



**Cynulliad Cenedlaethol Cymru
The National Assembly for Wales**

ADRODDIAD GAN Y PWYLLGOR DEDDFAU

LEGISLATION COMMITTEE REPORT

The Foot-and-Mouth Disease (Amendment) (Wales) (No. 2) Order 2001

Background

The Foot-and-Mouth Disease (Amendment) (Wales) Order 2001 which was made on 27 February introduced powers for inspectors and local authorities to restrict access to land.

This was effected by inserting two additional articles (35A and 35B) into the Foot and Mouth Disease Order 1983.

The present Order substitutes a new Article 35B in place of that which was inserted by the earlier order. The new Article 35B replaces the local authority “declaration” procedure for prohibiting access to land, by a local authority regulation making procedure. This is introduced in pursuance of section 2 of the Animal Health Act 1981 which allows an order to be made authorising a local authority to make regulations.

The Order is made by the Assembly jointly with the Minister of Agriculture because the transfer of functions to the Assembly preserved the joint action requirement in the Animal Health Act.

The Order has not been made bilingually because the short time for preparation made this impracticable. It is understood, however, that a translation will be published as provided for in SO 23.13. An instrument of this type, made jointly with a Minister of the Crown, would normally come under Section 3 of SO 23 but did not do so in this case because orders under the Animal Health Act are not subject to Parliamentary Procedure.

The “Minister” references in the inserted provisions are to the Minister of Agriculture. This reflects the fact that “Minister” functions under the Animal Health Act (as distinct from functions of “the Ministers” and “the appropriate Minister”) have not been transferred to the Assembly.

It is understood that orders to the same effect, and with the same coming into force provision, have been made for England and Scotland.

Standing Order 11.5

There is one point of concern in the drafting of this Order. In accordance with SO 11.4, this point should be referred to the relevant Assembly Minister for consideration by reference to the following question.

Paragraphs (1)(b) and (2)(b) of the inserted Articles 35B refer to “any footpath or right of way”. This is in contrast to Article 27(1) and 35A(1) which refer to a “public footpath or right of way”. Are the references in the new Article 35B intended to have any different meaning from those other references?

Mick Bates AM
Chair, Legislation Committee

29 January 2002