with officials and industry representatives, in the form of a meeting held on 19 June 2006. A list

of attendees is attached at Annex A to the Regulatory Appraisal. The industry have given their agreement in principle to the proposed amendments to the legislation. The Minister of Environment, Planning and Countryside also wrote to key stakeholders, namely: the National Farmers Union; the Farmers Union of Wales; the Country Land and Business Association and the National Sheep Association, on 10 August 2006 advising them of the proposed amendments.

22. In November 2005, an 8-week consultation was undertaken on proposals to implement certain areas of Regulation EC No. 21/2004 i.e. the date of the Annual Inventory, the responsibility for replacing tags lost at market, holding definition and the introduction of an Ear Tag Allocation System (ETAS). Respondents had some concerns but on the whole they were supportive of the proposals, as they were aware that these were being introduced in order to maintain the existing UK ID system.

With Subject Committee

23. The Order was notified to the Environment, Planning and Countryside Committee in my oral report of 13 July 2006. Unfortunately, agreement to tightening of the UK tagging requirements for export animals was sought by the Commission after this date. Therefore, as the Assembly was in recess it was not possible to include the item on the list of forthcoming legislation put to the Committee. However, on 24 July 2006 the Minister sent a letter to the Chair of Environment, Planning and Countryside Committee informing him of this additional provision to the Order and confirming that the industry had been made aware of this proposed change and was content that it be introduced in order to maintain the existing UK ID system. No comments have been received.
24. The Minister made further reference to this legislation in his report to the Committee on 28 September 2006. ((EPC(2)11-06(p.1) item no.13). The Order was identified for detailed scrutiny.
25. This Order was scrutinised by the Environment, Planning and Countryside Committee on 11 October 2006 (EPC(2)13-06(p.3). Members raised concerns in relation to the welfare of animals as a consequence of the number of tags and replacement tags being applied. The Chief Veterinary Officer responded advising members that all animals must be tagged and that the State Veterinary Service should be consulted if there were concerns about welfare. The Regulations were approved without amendment. A copy of the Committee transcript is not available.

Enforcement, Sanctions and Monitoring

26. The 28-day tag replacement rule will be enforced through the new statutory sheep inspection regime to be introduced in 2007 and operated by the RIW Inspectors will check that lost/illegible tags have been replaced within 28 days by means of monitoring ETAS (the Eartag Allocation Computer Database) and follow up inspections on farm.
27. Sanctions against keepers for non-compliance include oral and written warnings, docking of single farm payment and prosecution. Once the Order comes into force restrictions on the movement of animals will also be included.

28. The tagging of export sheep with identical tags will be enforced by the local veterinary inspectors (LVIs), who sign the export health certificates, prior to shipping. A note will be sent to LVIs explaining the new rules and advising them not to authorise the movement of sheep unless they are suitably identified. Importing countries will also not accept incorrectly identified animals.

Review

29. In early 2007 the Food and Veterinary Office will be conducting an inspection of the UK sheep and goat identification system and the proposed changes will be under particular scrutiny. This will be the first opportunity to assess how well the changes have been delivered. The extension of the national derogation will depend on the outcome. It is anticipated that this extension would last until the introduction of mandatory electronic identification

30. The new inspection regime, which starts in January 2007, will also provide information about eartag loss rates and how well keepers are complying with the new 28-day replacement rule.

31. The British Cattle Movement Service, who are responsible for managing the GB sheep and goat inspection database will also provide regular information about the administrative sanctions being applied to keepers. This will enable us to assess whether the sanctions are being appropriately applied and whether they are effective. Policy units will keep a close eye on this information and discuss with the Rural Inspectorate for Wales (RIW) and the Department for Environment, Food and Rural Affairs any possible adjustments, which may seem prudent.

Summary

32. This Order will provide an improved system of identification to aid traceability of sheep and goats movements. It is necessary for these changes to be implemented in order to secure an extension to the national derogation from double tagging beyond June 2007.

Annex A – List of attendees to Stakeholder Meeting

State Veterinary Service
Trading Standard Powys County Council
Farmers Union of Wales
National Farmers Union
National Sheep Association
Commoners Association