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EUROPEAN COMMUNITIES (EQUINE) REGULATIONS 2011.

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EUROPEAN COMMUNITIES (EQUINE) REGULATIONS 2011.

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## EUROPEAN COMMUNITIES (EQUINE) REGULATIONS 2011.

I, SIMON COVENEY, Minister for Agriculture, Fisheries and Food, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972), for the purpose of giving effect to Council Directive 90/427/EEC of 26 June 1990<sup>1</sup>, Council Directive 90/428/EEC of 26 June 1990<sup>2</sup>, Council Directive 92/65/EEC of 13 July 1992<sup>3</sup>, Commission Decision 92/216/EEC of 26 March 1992<sup>4</sup>, Commission Decision 92/353/EEC of 11 June 1992<sup>5</sup>, Commission Decision 92/354/EEC of 11 June 1992<sup>6</sup>, Council Directive 94/28/EC of 23 June 1994<sup>7</sup>, Commission Decision 95/294/EC of 24 July 1995<sup>8</sup>, Commission Decision 95/307/EC of 24 July 1995<sup>9</sup>, Commission Decision 96/78/EC of 10 January 1996<sup>10</sup>, Commission Decision 96/79/EC of 12 January 1996<sup>11</sup>, Commission Decision 96/510/EC of 18 July 1996<sup>12</sup>, Commission Decision 96/539/EC of 4 September 1996<sup>13</sup>, Commission Decision 2004/158/EC of 16 February 2004<sup>14</sup>, Commission Decision 2004/211/EC of 6 January 2004<sup>15</sup>, Commission Regulation (EC) No. 504/2008 of 6 June 2008<sup>16</sup>, Council Directive 2008/73/EC of 15 July 2008<sup>17</sup>, Council Directive 2009/156/EC of 30 November 2009<sup>18</sup> and Commission Decision 2009/712/EC of 18 September 2009<sup>19</sup>, hereby make the following Regulations—

*Citation*

1. These Regulations may be cited as the European Communities (Equine) Regulations 2011.

<sup>1</sup>O.J. L224 18.8.1990 p. 55

<sup>2</sup>O.J. L224 18.8.1990 p. 60

<sup>3</sup>O.J. L268 14.9.1992 p. 54

<sup>4</sup>O.J. L104 22.4.1992 p. 77

<sup>5</sup>O.J. L192 11.7.1992 p. 63

<sup>6</sup>O.J. L192 11.7.1992 p. 66

<sup>7</sup>O.J. L178 12.7.1994 p. 66

<sup>8</sup>O.J. L182 2.8.1992 p. 27

<sup>9</sup>O.J. L185 4.8.1995 p. 58

<sup>10</sup>O.J. L019 25.1.1996 p. 39

<sup>11</sup>O. J. L019 25.1.1996 p. 41

<sup>12</sup>O.J. L210 20.8.1996 p. 53

<sup>13</sup>O.J. L230 11.9.1996 p. 53

<sup>14</sup>O.J. L050 20.2.2004 p. 62

<sup>15</sup>O.J. L73 3.11.2004 p. 1

<sup>16</sup>O.J. L149 7.6.2007 p. 3

<sup>17</sup>O.J. L219 14.8.2008 p. 40

<sup>18</sup>O.J. L192 23.7.2010 p. 1

<sup>19</sup>O.J. L247 19.9.09 p.13

*Notice of the making of this Statutory Instrument was published in  
“Iris Oifigiúil” of 12th July, 2011.*

*Interpretation*

2. (1) In these Regulations—

“authorised officer” means—

- (a) an authorised officer within the meaning of section 17A (inserted by section 2(1) of the Diseases of Animals (Amendment) Act 2001 (No. 3 of 2001) of the Diseases of Animals Act 1966 (No. 6 of 1966),
  - (b) a member of the Garda Síochána,
  - (c) an officer of Customs and Excise,
  - (d) a person who, immediately before the making of these Regulations was an authorised officer under the European Communities (Equine Stud-Book and Competition) Regulations 2004 (S.I. No. 399 of 2004),
  - (e) a registered veterinary practitioner who is employed by a local authority,
- or
- (f) a person appointed under Regulation 19;

“Commission Regulation” means Commission Regulation (EC) No. 504/2008 of 6 June 2008;

“Equine Legislation ” means Council Directive 90/427/EEC of 26 June 1990, Council Directive 90/428/EEC of 26 June 1990, Council Directive 92/65/EEC of 13 July 1992, Commission Decision 92/216/EEC of 26 March 1992, Commission Decision 92/353/EEC of 11 June 1992, Commission Decision 92/354/EEC of 11 June 1992, Council Directive 94/28/EC of 23 June 1994, Commission Decision 95/294/EC of 24 July 1995, Commission Decision 95/307/EC of 24 July 1995, Commission Decision 96/78/EC of 10 January 1996, Commission Decision 96/79/EC of 12 January 1996, Commission Decision 96/510/EC of 18 July 1996, Commission Decision 96/539/EC of 4 September 1996, Commission Decision 2004/158/EC of 16 February 2004, Commission Decision 2004/211/EC of 6 January 2004, Commission Regulation (EC) No. 504/2008 of 6 June 2008, Council Directive 2008/73/EC of 15 July 2008, Council Directive 2009/156/EC of 30 November 2009 and Commission Decision 2009/712/EC of 18 September 2009 or National provisions giving effect to such Acts;

“local authority” means a local authority defined under section 2 of the Local Government Act 2001 (No. 37 of 2001);

“Minister” means Minister for Agriculture, Fisheries and Food;

“passport” means an identification document for an equine animal issued under these Regulations and the Equine Legislation;

“premises” includes land (including land under water) with or without buildings, an establishment, a vehicle (including a boat, ship, hovercraft, aircraft or offshore installation (being an offshore installation within the meaning of the Safety, Health and Welfare (Offshore Installations) Act 1987 (No. 18 of 1987)), railway wagon, container or other thing used in connection with, or ancillary to, such a thing;

“registered veterinary practitioner” means a person registered under the Veterinary Practice Act 2005 (No. 22 of 2005);

“sell” includes offer, expose or keep for sale, invite an offer to buy, or distribute for reward or otherwise (whether directly or through another person);

“supply” includes to give without reward;

“third country” means a country situated outside of the European Union.

(2) A word or expression that is used in these Regulations and is also used in the Equine Legislation has, unless the contrary intention appears, the meaning in these Regulations that it has in the Equine Legislation in which it occurs.

*Possession of an equine animal*

3. (1) A person shall not have in his or her possession, an equine animal unless it is identified before the 31 December of the year of its birth or within six months following the date of birth, whatever date occurs later.

(2) The equine animal shall be identified by a passport and a transponder in accordance with these Regulations and the Equine Legislation.

*Approval of issuing bodies, semen collection centres and ova or embryo collection and production teams*

4. (1) A person shall not—

- (a) issue a passport or provide a transponder for an equine animal,
- (b) maintain a studbook of registered equidae,
- (c) collect, process or store semen of an equine animal in a semen collection centre,
- (d) collect, process or store ova or embryos of an equine animal in an ova or embryo collection or production team, or
- (e) store semen of an equine animal in a semen storage centre

unless the person has been approved under this Regulation.

(2) The Minister may grant an approval to a person, for the purposes of—

- (a) issuing a passport, transponder and maintaining a studbook for registered equidae (“issuing body for registered equidae”).

- (b) issuing a passport and transponder for equidae other than those referred to under sub-paragraph (a), (“issuing body for non-registered equidae”),
- (c) collecting, processing or storing semen of an equine animal (“semen collection centre”),
- (d) collecting, producing ova or embryos of an equine animal (“ova or embryo collection or production team”), or
- (e) storing semen of an equine animal (“semen storage centre”)

in accordance with these Regulations and the Equine Legislation.

(3) A person who, immediately before the making of these Regulations was approved under—

- (a) the European Communities (Equine Stud-Book and Competition) Regulations 2004 (S.I. No. 399 of 2004) or
- (b) the European Communities (Trade in Animals and Animal Semen, Ova and Embryos) Regulations 1996 (S.I. No. 12 of 1996) for the purposes of equidae

is deemed to be so approved under paragraph (2) and may be dealt with as if approved under this Regulation.

(4) The Minister may attach conditions to an approval, vary a condition, attach a new condition, revoke an approval or refuse an application.

(5) An application for an approval shall be in a form and contain such information and be accompanied by any material that the Minister may require.

(6) An approval under this Regulation is valid for a period that the Minister determines.

(7) The Minister shall not consider an application for approval unless the application contains all the material and particulars sought by the Minister and is accompanied by the fee set in accordance with Regulation 26.

(8) Notwithstanding the generality of paragraph (2) the Minister may refuse an application or revoke an approval if in his or her opinion—

- (a) an act of the institutions of the European Communities or these Regulations have not or are not likely to be complied with,
- (b) the applicant has committed an offence, in the previous 3 years, relating to equine animal identification, animal or public health, animal welfare or the environment, or
- (c) the applicant or holder of an approval has failed to comply with a condition of an approval.

(9) If the Minister proposes to withdraw or revoke or to refuse an application, he or she shall—

- (a) notify the applicant or holder of the approval in writing of the reason for the proposal and that he or she may make representations to the Minister in relation to the proposal within 14 days of the issue of the notification,
- (b) consider a representation made before deciding whether to proceed with, modify or annul the proposal, and
- (c) notify the applicant or holder of the approval of the decision and the reasons for the decision.

(10) The holder of an approval shall inform the Minister if significant changes are made in the operation or organisation of the activities to which the approval relates.

*Identification of an equine animal*

5. (1) An issuing body shall issue a passport for an equine animal in accordance with these Regulations and the Equine Legislation.

(2) An issuing body shall ensure that at the time an equine animal is first identified it is actively marked by the implantation of a transponder in accordance with Article 11 of the Commission Regulation.

(3) The keeper of an equine animal shall identify it in accordance with these Regulations and the Equine Legislation.

(4) An issuing body shall mark Section IX of the passport issued for an equine animal indicating that the animal is not intended for human consumption if the equine animal is not identified within the time period set out in Regulation 3(1).

(5) Where an original passport is lost, but the equine animal's identity can be established in accordance with Article 16 of the Commission Regulation, an issuing body shall issue a duplicate identification document in accordance with Article 16.

(6) Subject to paragraph (7), the issuing body shall classify the equine animal as not intended for slaughter for human consumption in Part II of Section IX of the duplicate identification document.

(7) Where an issuing body issues a duplicate identification document the Minister may in accordance with Article 16(2) of the Commission Regulation suspend the equine animal's status as intended for slaughter for human consumption for a period of six months on the application of an issuing body.

(8) Where an original passport is lost and the identity of the equine animal cannot be established an issuing body shall issue a replacement identification document in accordance with Article 17 of the Commission Regulation.

*Transponders*

6. (1) The Minister shall set out the rules, in accordance with the Commission Regulation, to ensure the uniqueness of the numbers used for a transponder for implantation in an equine animal.

(2) A person shall not implant a transponder intended for an equine animal unless the transponder has been supplied by an issuing body approved under Regulation 4(2)(a) or (b).

(3) A transponder shall be implanted, by a registered veterinary practitioner in accordance with Article 11(2) of the Commission Regulation.

(4) When a transponder is implanted in an equine animal, an issuing body shall enter in the passport the information required in Article 11(3) and (4) of the Commission Regulation.

*Movement and transport of an equine animal*

7. (1) A person who moves or transports an equine animal in contravention of Articles 13 and 14(3) and (4) of the Commission Regulation commits an offence.

(2) A person who moves or transports an equine animal for slaughter in contravention of Article 15(1), (2) or (3) of the Commission Regulation commits an offence.

*Importation of an equine animal from a third country*

8. A person who imports an equine animal from a third country in contravention of Article 8 of the Commission Regulation commits an offence.

*Death or loss of an equine animal*

9. (1) The keeper of an equine animal shall ensure that if an equine animal dies or is slaughtered the passport and the transponder shall be dealt with in accordance with Article 19 of the Commission Regulation.

(2) The keeper of an equine animal which dies or is lost in circumstances other than those referred to in Article 19(1) to (4) of the Commission Regulation shall, within 30 days of the death or loss of the equine animal, return the passport to the issuing body that issued the passport for the equine animal.

*Database for records of equine animals*

10. An issuing body shall maintain a database in which it shall record details of each equine animal in respect of which it either issues a passport or registers a previously issued passport in accordance with Article 21 of the Commission Regulation.

*Prescription or administration of an animal remedy in specific circumstances*

11. (1) In this Regulation “animal remedy” has the same meaning as it has in Section 1 of the Animal Remedies Act 1993 (No. 23 of 1993).

(2) A person shall not prescribe, administer, or cause to be administered, to an equine animal, an animal remedy—

- (a) which has been authorised in accordance with Regulation 9(12)(b), or
- (b) in accordance with Regulation 18(8),

of the European Communities (Animal Remedies)(No. 2) Regulations 2007 (S.I. 786 of 2007) (“Animal Remedies Regulations 2007”) unless Part II of Section IX of the passport has been completed and signed as required by that Part.

(3) A person who prescribes or administers an animal remedy to an equine animal under the conditions specified in Regulation 18(3)(b) of the Animal Remedies Regulations 2007 shall, at the time of prescription or administration, complete and sign Part III of Section IX of the passport as required by that Part.

*Entering an equine animal in a studbook and sale or supply of registered equidae*

12. (1) An issuing body for registered equidae shall-

- (a) enter and register an equine animal in a studbook in accordance with Commission Decision 96/78/EEC of 10 January 1996,
- (b) issue passports in accordance with these Regulations and the Equine Legislation,
- (c) where appropriate, coordinate with organisations and associations which maintain studbooks for registered equidae, as provided for in Commission Decision 92/354/EEC of 11 June 1992.

(2) A person shall not sell or supply a registered equidae unless, in the case of intra-Community trade or export to a third country, the animal is identified in accordance with these Regulations and the Equine Legislation.

(3) A person shall not sell or supply a registered equidae imported from a third country unless the animal is—

- (a) entered or registered in a studbook kept by an authority mentioned on a list referred to in Article 3(1) of Council Directive 94/28/EC of 23 June 1994,
- (b) is accompanied—
  - (i) by a zootechnical certificate issued in accordance with Commission Decision 96/510/EC of 18 July 1996, or
  - (ii) by evidence that the equine animal is going to be entered or registered in a studbook of another Member State,
- (c) complies with the animal health requirements set out in Chapter III of Council Directive 92/65/EEC of 13 July 1992, and
- (d) is accompanied by an animal health certificate in accordance with Article 16 of Council Directive 2009/156/EC of 30 November 2009, and

- (e) enters the State through a border inspection post listed in the Annex to Commission Decision 2001/881/EC of 7 December 2001<sup>20</sup>.

*Equine semen*

13. (1) A person shall not operate a semen collection centre or semen storage centre unless the semen is—

- (a) collected, processed and stored in a centre, or in the case of semen introduced into the State is from a centre approved by a competent authority of that Member State, that complies with Chapter I of Annex D of Council Directive 92/65/EEC of 13 July 1992,
- (b) collected from an equine animal meeting the conditions laid down in Chapter II of Annex D of Council Directive 92/65/EEC,
- (c) collected, processed, preserved, stored and transported in accordance with Chapter III of Annex D of Council Directive 92/65/EEC, and
- (d) accompanied by a health certificate during transport to another Member State, in accordance with Commission Decision 95/307/EC of 24 July 1995.

(2) A person shall not—

- (a) sell or supply semen from an equine animal, unless it is accompanied by a zootechnical certificate that complies with Articles 1 and 2 of Commission Decision 96/79/EC of 12 January 1996, or
- (b) transport semen from an equine animal, unless the semen is accompanied by a health certificate in accordance with Commission Decision 95/307/EC of 24 July 1995.

(3) A person shall not import semen from an equine animal from a third country, unless it-

- (a) comes from a third country listed in Annex I and II of Commission Decision 2004/211/EC of 6 January 2004,
- (b) satisfies the conditions set out in Article 17(2) of Council Directive 92/65/EEC,
- (c) is accompanied by a certificate set out in the Annex to Commission Decision 96/539/EC of 4 September 1996, and
- (d) is accompanied by a pedigree and zootechnical certificate in accordance with Commission Decision 96/510/EC.

(4) The Minister may prohibit the movement into, within or out of the State of semen from an equine animal if there has been an outbreak, in the country where the semen was collected, processed or stored of—

<sup>20</sup>OJ L326 11.12. 2001 p. 44

- (a) a zoonoses,
- (b) a disease, or
- (c) anything likely to constitute a serious hazard to animals or to human health.

*Equine ova and embryos*

14. (1) A person shall not operate as an ova or embryo collection or production team unless the ova or embryos are—

- (a) removed from donor females in accordance with Chapter IV of Annex D of Council Directive 92/65/EEC of 13 July 1992 by an ova or embryo collection or production team or in the case of ova or embryos imported or introduced into the State a team approved by the competent authority of the country where the collection or production took place,
- (b) collected, processed, washed, preserved, stored and transported in accordance with Chapter III of Annex D of Council Directive 92/65/EEC,
- (c) accompanied, during transport to another Member State by a certificate in accordance with the Annex to Commission Decision 95/294/EC of 24 July 1995,
- (d) accompanied by a certificate in accordance with Article 3 and 4 or 5 and 6 as appropriate of Commission Decision 96/79/EC if offered for sale or supply.

(2) A person shall not—

- (a) transport ova or embryos from an equine animal to another Member State unless it is accompanied by a health certificate in accordance with Commission Decision 95/294/EC of 24 July 1995
- (b) import an equine ova or embryo, from a third country, unless the ova or embryo—
  - (i) comes from a third country listed in Commission Decision 2004/211/EC of 6 January 2004 as amended,
  - (ii) satisfies the conditions set out in Articles 6 and 8 of Commission Decision 2004/211/EC,
  - (iii) comes from an animal which is entered or registered in a stud-book or register kept by an authority shown on one of the lists referred to in Article 3(1) of Council Directive 94/28/EC of 23 June 1994, and

(iv) is accompanied by a certificate in accordance with Annex V or Annex VI to Commission Decision 96/510/EC as appropriate.

(3) Semen used for the insemination of donor females must comply with Regulation 13(1).

*Non-discrimination in competitions for an equine animal*

15. (1) A person organising a competition for equine animals shall, unless an exemption has been granted under Regulation 16, not discriminate between—

- (a) an equine animal originating in the State and an equine animal originating in another Member State, or
- (b) an equine animal entered or registered in a studbook maintained by an issuing body located in the State and an equine animal registered or entered in a studbook maintained by an issuing body located in another Member State.

(2) For the purpose of this Regulation the rules of a competition include the requirements for entry to the competition, the judging of the competition and the prize money or profits which may accrue from the competition.

*Exemption of competitions from Regulation 15*

16. (1) The Minister may grant an exemption from Regulation 15 to a person organising a competition for equine animals if he or she is satisfied that the competition is—

- (a) reserved for equine animals entered or registered in a studbook for the purpose of permitting the improvement of a breed, or
- (b) a regional competition for the purpose of selecting equine animals, or
- (c) a traditional or historic event.

(2) A person seeking an exemption shall apply in writing to the Minister, at least 14 days in advance of the competition. The application shall contain at least the following information—

- (a) the name and address of the applicant,
- (b) details of the competition, and
- (c) the grounds on which the exemption is sought.

(3) The Minister may, upon receipt of an application for an exemption, require such information from the applicant as the Minister considers necessary to decide whether or not to grant the exemption.

(4) A person to whom an exemption is granted under this Regulation shall submit to the Minister—

- (a) the details of the total number of competitions held as defined by Article 2 of Council Directive 90/428/ EEC of 26 June 1990,
  - (b) the number of competitions or events held for which an exemption was granted in accordance with Article 4(2) of Council Directive 90/428/ EEC, and
  - (c) the percentage of prize money reserved in accordance with Article 4(2) of Council Directive 90/428/ EEC.
- (5) A person who is granted an exemption may reserve a maximum of 20% of the prize money or profits for each competition or type of competition for the safeguard, development and improvement of breeding.
- (6) The Minister shall publish, in a manner that he or she considers appropriate, the criteria for the distribution of funds reserved under paragraph (5).
- (7) The Minister may refuse an application or revoke an exemption under paragraph (2) if he or she is not satisfied that the conditions on which the exemption is or would be granted are being or will be met and the Minister shall notify the person who is named on the application in writing of the refusal or revocation.
- (8) The Minister shall not—
- (a) revoke an exemption,
  - (b) refuse to grant an exemption, or
  - (c) attach a condition to an exemption or amend a condition, without—
    - (i) notifying the holder of, or applicant for, the exemption of his or her intention to revoke the exemption or refuse the application, or attach or amend the condition, as the case may be,
    - (ii) specifying his or her reasons for the intended revocation or refusal of the exemption, or the attaching or amendment of the condition, and
    - (iii) affording the holder of or applicant for, the exemption the opportunity of making written representations or having written representations made on his or her behalf to the Minister in relation to the proposed revocation or refusal or to the attachment or amendment of the condition, as the case may be, within 14 days of the date of issue of the notification referred to in sub-subparagraph (i) and having had regard to any such representations.

*List of approvals*

17. (1) The Minister may publish, in a manner that he or she considers appropriate, a list of approvals granted under these Regulations.

(2) If the Minister withdraws an approval or the approval expires by effluxion of time, an entry on the list maintained under paragraph (1) ceases to have effect and the Minister shall, as soon as may be after withdrawing the approval, remove details of the withdrawn approval from the list and update it accordingly.

*Records*

18. Notwithstanding Regulation 10, a person who is required to maintain a record (whether paper, electronic or otherwise) under these Regulations shall maintain the record for a period of at least five years and make it available on request to an authorised officer.

*Appointment of authorised officers*

19. (1) The Minister may, by instrument in writing, appoint such and so many persons as he or she thinks fit to be authorised officers for the purposes of some or all of these Regulations as may be specified in the instrument.

(2) The Minister may terminate the appointment of an authorised officer whether or not the appointment was for a fixed period.

(3) An appointment as an authorised officer ceases—

- (a) if it is terminated pursuant to paragraph (2),
- (b) if it is for a fixed period, on the expiry of that period, or
- (c) if the person appointed is an officer of the Minister, upon the person ceasing to be such an officer.

(4) Nothing in paragraph (3) is to be construed so as to prevent the Minister from reappointing as an authorised officer a person to whom that paragraph relates.

(5) An authorised officer, when exercising any function conferred on him or her by these Regulations, if so requested by any person affected, shall produce evidence in writing of his or her appointment as an authorised officer.

(6) A member of the Garda Síochána, or an officer of Customs and Excise, not in uniform, when exercising any function, shall, if so requested by a person affected, produce evidence in writing that he or she is a member or officer.

*Functions of authorised officer*

20. (1) If an authorised officer has reasonable cause to suspect that—

- (a) an equine animal is present, has been present or may be present on a premises,
- (b) a container, equipment, machinery, plant, vehicle, vessel or other thing used in connection with an equine animal is present, has been present or may be present on a premises,

- (c) a premises is being used, has been used or may be used in connection with the keeping, sale, supply, slaughter, processing of an equine animal or keeping or manufacture of food from an equine animal,
- (d) a premises is being used, has been used or may be used in connection with the sale, supply, storage or manufacture of a transponder or a passport, database, record, other record, relating to an equine animal or used in connection with an equine animal, or
- (e) a transponder or a passport, database, record, other record, relating to an equine animal or used in connection with an equine animal is present, was present or may be present on a premises,

the authorised officer may enter the premises and he or she may—

- (i) search the premises,
- (ii) stop a person, vehicle, vessel,
- (iii) board and search a container, equipment, machinery, plant, vehicle, vessel or container or other thing,
- (iv) examine an equine animal, transponder, passport, database, record, other record, container, equipment, machinery, plant, vehicle, vessel or other thing,
- (v) take, without payment, extracts from, samples from, copies of or photographs of an equine animal, a food, a transponder, passport, database, record, other record, container, equipment, machinery, plant, vehicle, vessel, container or other thing or an article, substance or liquid as he or she may reasonably require and carry out or cause to be carried out on a sample such tests, analyses, examinations or inspections as may be reasonably necessary or expedient,
- (vi) seize and detain (for so long as is necessary) an equine animal, transponder, passport, database, record, other record, including a record in non-legible form, vehicle, vessel, container and anything considered to be evidence of or connected to an offence under these Regulations,
- (vii) require the production of a transponder, passport, database, record, other record, container, equipment, machinery, plant, vehicle, vessel, or other thing,
- (viii) retain a record, equipment or thing (for so long as is necessary),
- (ix) give a direction to, or request information of, a person regarding an equine animal, transponder, passport, database, record, other record, container, equipment, machinery, plant, vehicle, vessel or other thing as he or she considers necessary,

- (x) require the name and address of a person and the name and address of any other relevant person including the person to whom an equine animal, is being delivered or who is causing it to be delivered,
  - (xi) require of a person the ownership, identity and origin of an equine animal, record referred to in subparagraph (xii), container, equipment, machinery, plant, vessel, vehicle or other thing, or
  - (xii) mark or otherwise identify an equine animal, equipment, a record or thing referred to in subparagraph (viii), a food or a specimen taken under subparagraph (v).
- (2) If an authorised officer has reasonable cause to suspect that—
- (a) an offence is being or has been committed under these Regulations or the Equine Legislation,
  - (b) a contravention of an act of the institutions of the European Communities relating to identification of an equine animal is being or has been committed, or
  - (c) evidence of an offence or contravention may be, is or has been on a premises,

the authorised officer may, in addition to the functions exercisable under paragraph (1)—

- (i) search a person, where the authorised officer considers it necessary,
  - (ii) seize and detain, an equine animal, transponder, passport, database, record, other record, container, equipment, machinery, plant, vessel, vehicle, or other thing,
  - (iii) dispose of an equine animal, transponder, passport, container, equipment, machinery, plant, vehicle, vessel, or other thing or
  - (iv) require the owner or person in charge of or in possession of an equine animal, transponder, passport, container, equipment, machinery, plant, vehicle, vessel, or other thing used in connection with, or that may have been in contact with, the equine animal in a manner that the authorised officer sees fit.
- (3) An authorised officer shall not enter, except with the consent of the occupier, a private dwelling, unless he or she has obtained a search warrant under Regulation 21 other than if he or she has reasonable cause to suspect that before a search warrant could be sought in relation to the dwelling anything to which paragraph (1) relates is being or is likely to be destroyed or disposed of.
- (4) An authorised officer may use reasonable force, if necessary, in exercise of his or her functions under this Regulation.

(5) An authorised officer, when exercising a function under this Regulation may be accompanied by other persons and may take with him or her, or those persons may take with them, any equipment or materials to assist the officer in the exercise of the function.

(6) An authorised officer is not liable in any proceedings for anything done in the purported exercise of his or her functions under these Regulations if the court is satisfied that the act was done in good faith and that there were reasonable grounds for doing it.

(7) Without prejudice to the generality of paragraph (1), a direction or requirement of an authorised officer may include conditions prohibiting, restricting or otherwise controlling the use, processing or movement of an equine animal as may be specified by the authorised officer.

(8) Nothing in this Regulation operates to prejudice any function to search, or to seize or detain property, which may, apart from these Regulations, be exercised by a member of Garda Síochána or an officer of Customs and Excise.

(9) If a member of the Garda Síochána has reasonable grounds to suspect that a person has committed an offence under these Regulations, the member may without warrant arrest the person.

#### *Search warrant*

21. (1) If a judge of the District Court is satisfied by information on oath of an authorised officer that there are reasonable grounds for suspecting—

- (a) evidence of or relating to the commission or intended commission of an offence under these Regulations is to be found on a premises,
- (b) there is or was an equine animal or equipment or other thing made, used or adapted for use (including manufacture and transport) in connection with an equine animal, or
- (c) a transponder, passport, database, record, other record related to a thing to which subparagraph (a) or (b) refers is or may be on the premises, the judge may issue a search warrant.

(2) A search warrant under this Regulation shall be expressed and operate to authorise a named authorised officer, accompanied by such authorised officers or other persons as the named authorised officer thinks necessary, at any time, within one month from the date of issue of the warrant, on production if so requested of the warrant, to enter (if necessary by use of reasonable force) the premises, vehicle, vessel, or aircraft named in the warrant.

(3) If a premises is entered pursuant to a warrant issued under this Regulation, an authorised officer so entering may exercise all or any of the functions conferred on an authorised officer under these Regulations.

*Obstruction*

22. A person shall not—

- (a) obstruct or impede an authorised officer in the exercise of his or her functions under Regulation 20 or 21,
- (b) fail, without reasonable cause, to comply with a requirement or direction of an authorised officer under Regulation 20 and 21,
- (c) in making an application for approval under Regulation 4 or in purporting to give information to an authorised officer for the performance of the officer's functions under Regulation 20—
  - (i) make a statement that he or she knows to be false in a material particular or recklessly make a statement which is false in a material particular, or
  - (ii) fail to disclose a material particular,
- (d) tamper or otherwise interfere with a sample taken under Regulation 20, or
- (e) aid or abet a contravention of an act of the institutions of the European Communities or these Regulations.

*Notice*

23. (1) An authorised officer may, by notice in writing require the owner or keeper to identify an equine animal, in accordance with Articles 3, 5, 6, 8, 9, 10, 11, 16 and 17 of the Commission Regulation.

(2) If a person fails to comply with paragraph (1), an authorised officer may, seize, destroy or cause to be destroyed an equine animal.

(3) If an authorised officer destroys or causes to be destroyed an equine animal the costs (including ancillary costs) may be recovered by the Minister—

- (a) by deducting the costs from any moneys due or becoming due to the keeper or owner of the equine animal, or
- (b) as a simple contract debt in a court of competent jurisdiction.

*Forgery*

24. (1) A person shall not include on any application, passport, database or record, a particular which he or she knows to be false or does not know to be true or recklessly include in such application, passport, database or record a particular which is false or which he or she does not know to be true.

(2) A person shall not tamper with, deface or otherwise alter an application, passport, transponder, database, or record and shall not, without lawful authority, have possession or control of, a passport, transponder, database, or record that has been tampered with, defaced or otherwise altered or interfered with.

*Service of a notification or notice*

25. (1) A notification or notice under these Regulations (hereinafter in this Regulation referred to as a “notification”) shall, subject to paragraph (2), be addressed to the person concerned by name, and may be served on or given to the person in one of the following ways—

- (a) by delivering it to the person,
- (b) by leaving it at the address at which the person ordinarily resides or, in a case where an address for service has been furnished, at that address,
- (c) by sending it by post in a prepaid registered letter to the address at which the person ordinarily resides or, in a case where an address for service has been furnished, at that address, or
- (d) where the address at which the person ordinarily resides cannot be ascertained by reasonable enquiry and the notification relates to a premises, by delivering it to some person over 16 years of age resident or employed on the premises or by affixing it in a conspicuous position on or near the premises.

(2) Where a notification is to be served on or given to a person who is the owner or occupier of a premises and the name of the person cannot be ascertained by reasonable enquiry, it may be addressed to the person by using the words the owner or, as the case may require, the occupier.

(3) A person, other than the person to whom the notification refers, shall not at any time within 6 months after a notification or notice under paragraph (1)(d) remove, damage or deface the notice without lawful authority.

(4) For the purposes of this Regulation, a company within the meaning of the Companies Acts, is deemed to be ordinarily resident at its registered office, and every other body corporate and every unincorporated body is deemed to be ordinarily resident at its principal office or place of business.

*Fees*

26. (1) The Minister may determine a fee in respect of an application for approval under Regulation 4, such fee, not exceeding the cost, estimated by the Minister, of providing the service to which the fee relates and different fees may be charged for different approvals.

(2) Where the Minister charges a fee in relation to paragraph (1), the application will not be considered nor the matter dealt with unless the fee has been paid.

(3) A fee payable pursuant to this Regulation shall be disposed of for the benefit of the Exchequer in such manner as the Minister for Finance may direct.

*Offences and penalties*

27. (1) A person who—

- (a) contravenes, or causes or permits a contravention of Regulation 3(1), 4(1), 5, 6(2), (3) and (4), 9, 10, 11(2), 12, 13, 14, 15, 16, 18 and 24 of these Regulations or the Equine Legislation,
- (b) obstructs or impedes an authorised officer in the exercise of his or her powers under Regulation 20,
- (c) fails, without reasonable cause, to comply with a requirement or direction of an authorised officer under Regulation 20, or
- (d) in purporting to give information to an authorised officer for the performance of the officer's powers under Regulation 20—
  - (i) makes a statement that he or she knows to be false in a material particular or recklessly makes a statement which is false in a material particular, or
  - (ii) fails to disclose a material particular, commits an offence and is liable on summary conviction to a Class A fine.

(2) If an offence under these Regulations is committed by a body corporate and is proven to have been so committed with the consent, connivance or approval of or to have been attributable to wilful neglect on the part of any person who, when the offence was committed, was a director, manager, secretary or other officer of the body corporate, or a person purporting to act in any such capacity, that person, as well as the body corporate, commits an offence and is liable to be proceeded against and punished as if he or she is guilty of the offence.

(3) If the affairs of a body corporate or unincorporated body are managed by its members, paragraph (2) applies in relation to the acts and defaults of a member in connection with the functions of management as if the member were a director or manager of the body corporate.

(4) An offence under these Regulations may be prosecuted by the Minister.

*Evidence*

28. (1) In proceedings for an offence under these Regulations, a certificate purported to be signed by a person employed at a laboratory where a sample taken under these Regulations is analysed stating the capacity in which the person is employed and stating—

- (a) that the person received a sample,
- (b) that, for the period specified in the certificate, the person had the sample in his or her possession,

- (c) that the person gave the sample to another person named in the certificate, or
  - (d) the person carried out a procedure for the purpose of detecting in the sample, a substance or contamination or that the sample contained a substance as is, or was contaminated in a manner, specified in the certificate, is (without proof of the signature of the person or that he or she is employed at the laboratory), unless the contrary is proved, evidence of the matters stated in the certificate.
- (2) A certificate purporting to be signed by an officer of the Minister and to certify that on a specific day or days or during the whole of a specified period—
- (a) a particular transponder was not an approved transponder,
  - (b) a passport was not issued or completed in compliance with these Regulations,
  - (c) a database was not maintained in a manner specified by the Minister, or
  - (d) a notification was or was not issued in compliance with these Regulations, is (without proof of the signature of the person purporting to sign the certificate or that he or she is an officer of the registering authority) evidence, unless the contrary is shown, of the matters stated in the certificate.
- (3) In proceedings for an offence under these Regulations the court may, if matters stated in a certificate under paragraph (1) or (2) be given, and may for the purpose of receiving oral evidence adjourn the matter.
- (4) In proceedings for an offence, evidence of an act of the institutions of the European Communities may be given by production of a copy of the act certified by an officer of the Minister to be a copy of the act, and it is not necessary to prove the signature of the officer or that he or she is an officer of the Minister.
- (5) Paragraph (4) is in addition to and not in substitution for the European Communities (Judicial Notice and Documentary Evidence) Regulations 1972 (S.I. No. 341 of 1972).

*Fixed payment notice*

29. (1) If the Minister has reasonable grounds for believing that a person has committed an offence under these Regulations and is liable to summary prosecution in respect thereof, the Minister may give to the person a notice in writing (in this Regulation referred to as a “fixed payment notice”) stating that—

- (a) the person is alleged to have committed that offence,
- (b) the person may during the period of 28 days beginning on the date of the notice make to the Minister concerned at the address specified in

the notice a payment of €200 accompanied by the notice or a copy thereof,

- (c) the person is not obliged to make the payment specified in the notice, and
- (d) a prosecution of the person to whom the notice is given in respect of the alleged offence will not be instituted during the period of 28 days beginning on the date of the notice and, if the payment specified in the notice is made during that period, no prosecution in respect of the alleged offence will be instituted.

(2) Where a fixed payment notice is given under paragraph (1)—

- (a) the person to whom it applies may, during the period of 28 days beginning on the date of the notice, make to the Minister concerned at the address specified in the notice the payment of €200 accompanied by the notice, or a copy thereof,
- (b) the Minister shall, upon receipt of the payment, issue a receipt for it and any payment so received shall not be recoverable by the person who made it, and
- (c) a prosecution in respect of the alleged offence shall not be instituted in the period specified in the notice, and if the payment so specified is made during that period, no prosecution in respect of the alleged offence shall be instituted.

(3) In summary proceedings for an offence under these Regulations it shall be a defence for the defendant to prove that he or she has made a payment, in accordance with this Regulation, pursuant to a fixed payment notice issued in respect of that offence.

(4) Moneys received pursuant to the giving of a fixed payment notice shall be disposed of in a manner determined by the Minister, with the prior consent of the Minister for Finance.

*Revocations and application*

30. (1) The European Communities (Equine Stud-Book and Competition) Regulations 2004 (S.I. No. 399 of 2004) and European Communities (Equine Stud-Book and Competition) Amendment Regulations 2007 (S.I. No. 530 of 2007) are revoked.

(2) The European Communities (Trade in Animals and Animal Semen, Ova and Embryos) Regulations 1996 are disapplied insofar as they relate to equine semen, ova and embryos.



GIVEN under my Official Seal,  
5 July 2011.

SIMON COVENEY,  
Minister for Agriculture, Fisheries and Food.

## EXPLANATORY NOTE.

*(This note is not part of the instrument and does not purport to be a legal interpretation)*

These Regulations transpose into national law, European legislation governing equine identification; equine passports; movement, transport and trade of equines and/or their genetic material; approval of equine passport issuing bodies/studbooks; entry of equine animals into studbooks; equine competitions; equine semen collection centres; equine ova and embryo collection and production teams; equine semen, ova and embryos; and the prescription or administration of animal remedies to equines.

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Le ceannach díreach ón  
OIFIG DHÍOLTA FOILSEACHÁN RIALTAIS,  
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