

**EXPLANATORY MEMORANDUM TO
THE ZOOTECHNICAL STANDARDS (WALES) REGULATIONS 2015**

Explanatory Memorandum to

This Explanatory Memorandum has been prepared by The Department of Environment and Sustainable Development and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of The Zootechnical Standards (Wales) Regulations 2015. I am satisfied that the benefits outweigh any costs.

Carl Sargeant

Minister for Natural Resources

14 September 2015

1. Description

The Zootechnical Standards (Wales) Regulations 2015 will repeal and replace the Zootechnical Standards Regulations 1992 (the 1992 Regulations) in relation to Wales and the Zootechnical Standards (Amendment) (Wales) Regulations 2008. The 1992 Regulations allow for the official approval of breed societies and associations which record the pedigree of animals and set out the requirements which govern these organisations in relation to the form and content of pedigree records, the form of zootechnical certificates, methods of recording breeding performance and assessing genetic value for the acceptance of animals into herd and flock books for breeding purposes.

2. Matters of special interest to the Constitutional and Legislative Affairs Committee

Although the European Communities Act 1972 offers a choice between negative and affirmative procedures the negative procedure will be used in this case as the discretion of the Welsh Ministers is limited over the content of the SI because it is giving effect to EU provisions.

3. Legislative background

These Regulations will be made by the Welsh Ministers using powers designated to them by virtue of the European Communities (Designation) (No.5) Order 2010 (2010/2690) for the purposes of section 2(2) of the European Communities Act 1972 in relation to the common agricultural policy and paragraph 1A of Schedule 2 of the European Communities Act 1972.

The negative procedure will be used in this case as the discretion of the Welsh Ministers is limited over the content of the SI because it is giving effect to EU provisions.

4. Purpose & intended effect of the legislation

These Regulations repeal and replace our current domestic Zootechnical legislation to set out the rules that facilitate intra-Community trade in pedigree breeding cattle, pigs, sheep and goats. This is being done to implement five European instruments which have been agreed since the legislation came into force in 1992, with a minor amendment in 2008.

These are:

- a. **Decision 2007/371/EC** as regards herd-books for animals of the bovine species;
- b. **Decision 2006/427/EC** laying down performance monitoring methods and methods for assessing cattle's genetic value for pure-bred breeding animals of the bovine species;

- c. **Decision 2005/379/EC** on pedigree certificates and particulars for pure-bred breeding animals of the bovine species, their semen, ova and embryos;
- d. **Decision 2005/375/EC** on entering male sheep and goats in an annex to the flock book; and
- e. **Council Directive 94/28/EC** as amended by Directive 2008/73/EC on third country imports. Directive 2008/73/EC also requires Member States to publish up to date lists of approved breed societies and associations on the internet.

These are fully explained in the Regulatory Impact Assessment (RIA) below.

5. Consultation

Breed societies have not been formally consulted on the changes as the legislation is necessary to implement EU instruments that are already in force, and we would have been unable to act on their views. They are aware of the changes. To date there has been no comment from industry on these changes. We intend to write to recognised breed societies and associations when the Regulations come in to force.

PART 2 – REGULATORY IMPACT ASSESSMENT

Impact Assessment of Zootechnical Standards (Wales) Regulations 2015 (Subordinate Legislation)

Policy objectives and intended effects

1. Satisfactory results in animal production depend largely on the use of breeding animals of high genetic quality. The Welsh Government needs to be involved in zootechnics because there is an EU obligation to recognise breed societies and associations that meet specific criteria. The policy objective is to facilitate free trade in such animals and their genetic material, and to preserve breeds throughout the EU. There are statutory obligations under zootechnical legislation about the recognition of breed societies by Member States and the criteria to be met. The new regulations revoke and replace the Zootechnical Standards Regulations 1992 as amended by the Zootechnical Standards (Amendment) (Wales) Regulations 2008. They provide additional minor flexibilities and will result in a small reduction in administrative burdens. Breed societies and associations are not obliged to take advantage of the flexibilities. Wales is currently giving effect to the EU Regulations administratively and Industry is aware of the position. Therefore, these Regulations are being amended purely in order to bring them in line with EU requirements and tidy up domestic legislation.
2. Zootechnical legislation covers horses, cattle, pigs, sheep and goats. The EU legislation is similar, but not identical, for all species. These new domestic regulations encompass cattle, pigs, sheep and goats. Equines are dealt with under separate domestic legislation.

Rationale for intervention

3. Intervention is proposed to implement the following new or amended EU zootechnical legislation. The Regulations apply in Wales only. Separate regulations were implemented in England in 2012. Scotland and Northern Ireland are working to their own timetables.
4. The changes are as follows:
 - a. **Commission Decision 2007/371/EC amending Commission Decisions 84/247/EEC on laying down the criteria for the recognition of breeders' organisations and associations which maintain or establish herd books for pure-bred breeding bovines, and 84/419/EEC, on laying down the criteria for entering cattle in herd books**

This Decision allows for the establishment of new herd books for new breeds of cattle. Previously, Commission Decision 84/419/EEC allowed only for pure-bred animals of the same breed to be entered into the main section of the herd book of a particular breed or for

specific grading up arrangements. The revised legislation allows breeders to enter pure-bred cattle, or descendants of pure-bred cattle, from other breeds directly into the main section of a new herd book. The period of establishment of the new breed should be defined in the breeding programme with the agreement of the competent authority. The new breed must be assigned a name that cannot be confused with the name of an existing breed. Where an animal is entered into the new herd book and it or its parents are already registered in another existing herd book, reference to the name of the original herd book should be documented. This Decision also allows male animals to be entered into the supplementary or grading up section of the herd book where previously only females could be entered. These animals must conform to the breed standard and may belong to the breed but have no known origin or be obtained through a crossing programme approved by the breed society. However, only a female animal may move from the supplementary section to the main section of herd book and it may only do so i.e. be registered in the main section of the herd book and thus have full pedigree pure-bred status, if its mother and maternal grandmother were registered in the supplementary section and its father and two grandfathers were registered in the main section of the herd book.

b. Commission Decision 2006/427/EC laying down performance monitoring methods and methods for assessing genetic value for pure-bred breeding bovines

This Decision is a codification of previous legislation set out in Commission Decision 86/130/EEC as amended by Commission Decision 96/509/EC which has been repealed. Commission Decision 96/509/EC updated the standards set out in Decision 86/130 but has not been implemented in law in the UK. Industry will already be using up to date international methodology as necessary such that this update in legislation is not expected to have any material effect in practice.

c. Commission Decision 2005/379/EC on pedigree certificates and particulars for pure-bred animals of the bovine species, their semen, ova and embryos

This Decision relates to intra-Community trade and repeals earlier Decisions (86/404/EEC and both 88/124/EEC and 96/80/EC as amended by Commission Decision 2002/8/EC) which included model pedigree certificates. It instead sets out the details that must be included either in pedigree certificates or in other documents accompanying pedigree cattle, their semen, ova and embryos but no longer specifies how the information should be presented. It allows reference to performance data that is publically available on the internet. This Decision also incorporates the provisions in Decision 2002/8/EC that allowed methods of genetic identification providing scientific guarantees equivalent to blood group analysis (such as DNA analysis) to be used instead of blood group analysis.

The Decision also allows for pedigree certificates for intra-Community trade in semen to be issued by approved collection or storage centres and, in the case of embryos, by approved collection teams.

d. **Commission Decision 2005/375/EC amending Decision 90/255/EEC as regards the entry of male sheep and goats into an annex to the flock book**

Previously, breeders of hardy breeds of sheep and goats where there was a lack of pedigree males could enter male animals in an annex to the flock or herd book if they were of certain breeds specified in a closed list. Progeny of these animals could be eligible for entry to the main section of the flock or herd book under certain conditions subject to prior approval by the competent authority. This Decision allows breed societies for hardy breeds where there is a lack of pedigree males to use in the same way any males which conform to the breed standard and are valuable for preservation of the breed.

e. **Council Directive 94/28/EC, as amended by Council Directive 2008/73/EC, laying down the principles relating to the zootechnical and genealogical conditions applicable to imports from third countries of animals, their semen, ova and embryos, and amending Directive 77/504/EEC on pure-bred breeding animals of the bovine species**

This Directive in effect requires that an animal imported from a non-EU Member State, or an animal that results from imported genetic material, is only included in the main section of a UK herd or flock book if it is certified as deriving from pedigree animals by a body operating to the same standards as EU bodies approved under EU Zootechnical legislation. The list of approved bodies which are in Argentina, Australia, Canada, Iceland, Israel, New Zealand and the United States of America is published by the Commission at http://ec.europa.eu/food/animal/zootechnics/approved_bodies_3rd_countries_en.htm

For completeness, Council Directive 2008/73/EC also requires Member States to publish up to date lists of approved breed societies or associations and Commission Decision 2009/712/EC sets out how the information should appear on the internet. These arrangements have been implemented administratively. Lists of approved breed societies and associations in the UK are available at:

<http://archive.defra.gov.uk/foodfarm/policy/zootechnic/index.htm>

Options

5. **Option 1** – Revert to position before Directions and Decisions came in to effect - The new and amending EU Zootechnical instruments in the form of four EC Decisions and one Council Directive are currently being enforced administratively within Wales. This option outlines the position should the instruments not have been implemented. By not making use of the updated instruments, herd and flock books in Wales would remain outdated in relation to other Member States which would place the industry in Wales at

a disadvantage when trading within the EU. We would also be at risk of infraction by not fully meeting the requirements of EU zootechnical legislation.

6. **Option 2** – Do Nothing - Maintain the status quo and continue to give effect to these EU instruments administratively. Industry is aware of the requirements of the EU Decisions and Directive and is able to be flexible in their use. As they stand, Industry may find that conforming to them can prove to be unwieldy and confusing. Also, by not bringing these instruments in to our domestic legislation, we are at risk of not fully meeting the requirements of EU zootechnical legislation. However, this risk is small as the legislation is being adhered to albeit administratively.
7. **Option 3** – Repeal and replace the current Zootechnical Standards Regulations 1992 (as amended) - A new set of regulations will ensure that Welsh legislation fully meets the requirements of EU zootechnical legislation. It would also bring consistency by putting the requirements of the EU legislation on a statutory footing. This option would also deliver measures which strengthen the sector through harmonisation at EU level to break up trade barriers.

Costs and Benefits

8. **Option 1** – By maintaining outdated herd/flock books and not taking advantage of the increased flexibilities, the Industry in Wales could have been put at a disadvantage when trading within the EU. The cost of this is undetermined and not applicable as this is no longer the case. There would also be a risk of infraction – cost undetermined.
9. **Option 2** – This is the current situation in Wales so retaining this option would maintain the status quo. The risk of infraction is reduced as the Welsh Government is giving effect to the instruments administratively. There are benefits in that the provisions offer increased flexibilities which businesses may decide to take up. However, on the other hand, there is a risk of attracting an unquantifiable administrative cost by having to refer to and source information from numerous EC Directives and Decisions. There is also a slight risk of non compliance by Breed Societies due to confusion as they try to source the appropriate information.
10. **Option 3** – There is an assumption that this option will provide a small reduction in administration burdens for the Industry as all the provisions will appear in the one Regulation, therefore making it less unwieldy. Because Breed Societies are not obliged to take advantage of the changes the cost of this remains undetermined. Laying these amended Regulations has been accounted for in the current work stream within the Departmental budget. This includes writing out to Breed Societies based within Wales (7 in total). This option ensures there is no risk of infraction.

(Defra have made cost benefit assumptions based on the number of Breed Societies within the UK. Although it is known that 7% of these societies are based in Wales, the cost benefit cannot be assumed as the membership of these societies is not known. However, if we were to use Defra's figure as a comparison, their estimated benefit to the whole UK Industry was in the region of £32,400 per year. From a Wales perspective, 7% of this figure would equate to just over £2,200 per year.)

Summary of preferred option

11. The preferred option is **Option 3**. This option involves revoking the Zootechnical Standards Regulations 1992 in relation to Wales and the Zootechnical Standards (Amendment) (Wales) Regulations 2008 and replacing them with the Zootechnical Standards (Wales) Regulations 2015.
12. This option can be seen as supporting free trade within the EU in pure-bred breeding animals and their genetic material because it would bring legislation in Wales into line with legislation in the rest of the EU.
13. We will write to the seven Breed Societies/Associations in Wales to remind them of the requirements in EU legislation and inform them of the minor optional technical changes that will be introduced by updating our domestic legislation.