Consultation on the implementation of revised EU rules on equine identification in Wales

Date of issue: 07 March 2018

Action required: Responses by 30 May 2018
Overview

The Welsh Government is seeking views on its proposed approach to the implementation of Commission Implementing Regulation (EU) 2015/262 regarding the identification of equidae in Wales.

Commission Implementing Regulation (EU) 2015/262 (Regulation 2015/262) applies throughout all European Member States from 1 January 2016 and needs to be implemented through domestic legislation.

How to respond

Use the questionnaire at the back of the document, or completing an online form.

Further information and related documents

Large print, Braille and alternative language versions of this document are available on request.


Contact details

For further information:

Equine Policy Team
Agriculture – Sustainability and Development Division
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

e-mail: EquineIDceffylau@gov.wales
telephone: 03000 255022

Data protection

How the views and information you give us will be used

Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about. It may also be seen by other Welsh Government staff to help them plan future consultations.

The Welsh Government intends to publish a summary of the responses to this document. We may also publish responses in full. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. This helps to show that the consultation was carried out properly. If you do not want your name or address published, please tell us this in writing when you send your response. We will then blank them out.
Names or addresses we blank out might still get published later, though we do not think this would happen very often. The Freedom of Information Act 2000 and the Environmental Information Regulations 2004 allow the public to ask to see information held by many public bodies, including the Welsh Government. This includes information which has not been published. However, the law also allows us to withhold information in some circumstances. If anyone asks to see information we have withheld, we will have to decide whether to release it or not. If someone has asked for their name and address not to be published, that is an important fact we would take into account. However, there might sometimes be important reasons why we would have to reveal someone’s name and address, even though they have asked for them not to be published. We would get in touch with the person and ask their views before we finally decided to reveal the information.

Definitions

The terms ‘horse’ or ‘equidae’ used throughout this consultation document include all horses, ponies, mules and any other equine animal.

For the purposes of this consultation document the terms ‘identification document’ and ‘passport’ are used interchangeably.
The Foreword

The European Commission (the Commission) issued a 5 point action plan in 2013 in response to the revelations surrounding horse meat contamination within the human food chain. The plan includes actions to strengthen the requirements on equine identification in order to reduce the risk of horses which have been treated with certain medicinal products from entering the food chain. The Commission also placed a mandatory requirement on all Member States to record horse passports in a central national database.

Regulation 2015/262 came into force on 1 January 2016 and is directly applicable in all Member States. It repeals and replaces the previous Commission Regulation (EC) 504/2008. From that date it has been a legal requirement for owners to identify their horses in line with Regulation 2015/262. It is primarily a human health measure, aimed at strengthening the existing system of ‘horse passports’ and ensuring that certain horses do not enter the human food chain. The identification rules will be implemented in Wales through new domestic legislation.

The main provisions contained within Regulation 2015/262 are fundamentally the same as those contained within the previous Regulation, which is implemented by way of the Equine Identification (Wales) Regulations 2009. However there are some key differences:

- A requirement for all Member States to operate a central equine database containing certain information on horses within their territory, with greater sharing of information between Member States;
- Tighter controls over microchip numbering with an option for Member States to require the micro-chipping of older horses;
- A requirement to notify a Passport Issuing Organisation when a horse has been signed out of the food chain on receipt of certain medicinal treatments and the recording of these details on the central equine database;
- New minimum standards for passports together with stronger powers for the Welsh Government to suspend or withdraw approval to issue passports from organisations which fail to meet the standards.

Implementation of certain requirements into domestic legislation in Wales

The EU referendum, held on 26 June 2016, resulted in the people of the United Kingdom voting to leave the European Union (EU). Until exit negotiations are concluded, the UK remains a full member of the EU and all the rights and obligations of EU membership remain in force. During this period the UK will continue to implement and apply EU legislation. The outcome of the negotiations will determine what arrangements will apply in relation to EU based legislation once the UK is no longer part of the EU.

Regulation 2015/262 is directly applicable in all Member States, including the UK, but needs to be implemented through domestic legislation. In Wales, we intend to revoke and replace the Equine Identification (Wales) Regulations 2009 with a new Statutory Instrument.
Audience

The Welsh Government is focussing on the needs of Wales, but is conscious that it would be beneficial, where possible, for there to be consistency between the different administrations within the UK. This consultation is open to everyone. The Welsh Government would particularly like to hear from horse owners and keepers, passport issuing organisations, local authorities, welfare organisations, the veterinary profession and other organisations or individuals representing the equine sector.
Consultation on the implementation of revised European Union rules on equine identification in Wales

Proposals on which we are seeking your comments

A. Deadline for identification of equidae born in the Union (Article 12)

Article 12 of Regulation 2015/262 sets the deadline for identification of a horse at not later than 12 months following the date of birth. However, article 12(2) allows Member States (MS) to set this deadline at six months or to the calendar year of birth.

Currently in Wales, horses are required to be identified by 31 December in the year of birth or six months from the date of birth whichever is the later date.

The Welsh Government is minded to set the deadline for the identification of a horse at six months or by the end of the calendar year (31 December), whichever is later. This is consistent with the current position. The majority of horses currently tend to be registered by 31 December, which provides a uniform date for registration. The six month alternative is considered necessary for those foals born late in the year, for whom identification would be difficult if there is only a short timeframe between birth and the deadline.

Question 1: Do you agree that an equine should be identified within six months of birth, or by 31 December in the year of birth, whichever is later?

YES ............ NO ............

Question 2: Please provide reasons for your view, and any evidence which informed this. If you consider that the deadline for identification should be no later than 12 months following birth, please provide the reasons for this view.
B. Applications for identification documents for equidae born in the European Union (Article 11)

Regulation 2015/262 requires MS to set time limits for the submission of the application for identification. Whatever deadline is set to identify a horse (see section A above), Passport Issuing Organisations (PIOs) need to have sufficient time to process applications. In the event the Welsh Government sets the identification date at 31 December in the year of birth or six months from the date of birth, whichever is later, the regulations must stipulate a date by which a PIO must receive the application form.

The Welsh Government is aware that different sized PIOs may have different times for processing an application for an identification document. The time limit set should be achievable by all types of PIO. One calendar month (meaning the deadline for applications would be 1 December if the identification deadline is 31 December in the year of birth) would seem to be an appropriate timeframe to set and, we understand, would be consistent with the timescales being set in England and Scotland.

Question 3: What do you consider to be a reasonable time limit for submitting an application for an identification document?

Question 4: Do you consider one calendar month before the deadline for identification of the equine to be sufficient?:

YES ............ NO ............

C. Central Equine Database (CED) (Article 38)

The UK as Member State is required under Regulation 2015/262 to set up a central equine database (CED). When issuing an identification document, all UK Passport Issuing Organisations (PIOs) are required to record certain information on their own databases (e.g. the unique life number, species, sex etc of an equine) and then upload and update passport information from their databases to the CED. This will enable equines to be accurately identified, for example through checks at abattoirs to ensure that the horse presented for slaughter is eligible for the food chain. It will also be of assistance in tracing owners of abandoned or stray equines.

Regulation 2015/262 sets out that the PIO must upload and update the CED not later than 15 days from the date of recording the information on their system. The Welsh Government is considering including a requirement within the domestic regulations that the CED be updated no later than 15 days (as per Regulation 2015/262), but setting out within guidance that as a matter of good practice, PIOs would be expected to update the CED with new or amended information within 24 hours of the record being created or amended by the PIO.
Question 5: Please provide your comments and views on requiring Passport Issuing Organisations to update the Central Equine Database with new and amended information no later than 15 days from the date of recording the information.

Question 6. What benefits do you consider would be gained from requiring PIOs to update the CED more quickly that the 15 day deadline? In responding please set out what practical/administrative burdens this might place on PIOs.

D. Micro-chipping of all equines (Article 18)

In Wales, all horses and foals that are issued with an identification document after 1 July 2009 must be identified through the implantation of a microchip. Any horse issued with a passport prior to 1 July 2009 does not currently need to be micro-chipped.

Regulation 2015/262 provides that, if the competent authority considers it necessary to ensure identity verification, Passport Issuing Organisations (PIOs) and the competent authority may require that equine animals are marked by implantation of a microchip. This allows the Welsh Government the option of requiring the micro-chipping of all horses issued with a passport prior to 1 October 2009 (note that there is some ambiguity around that date owing to late transposition) which are currently not micro-chipped. This would mean that all horses regardless of age would need to be identified with a microchip.

The Welsh Government recognises whilst there are benefits of requiring all horses to be electronically identified through micro-chipping there are both practical and cost implications of requiring retrospective micro-chipping of all horses in Wales.

Question 7: Should the Welsh Government extend the micro-chipping requirement to all horses in Wales, regardless of their age?

YES ............ NO ............

Question 8: Please give your reasons and provide any evidence for why you are in favour / not in favour of question 7.

E. Equidae living under wild or semi-wild conditions (Article 13)

Regulation 504/2008 provided MS with a derogation allowing defined populations of equines living under wild or semi-wild conditions to remain on designated areas without needing to be identified. The need to be identified was triggered when the equines were removed from the designated areas or brought into domestic use.

The Hill Pony Improvement Society of Wales whose 27 individual societies operate across commons in Mid and South Wales and the Cymdeithas Merlod y Carneddau in North Wales applied for and obtained a derogation under Regulation 504/2008. Only those ponies managed by these organisations, on certain areas of land, are covered by the derogation.
These animals become subject to full identification rules once moved off these designated areas, brought into domestic use or in the case of receiving medicinal treatment.

All other ponies kept on common land are subject to equine identification rules and are therefore required to be identified through the insertion of a microchip and issue of a passport.

Regulation 2015/262 retains a derogation in respect of the identification of certain equidae living under wild or semi-wild conditions (Article 13). This sets out that the Welsh Ministers may decide that equidae constituting defined populations living under wild or semi-wild conditions in certain areas … shall be identified by an identification document only when they are removed from such populations (excluding the transfer under official supervision from one defined population to another) or brought into domestic use. Recital 32 of Regulation 2015/262 sets out, in relation to equidae roaming in wild or semi-wild conditions, that:

“Member States should be able to establish specific regimes for the identification of equidae roaming in wild or semi-wild conditions in defined areas or territories, including nature reserves…. However, any such derogation from the general obligation to identify equidae should be granted only where those defined populations of equidae living under wild or semi-wild conditions are effectively separated from equidae in any form of domestic use and remain not only outside of human control for their survival and reproduction, but also outside of the scope of Council Directive 98/58/EC which does not apply to animals living in the wild”.

Given the inclusion of recital 32 within Regulation 2015/262, the Welsh Government is of the view that there are arguments to support the view that the derogation concerning equidae living under wild or semi-wild conditions does not apply to those organisations currently operating under the terms of the derogation set up under the Equine Identification (Wales) Regulations 2009.

**Question 9:** Do you agree that those organisations currently covered by the derogation for semi feral ponies fall outside the scope of the derogation?

YES .......... NO ...........

**Question 10:** Please give your reasons to your response in Q9. Do you think there are any equines within Wales which meet the definitions stipulated in the European Regulation. Please can you provide evidence to support your view.

**F. Replacement of failed microchips (Article 18)**

Regulation 2015/262 provides MS with the option of requiring that horses whose previously implanted microchip has ceased to function are implanted with a new microchip. In Wales there is currently no legal requirement to replace a microchip when the original microchip fails.

It is noted that failure of a microchip is rare, however when it does occur it is considered that implanting a new microchip into a horse represents the most cost effective way of confirming the identification of the equine and ensuring traceability. The Welsh Government intends to include a requirement to re-microchip a horse in the event of the failure of a microchip.
Question 11: Do you agree the Welsh Government should regulate to require owners to re microchip a horse where the microchip has failed?

YES ............ NO .............

Question 12: Please give your reasons and provide any evidence for why you are in favour / not in favour of this option (question 10).

G. Equidae intended for slaughter for human consumption and medication record (Article 37)

Following the discovery of horsemeat in the human food chain in 2013 the EU undertook to strengthen the regime in respect of horses that can be presented for slaughter for human consumption. A vital part of this regime is the accurate reporting of data and information about the horse (including any medication it has been given) and its food chain status on the passport and on the CED – this ensures that an informed decision may be made by any vet treating a horse and by abattoir staff when a horse is presented for slaughter.

Regulation 2015/262 introduces a requirement for the keeper of the equine to notify the Passport Issuing Organisations (PIOs) when a horse has been signed out of the human food chain, this notification to be within 14 days from the date of signing of Part 2 of Section 2 of the passport. Regulation 2015/262 allows the MS to adopt measures to ensure that it is the responsibility of the veterinarian, rather than the keeper, to provide this notification.

The Welsh Government believes this responsibility should fall to the keeper, as record keeping should form part of responsible animal ownership. ‘Keeper’ is defined as ‘any natural or legal person having possession of, or being charged with, the keeping of equidae, whether or not for financial reward, and whether on a temporary or permanent basis, including during transportation, at markets, or during competitions, races or cultural events’. The Welsh Government considers that notifying the PIO or the database about the food chain status of an equine is something that falls within the responsibility of ownership. It is therefore not considered appropriate that this responsibility is transferred to the veterinarian.

Question 13: Do you agree that the keeper should be legally responsible for notifying the Passport Issuing Organisation when a horse has been signed out of the human food chain?

YES ............ NO .............

Question 14: Please give your reasons and provide any evidence for why you are in favour / not in favour of this option (question 13).

H. Penalties and Enforcement (Article 41)

Regulation 2015/262 requires MS to set rules on penalties in respect of non compliance of the equine identification regime. Penalties should be effective, proportionate and dissuasive.
The Welsh Government has been considering, alongside the other administrations, how the issue of both compliance and enforcement of the regulations should be addressed. We are aware from discussions with stakeholders and members of the industry that many horse owners appear to have a limited knowledge in respect of their responsibilities under the legislation. We have been informed that some people find it difficult to comply with the legislation, or choose not to as they consider enforcement is minimal and lacks a robust response.

**Question 15:** Are there any other issues that the Welsh Government needs to address in order to improve compliance? Please provide as much detail as possible:

**Question 16:** Do you think that steps could be taken to improve compliance with the equine identification regime? If so, please could you specify what you believe could be done.

**Question 17:** Please provide any other comments you have, particularly in terms of how the requirements of the regulations could be communicated to ensure a strong level of compliance.

In Wales, local authorities are responsible for enforcing the Equine Identification (Wales) Regulations 2009 (2009 Regulations). Under the 2009 Regulations, those found guilty of committing an offence are subject to a criminal conviction and fine.

In order for local authorities to deal with breaches of the legislation in a proportionate way it is proposed that we should:

- Review the existing offences;
- Consider the introduction of civil sanctions and guidance for local authorities – this will help to ensure that local authorities are clear about what tools are available to them when dealing with breaches of the regulations.

The aim of the Welsh Government is to drive up compliance by those who are subject to the requirements of Regulation 2015/262, including owners, keepers and veterinary surgeons.

To make it easier for local authorities to deal with breaches of the legislation we are considering replacing the current enforcement policy of criminal-only sanctions with the option of using civil sanctions that could be underpinned, as necessary, by either criminal sanctions and/or the civil courts.

Civil sanctions could provide local authorities with the ability to use a range of enforcement options. For example sanctions such as written warnings, advice letters, and simple cautions as well as the ability to issue a fine, for example in the form of a Fixed Penalty Notice.

The introduction of civil sanctions would mean that horse owners, keepers and veterinary surgeons would no longer face the automatic threat of a criminal conviction for what could be considered as minor offences. Serious offenders could still be prosecuted.

Further information relating to the proposed civil sanctions that could be available to local authorities under revised domestic legislation is detailed in Annex B.
Question 18: Do you think compliance with the equine identification regime could be improved through the use of civil sanctions and/or administrative sanctions? Please provide reasons for your response.

YES ............  NO ............

Question 19: Do you agree, if introduced, any regime of civil sanctions should continue to be underpinned by criminal sanctions and/or the civil court system for more serious offences? Please provide reasons for your response.

YES ............  NO ............

I. Costs

Keeping a horse can, in monetary terms, be expensive. Whilst the proposal to require all horses to be micro-chipped would place additional costs on those owners who currently have horses that were identified before Regulation 2008/504 came into force, it is considered these costs will be minimal in view of the benefits they will bring in providing full electronic identification of the UK horse population. The Welsh Government would welcome your views on the costs incurred in respect of identifying equines.

Question 20: Please provide an estimate of the current costs you incur in complying with the identification requirements (Please include brief details and a breakdown of costs).

J. Additional comments or views

The Welsh Government would like to hear of any additional comments or views you have on any of the issues raised within this consultation, or Regulation 2015/262 more generally.

In addition, at Annex B we include a table that sets out some of the issues on which the WG has an intended approach. Views are invited on these views should consultees wish to provide them.

Question 21: Please provide any additional views or comments you have on the equine identification regime that you have not provided by way of a response to earlier questions within this consultation.
Confidentiality

Responses to consultations may be made public – on the internet or in a report. Normally the name and address (or part of the address) of its author are published along with the response, as this helps to show the consultation exercise was carried out properly.

If you would prefer your name and address to be kept confidential, please tick here:

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