

Draft Regulations laid before the National Assembly for Wales under section 61(2) of the Animal Welfare Act 2006, for approval by resolution of the National Assembly for Wales.

DRAFT WELSH STATUTORY
INSTRUMENTS

2015 No. (W.)

ANIMALS, WALES

ANIMAL WELFARE

**The Microchipping of Dogs (Wales)
Regulations 2015**

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide for the compulsory microchipping of dogs and the recording of each dog's identity and its keeper's contact details on a database.

Regulation 3 imposes a duty on every keeper of a dog to have their dog microchipped and to record information on a database. In accordance with the definition of a keeper in these Regulations, a breeder is considered the first keeper of a puppy if the breeder owns the bitch that gave birth to the puppy. Accordingly the breeder is under a duty to have such a puppy microchipped in accordance with regulation 3. Regulation 4 sets out requirements for the microchips to be used and regulation 5 sets out the information to be recorded on a database.

Regulation 6 sets out the conditions to be met by database operators.

Regulation 7 gives the Welsh Ministers the power to request information from databases. It also, in circumstances where database operators are failing to meet the requirements in regulation 6, gives the Welsh Ministers the power to serve a notice on database operators requiring them to cease holding themselves out as meeting the requirements of the Regulations. The notice may also require them to provide an electronic copy of the data recorded in accordance with these Regulations to the Welsh Ministers or to another database operator.

Regulation 8 requires a new keeper to update the information on the database on the transfer of keepership and prevents a dog from being transferred to a new keeper until it has been microchipped. A new keeper who fails to update a database with the relevant details results in the dog not being properly microchipped in accordance with regulation 3 and the new keeper being subject to enforcement action. Regulation 9 sets training standards for people who implant microchips. Regulation 10 provides for reporting of adverse reactions to, and migration of, microchips and reporting of microchip failures. Regulation 11 provides for the appointment of authorised persons to exercise powers under these Regulations.

Regulation 12 gives authorised persons the power to serve a notice on a keeper to microchip their dog, to microchip a dog and recover the cost of doing so from the keeper and to take possession of a dog for the purpose of microchipping it.

Regulation 13 contains offences. Regulation 14 provides for appeals to the First-tier tribunal against various notices. Regulation 15 provides for offences committed by bodies corporate, partnerships and unincorporated associations.

Regulation 16 makes provision for consequential amendments.

A draft of these Regulations was notified on 16 June 2015 to the European Commission in accordance with the Technical Standards Directive (Directive 98/34/EC as amended by Directive 98/48/EC).

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, a Regulatory Impact Assessment has been prepared as to the likely costs and benefits of complying with these Regulations. A copy can be obtained from the Office of the Chief Veterinary Officer, the Welsh Government, Cathays Park, Cardiff, CF10 3NQ.

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2015 No. (W.)

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**The Microchipping of Dogs (Wales)
Regulations 2015**

Made ***

*Coming into force in accordance with
regulation 1(2)*

The Welsh Ministers, as the appropriate national authority in relation to Wales⁽¹⁾, make the following Regulations in exercise of the powers conferred by section 12 of the Animal Welfare Act 2006⁽²⁾.

In accordance with section 12(6) of that Act, the Welsh Ministers have consulted those persons appearing to them to represent interests with which these Regulations are concerned as they considered appropriate.

In accordance with section 61(2) of that Act⁽³⁾, a draft of this instrument has been laid before, and approved by resolution of, the National Assembly for Wales.

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- (1) The appropriate national authority is defined in section 62(1) of the Animal Welfare Act 2006. Functions conferred on the National Assembly for Wales are now vested in the Welsh Ministers by virtue of section 162 of, and paragraph 30 and 32 of Schedule 11 to the Government of Wales Act 2006 (c. 32).
- (2) 2006 c. 45.
- (3) 2006 c. 45. By virtue of section 162 of, and paragraph 34 of Schedule 11 to, the Government of Wales Act 2006 (c. 32), the reference in section 61(2) to “House of Parliament” includes the National Assembly for Wales.

Title, application and commencement

1.—(1) The title of these Regulations is the Microchipping of Dogs (Wales) Regulations 2015.

(2) They apply in relation to Wales and come into force on the twenty-second day after the date on which they are made.

Interpretation

2. In these Regulations—

“authorised person” (“*person awdurdodedig*”) has the meaning given by regulation 11;

“keeper” (“*ceidwad*”) means—

(a) in relation to an assistance dog (within the meaning of section 173(1) of the Equality Act 2010⁽¹⁾)—

(i) until the dog ceases working as an assistance dog, the body responsible for its training and allocation;

(ii) after the dog has ceased working as an assistance dog, the person with whom it normally resides;

(b) in relation to a new-born puppy, the owner of the bitch which gave birth to it; and

(c) in relation to any other dog, the person with whom it normally resides;

“local authority” (“*awdurdod lleol*”) means a county council or county borough council in Wales;

“microchipped” (“*microsglodynwyd*”) means

microchipped in accordance with regulation 3.

Obligation to microchip dogs

3.—(1) Subject to a certificate issued under paragraph (2) or (3), from 6 April 2016 every keeper of a dog which has not been implanted with a microchip by that date—

(a) which is older than 8 weeks; and

(b) which is not a certified working dog for the purposes of section 6(3) of the Animal Welfare Act 2006⁽²⁾,

must ensure that it is microchipped.

(2) Paragraph (1) does not apply for as long as a veterinary surgeon certifies, on a form approved by the

(1) 2010 c. 15.

(2) 2006 c. 45.

Welsh Ministers that microchipping would significantly compromise the dog's health.

(3) Subject to paragraph (4), from 6 April 2016 a keeper who imports a dog must ensure that the dog is microchipped within 30 days of importing the dog unless a veterinary surgeon certifies, on a form approved by the Welsh Ministers that microchipping would significantly compromise the dog's health.

(4) A certificate issued under paragraph (2) or (3) must state the period for which the dog will be unfit to be microchipped.

(5) A dog is microchipped where—

- (a) a microchip which complies with regulation 4 has been implanted in the dog; and
- (b) the details set out in regulation 5 are recorded on a database by a database operator meeting the conditions set out in regulation 6.

Form of microchip

4. From the date these Regulations come into force any microchip implanted in a dog must meet the following requirements—

- (a) it must have a unique number which includes the manufacturer's code;
- (b) it must be compliant with ISO standard 11784:1996 of the International Standards Organisation's standards for microchips⁽¹⁾;
- (c) it must be compliant with ISO standard 11785:1996 of the International Standards Organisation's standards for microchips apart from Annex A; and
- (d) it must respond to a transceiver which operates at 134.2 kilohertz and conforms with the FDXB protocol set out in ISO standards 11784:1996 and 11785:1996.

Details to be recorded on databases

5.—(1) The details to be recorded on a database are—

- (a) the full name and address of the keeper;
- (b) where applicable, the fact that the keeper is also the breeder;
- (c) if the keeper is the breeder and is licensed by the Animal Welfare (Breeding of Dogs) (Wales) Regulations 2014⁽²⁾—
 - (i) the breeder's licence number; and

(1) ISO Central Secretariat, International Organization for Standardization (ISO), 1 rue de Varembe, Case postale 56, CH-1211, Geneva 20, Switzerland.

(2) S.I. 2014/3266 (W. 333).

- (ii) the name of the local authority by which they are licensed;
- (d) the original name or identification number given to the dog;
- (e) the contact telephone number (if any) for the keeper;
- (f) the email address (if any) for the keeper;
- (g) the name given to the dog by the keeper, if that is different to the details recorded pursuant to sub-paragraph (d);
- (h) the sex of the dog;
- (i) the breed of the dog, or a description if it is a cross-breed;
- (j) the colour of the dog;
- (k) any distinguishing features of the dog;
- (l) the most accurate estimate of the dog's date of birth which the keeper is capable of giving; and
- (m) the unique number of the microchip implanted in the dog.

(2) In this regulation “breeder” (“*bridiwr*”) means any keeper of a bitch which whelps, whether or not they carry on a business as a breeder of dogs.

Conditions to be met by a database operator

6.—(1) From the date these Regulations come in force a database operator must—

- (a) have sufficient database capacity to store electronically, and retrieve, all the details provided to it by keepers in accordance with regulation 3;
- (b) back up all this data at a secure, off-site facility every day;
- (c) provide any information in regulation 5 requested by an authorised person;
- (d) provide any information in regulation 5 requested by a keeper of a dog in relation to that dog;
- (e) have a system for identifying people authorised for the purposes of these Regulations when they make inquiries about dogs whose details are recorded on their database;
- (f) have a system for identifying keepers of dogs when they make inquiries about dogs whose details are recorded on their database;

- (g) maintain records to demonstrate that the database operator is complying with the requirements of this regulation;
- (h) have a system for answering telephone and on-line requests for details stored on their database at all times;
- (i) have a system for redirecting telephone queries relating to dogs whose details are recorded on other databases which comply with paragraph (2)(a) to the operators of those databases; and
- (j) be able to automatically redirect on-line requests relating to dogs whose details are recorded on other databases which comply with paragraph (2)(a) to those databases.

(2) A database operator must—

- (a) make available to other relevant database operators operating in accordance with this regulation the information necessary to allow those other database operators to determine which microchip numbers relate to dogs whose details are recorded on that database; and
- (b) have a system for responding directly to the inquirer to any query received in accordance with paragraph (1)(i) or (1)(j).

(3) In this regulation “relevant database operator” (“*gweithredwr cronfa ddata perthnasol*”) means a database operator—

- (a) which holds itself out as complying with this regulation; and
- (b) on which the Welsh Ministers have not served a notice under regulation 7(2)(a).

(4) In this regulation “on-line request” (“*cais ar-lein*”) means a request submitted to a database operator in the manner provided for by the database operator’s website.

Powers of the Welsh Ministers

7.—(1) From 6 April 2016 the Welsh Ministers may serve a notice on a database operator requiring it to provide to them—

- (a) any information recorded on the database;
- (b) any information relating to the functioning of the regulatory regime established by these Regulations;
- (c) any information necessary to demonstrate that it is meeting the conditions in regulation 6.

(2) Where the Welsh Ministers are satisfied that a database operator does not meet the conditions in regulation 6, the Welsh Ministers may serve a notice requiring the operator—

- (a) to cease holding itself out as meeting the conditions in regulation 6;
- (b) to provide the Welsh Ministers or another database operator with an electronic copy of all the data recorded on its database pursuant to regulation 3(5)(b).

Change of keeper

8.—(1) From 6 April 2016, where a dog is transferred to a new keeper, the new keeper must, unless the previous keeper has already done so, record their full name, address and contact telephone number (if any) and any change in the dog's name with the database on which the dog's details are recorded pursuant to regulation 3(5)(b).

(2) From 6 April 2016 no keeper may transfer a dog to a new keeper until it has been microchipped unless a certificate issued under regulation 3(2) or 3(3) states that microchipping would significantly compromise a dog's health.

Implanting of microchips

9.—(1) No person may implant a microchip in a dog unless—

- (a) they are a veterinary surgeon or a veterinary nurse acting under the direction of a veterinary surgeon;
- (b) they are a student of veterinary surgery or a student veterinary nurse and in either case acting under the direction of a veterinary surgeon;
- (c) they have been satisfactorily assessed on a training course approved by the Welsh Ministers for that purpose; or
- (d) before the day on which these Regulations come into force, they received training on implantation which included practical experience of implanting a microchip.

(2) Where it appears to the Welsh Ministers, on the basis of information provided pursuant to regulation 10 and any other information, that a person who may implant microchips pursuant to paragraph (1)(c) or (1)(d) is unable to do so to a satisfactory standard, the Welsh Ministers may serve a notice on that person prohibiting them from implanting microchips in dogs—

- (a) until they have received further training on a course approved by the Welsh Ministers; or
- (b) ever.

(3) Paragraph (1)(d) ceases to have effect at the end of the period of two years beginning with the date on which these Regulations come into force.

(4) In this regulation—

“student veterinary nurse” (*“myfyriwr nyrzio milfeddygol”*) and “veterinary nurse” (*“nyrs filfeddygol”*) have the same meanings as given by Schedule 3 to the Veterinary Surgeons Act 1966(1);

“student of veterinary surgery” (*“myfyriwr milfeddygol”*) has the same meaning as in regulation 3 of the Schedule to the Veterinary Surgeons (Practice by Students) Regulations Order of Council 1981(2);

“veterinary surgeon” (*“milfeddyg”*) means a person registered in the register of veterinary surgeons, or the supplementary veterinary register, kept under the Veterinary Surgeons Act 1966.

Adverse reactions

10.—(1) Anyone who identifies an adverse reaction to a microchip or the failure of a microchip must report that reaction or failure to the Welsh Ministers.

(2) In this regulation “adverse reaction” (*“adwaith anffafriol”*) means—

- (a) any unnecessary pain or suffering, or any pathology on the part of a dog which is caused, or appears to be caused, by the implanting of a microchip; or
- (b) the migration of a microchip from the site of implanting.

(3) In this regulation “failure of a microchip” (*“methiant microsglodyn”*) means failure to transmit the number encoded in the microchip when scanned by an appropriate transceiver.

Authorised person

11.—(1) The Welsh Ministers may authorise in writing any person (“an authorised person”) (*“person awdurdodedig”*) to act for the purpose of enforcing these Regulations.

(2) A local authority in whose area a dog is kept may authorise in writing any person (“an authorised person”) (*“person awdurdodedig”*) to act for the purpose of enforcing these Regulations in its area.

(1) 1966 c. 36. Paragraph 6 of Schedule 3 to the Veterinary Surgeons Act 1966 was inserted by S.I. 1991/1412, substituted by S.I. 2002/1479 and amended by S.I. 2008/1824, paragraph 18 of the Schedule. Paragraph 7 of Schedule 3 to the Veterinary Surgeons Act 1966 was inserted by S.I. 2002/1479.

(2) S.I. 1981/988. Regulation 3 was substituted by the Schedule of S.I. 1995/2397.

(3) Any police constable or community support officer is also an authorised person for the purposes of these Regulations.

(4) In this regulation “community support officer” (“*swyddog cymorth cymunedol*”) means anyone so designated under section 38(1) of the Police Reform Act 2002⁽¹⁾.

Powers of an authorised person

12. An authorised person may, on producing the written authorisation mentioned in regulation 11(1) or 11(2) or other official identity document in the case of a police constable or a community support officer (as defined in regulation 11(4)), if required—

- (a) serve on the keeper of a dog which is not microchipped a notice requiring the keeper to have the dog microchipped within 21 days;
- (b) where the keeper of a dog has failed to comply with a notice under paragraph (a), without the consent of the keeper—
 - (i) arrange for the dog to be microchipped; and
 - (ii) recover from the keeper the cost of doing so;
- (c) take possession of a dog without the consent of the keeper for the purpose of checking whether it is microchipped or for the purpose of microchipping it in accordance with paragraph (b)(i).

Offences

13.—(1) It is an offence, punishable on summary conviction by a fine not exceeding level 4 on the standard scale, to fail to comply with a notice served under regulation 7.

(2) It is an offence, punishable on summary conviction by a fine not exceeding level 2 on the standard scale, to—

- (a) fail to comply with regulation 8(2);
- (b) fail to comply with regulation 9(1);
- (c) fail to comply with a notice served under regulation 9(2);
- (d) fail to report an adverse reaction or the failure of a microchip in accordance with regulation 10(1);
- (e) fail to comply with a notice served under regulation 12(a);

(1) 2002 c. 30. Section 38(1) was amended by the Police Reform and Social Responsibility Act 2011 (c. 13) section 99 and Schedule 16, Part 3, paragraphs 277 and 292.

- (f) obstruct an authorised person exercising a power under regulation 12(b) or 12(c).

Appeals

14.—(1) A database operator may appeal to the First-tier tribunal against a notice served under regulation 7.

(2) A keeper may appeal to the First-tier tribunal against a notice served under regulation 12(a).

(3) A person authorised to implant microchips under regulation 9(1)(c) or 9(1)(d) may appeal to the First-tier tribunal against a notice served under regulation 9(2).

(4) An appeal under this regulation suspends the effect of the notice appealed against until the appeal is determined or withdrawn.

(5) On appeal the First-tier tribunal may affirm, vary or revoke the notice appealed against.

Corporate, partnership and unincorporated association offences

15.—(1) Where—

- (a) an offence under these Regulations has been committed by a body corporate, partnership, Scottish partnership or other unincorporated association, and
- (b) it is proved that the offence was committed with the consent or connivance of, or was attributable to any neglect on the part of, a relevant individual (including an individual purporting to act in the capacity of a relevant individual),

the relevant individual as well as the body corporate, partnership, Scottish partnership or other unincorporated association, is guilty of the offence and is liable to be proceeded against and punished accordingly.

(2) In paragraph (1), “relevant individual” (“*unigolyn perthnasol*”) means—

- (a) in relation to a body corporate—
 - (i) a director, manager, secretary or other similar officer of the body;
 - (ii) where the affairs of the body are managed by its members, a member;
- (b) in relation to a partnership or Scottish partnership, a partner;
- (c) in relation to an unincorporated association other than a Scottish partnership, a person who is concerned in the management or control of the association.

(3) Proceedings for an offence under these Regulations alleged to have been committed by a partnership or an unincorporated association may be brought against the partnership or association in the name of the partnership or association.

(4) For the purpose of proceedings pursuant to paragraph (3) the following provisions apply as if the partnership or unincorporated association were a body corporate—

- (a) rules of court relating to the service of documents;
- (b) section 33 of the Criminal Justice Act 1925(1); and
- (c) Schedule 3 to the Magistrates' Courts Act 1980(2).

(5) A fine imposed on a partnership or unincorporated association on its conviction for an offence under these Regulations is to be paid out of the funds of the partnership or association.

Amendment to the Docking of Working Dogs' Tails (Wales) Regulations 2007

16. For paragraph (1)(b) of regulation 5 of the Docking of Working Dogs' Tails (Wales) Regulations 2007(3) substitute—

“(b) with a microchip which—

- (i) has a unique number which includes the manufacturer's code;
- (ii) is compliant with ISO standard 11784:1996 of the International Standards Organisation's standards for microchips;
- (iii) is compliant with all of ISO standard 11785:1996 of the International Standards Organisation's standards for microchips apart from Annex A; and

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- (1) 1925 c. 86. Subsections (1), (2) and (5) of section 33 were repealed by the Magistrates' Courts Act 1952 (c. 55) section 132 and Schedule 6; subsection (3) was amended by the Courts Act 1971 (c. 23), section 56(1) and Schedule 8, Part 2, paragraph 19; subsection (4) was amended by the Courts Act 2003 (c. 39) section 109(1) and (3), Schedule 8, paragraph 71 and Schedule 10.
 - (2) 1980 c. 43. Paragraph 2(a) of Schedule 3 was repealed by the Criminal Justice Act 2003 (c. 44), sections 41 and 332, Schedule 3, Part 2, paragraph 51(1) and (13)(a), and Schedule 37, Part 4. Paragraph 5 was repealed by the Criminal Justice Act 1991 (c. 53), sections 25(2) and 101(2) and Schedule 13; paragraph 6 was amended by the Criminal Justice Act 2003, section 41, Schedule 3, Part 2, paragraph 51(1) and (13)(b).
 - (3) S.I. 2007/1028 (W. 95).

(iv) responds to a transceiver which operates at 134.2 kilohertz and conforms with the FDXB protocol set out in ISO standards 11784:1996 and 11785:1996.”

Name

Deputy Minister for Farming and Food, under authority of the Minister for Natural Resources, one of the Welsh Ministers

Date