

# SL(5)285 – The Carcase Classification and Price Reporting (Wales) Regulations 2018

## Background and Purpose

---

The European Commission conducted a formal review of existing EU rules which mandate the categorisation and classification of animals presented for slaughter against common European standards in order to make it more transparent.

As a result, they brought into force Commission Delegated Regulation 2017/1182 and Commission Implementing Regulation 2017/1184 supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council as regards the Union scales for the classification of beef, pig and sheep carcasses and as regards the reporting of market prices of certain categories of carcasses and live animals.

The previous classification and enforcement regime was contained in the Beef and Pig Carcase Classification (Wales) Regulations 2011. Those Regulations are being revoked and replaced to align with the changes to the EU regime.

## Procedure

---

Negative.

## Technical Scrutiny

---

Two points are identified for reporting under Standing Order 21.2 in respect of this instrument.

### **1. Standing Order 21.2(v) - that for any particular reason its form or meaning needs further explanation**

Under regulation 19(b), authorised officers can, when exercising powers of entry:

- have access to computers,
- inspect computers, and
- check the operation of computers,

at the premises being inspected, where the computers are used in connection with records that are required to be kept under the Regulations.

It is unclear to us what is meant by “check the operation” of a computer. We ask the Welsh Government to explain the meaning of “check the operation” of a computer by: (a) providing examples of what it includes, and (b) explaining what can be achieved by checking the operation of a computer that cannot be achieved by having access to the computer and inspecting the computer.

We consider it essential that powers of entry are drafted without unnecessary or unclear provisions, especially when the powers of entry could be exercised in respect of a person’s home.



## **2. Standing Order 21.2(vi) – that its drafting appears to be defective or it fails to fulfil statutory requirements**

The Regulations say that the Welsh Ministers may grant licences to carry out classification of bovine carcasses. Under regulation 8, a licence may be granted for **visual classification**. Under regulation 9, a licence may be granted for using **automated grading equipment for classification**. It appears to us that regulations 8 and 9 relate to two distinct methods of classifying bovine carcasses.

Regulation 29(1) says it is an offence if a “classification” is carried out without a licence granted under regulation 8.

Regulation 29(2) says it is an offence if “classification...is carried out...by means of automated grading equipment” without a licence granted under regulation 9.

It seems, therefore, that regulation 29(1) is intended to deal with visual classification and regulation 29(2) is intended to deal with classification by automated grading equipment. However, while regulation 29(2) is expressly confined to classification by automated equipment, regulation 29(1) seems, on the face of it, to apply to **all** classifications.

We ask the Welsh Government whether regulation 29(1) should refer to “visual classification”. Regulation 29 creates criminal offences, therefore absolute clarity about the breadth of the criminal offence is required.

## **Merits Scrutiny**

---

Two points are identified for reporting under Standing Order 21.3 in respect of this instrument.

### **1. Standing Order 21.3(ii) - that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Assembly**

Under regulation 10, the Welsh Ministers can appoint a person to consider appeals against decisions of the Welsh Ministers. For example, if the Welsh Ministers refuse a licence to X under regulation 8 because the Welsh Ministers think that X is not fit and proper to have a licence, X can appeal to the person appointed by the Welsh Ministers.

We note there is no reference in the Regulations or the Explanatory Memorandum to the independence of the person considering such appeals. Issues such as being refused a licence or having a licence revoked are serious matters affecting the livelihoods of people. There should be a fair and independent mechanism for appealing decisions made by the Welsh Ministers in relation to licences.

We note that the Rural Payments Agency is responsible for enforcing the Regulations, but we assume that considering appeals against decisions of the Welsh Ministers does not amount to enforcement.

We would welcome clarification from the Welsh Government as to the procedure that applies to appeals under regulation 10 of these Regulations.



## **2. Standing Order 21.3(iv) - that it inappropriately implements European Union legislation**

The updated regime contained in these Regulations should have been implemented by Member States by 11 July 2018. We note the deadline has been missed and we welcome the transparency of the Welsh Government in stating this in the Explanatory Memorandum.

However, the Explanatory Memorandum appears to say that, in complying with the current regime, the industry has in fact already been complying with this new, updated regime. While that appears to be the case for almost all of the requirements of the new regime, it is unclear whether the industry is already complying with the new requirement to include the "U4 deadweight category" in bovine classifications.

We ask the Welsh Government to confirm whether existing suppliers have complied with this new U4 deadweight category requirement under the current regime?

### **Implications arising from exiting the European Union**

---

These Regulations form part of "EU-derived domestic legislation" under section 2 of the European Union (Withdrawal) Act 2018, therefore these Regulations will be retained as domestic law and will continue to have effect in Wales on and after exit day.

### **Government Response**

---

A government response to the technical and merits points raised in this report is required.

#### **Legal Advisers**

**Constitutional and Legislative Affairs Committee**

**4 December 2018**

