

Elin Jones AC/AM
Y Gweinidog dros Faterion Gwledig
Minister for Rural Affairs



Llywodraeth Cynulliad Cymru
Welsh Assembly Government

Eich cyf / Your ref:
Ein cyf / Our ref:

Dai Lloyd AM
Legislation Committee No 3
National Assembly for Wales
Cardiff Bay
Cardiff
CF99 1NA

19th November 2009

Dear Dai,

Proposed Red Meat Industry (Wales) Measure

Further to my appearance before the Legislation Committee No. 3 on Wednesday 11th November 2009 in relation to the above proposed Measure, I would like to take this opportunity to respond to the action points raised during the meeting.

The action points are as follows:

Action: *The Minister agreed to provide further clarification in relation to sections 10 and 11 of the proposed Measure, in terms of the powers that would be used to amend the calculation of levy payment. For example if a change made to the point of collection i.e. to farms. The committee sought clarification as to whether such changes would be through amendments to Schedule 2 and would these changes be subject to the affirmative procedure.*

Response: If it is proposed to amend the way in which the levy payable is calculated, Schedule 2 would need to be amended. Section 5(4) (in conjunction with section 17(3)) provides that Schedule 2 must be amended by order in accordance with the affirmative procedure.

If a change of policy meant that the point of collection would be changed from slaughterhouses to farms, the following procedure would apply:

1. Farmers would be designated as persons liable to pay levy. The designation would take the form of a negative procedure order in accordance with section 4(4) and the levy would be imposed upon farmers in the same order. The government is considering whether the affirmative procedure should apply to such an order;

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2. As a result of farmers being designated as liable to pay levy:

2.1 regulations would probably need to be made under sections 5(3) and 6(2) (negative procedure) about the amount of the levy, and how and where it is collected and paid and relevant procedural matters;

2.2 amendments would probably need to be made to other parts of the proposed Measure by order in accordance with the affirmative procedure (see sections 5(4), 6(3)). This might include, for example, removing references to slaughterers and exporters from the face of the Measure where other levy payers have been designated instead;

We do not consider that amendments would need to be made to sections 10 and 11 if farmers were designated as liable to pay levy. Orders made under sections 5(3) and 6(2) would specify how and where the levy would be collected, for example, whether it would be collected on the farm or via deduction from electronic payments or at a market. Schedule 2 deals with the amount and calculation of the levy payable rather than where the levy is to be collected from, although an amendment would need to be made to Part 2 of Schedule 2 (by affirmative procedure order) stating that farmers must pay the levy and specifying the date by which it is payable.

Action: *The Committee also requested clarification in relation to section 12(7), as to why there is no specific reference to Northern Irish partnerships.*

Response: It is common drafting practice to refer in legislative enforcement provisions to partnerships and also Scottish partnerships. Partnerships in the UK are generally governed by the Partnership Act 1890. In England, Wales and Northern Ireland, partnerships do not have a separate legal identity, but in Scotland, the position is different. Section 4(2) of the Partnership Act 1890 provides, "In Scotland a firm is a legal person distinct from the partners of whom it is composed". Therefore, the reason that only Scottish partnerships are mentioned in section 12(7) of the proposed Measure is because they are constituted differently legally from partnerships in England, Wales and Northern Ireland. There is therefore no need to refer separately to Northern Ireland partnerships.

I hope that these responses assist the Committee in considering the proposed Measure.



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