

**2010 No. 40**

**EUROPEAN COMMUNITIES**

**ANIMALS**

**The Horse Passports Regulations (Northern Ireland) 2010**

*Made* - - - - - *19th February 2010*

*Coming into operation* - - - - - *31st March 2010*

The Department of Agriculture and Rural Development(a) is designated(b) for the purposes of section 2(2) of the European Communities Act 1972(c), in relation to the common agricultural policy of the European Community. The Department makes the following Regulations in exercise of the powers conferred by that section.

**PART 1**

**Introduction**

**Citation and commencement**

1. These Regulations may be cited as The Horse Passports Regulations (Northern Ireland) 2010 and shall come into operation on 31<sup>st</sup> March 2010.

**Interpretation**

2.—(1) The Interpretation Act (Northern Ireland) 1954 shall apply to these Regulations as it applies to an Act of the Assembly.

(2) In these Regulations — “Commission Regulation (EC) No. 504/2008” means Commission Regulation (EC) No. 504/2008 (implementing Council Directives 90/426/EEC and 90/427/EEC as regards methods for the identification of Equidae)(d).

“the Department” means the Department of Agriculture and Rural Development.

“horse” means wild or domesticated solipeds within the genus *Equus* of the family Equidae, and their crosses.

“passport” means the identification document for the identification of a horse in accordance with Commission Regulation (EC) No. 504/2008.

“passport issuing organisation” means an issuing body in accordance with Commission Regulation (EC) No. 504/2008.

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(a) Formerly the Department of Agriculture for Northern Ireland, *see* Article 3(4) of S.I. 1999/283 (N. I. 1)

(b) S.I. 2000/2812

(c) 1972 c. 68

(d) OJ No. L149, 7.6.2008, p.3

“veterinary surgeon” means a person registered under The Veterinary Surgeons Act 1966.

(3) Any reference in these Regulations to an Article is a reference to an Article of Commission Regulation (EC) No. 504/2008.

(4) Expressions used both in these Regulations and in Commission Regulation (EC) No. 504/2008 shall have the same meaning in these Regulations as they have in Commission Regulation (EC) No. 504/2008.

## PART 2

### Enforcement of Commission Regulation (EC) No. 504/2008

#### **Competent Authority for Commission Regulation (EC) No. 504/2008**

3. The Department is the competent authority for the purposes of Commission Regulation (EC) No. 504/2008 and acts as the Member State for the purposes of that Regulation.

#### **Sale of horses**

4.—(1) An owner who sells a horse must give its passport to the buyer at the time of the sale.

(2) The buyer must return the passport to the passport issuing organisation together with the buyer’s name and address, within 30 days of the sale.

(3) In this regulation “sell” includes any transfer of ownership.

(4) Failure to comply with this regulation is an offence.

#### **Passports**

5.—(1) The owner of a horse and, if different, the keeper who has primary responsibility for it who does not comply with Article 3(1) is guilty of an offence.

(2) In accordance with Article 5(5) it is the responsibility of the owner of a horse to apply for a passport within the time limits set out in Article 5, and failure to do so is an offence.

(3) If an application for a passport is received outside the time limits, the passport issuing organisation must stamp the passport that the horse is not intended for slaughter for human consumption.

#### **Duplicate and replacement passports**

6. Any person who knowingly provides information which is false or misleading for the purposes of obtaining a duplicate or replacement passport is guilty of an offence.

#### **Importation**

7. The owner of a horse who—

(a) fails to comply with Article 8(1) (identification of imported horses), or

(b) fails to request a passport issuing organisation within 30 days of the date of importation to act in accordance with Article 8(2) (provision of additional information),

is guilty of an offence.

#### **Transponders**

8.—(1) A passport issuing organisation that fails to comply with Article 11(1) (implantation of a transponder) is guilty of an offence.

(2) The minimum qualification for the purposes of Article 11 (implantation of a transponder) is membership of the Royal College of Veterinary Surgeons.

#### **Detecting previous active marking of horses**

9. A veterinary surgeon who is implanting a transponder into a horse and who fails to carry out the procedures set out in Article 10(1) (measures to detect previous active marking) is guilty of an offence.

#### **Accompanying documentation**

10.—(1) The owner of a horse or, if different, the keeper who has primary responsibility for it who does not comply with—

- (a) Article 13(1) (movement and transport),
- (b) Article 14(1) (smart cards), or
- (c) Article 14 (3) (temporary documents),

is guilty of an offence.

(2) A smart card must be in a format which complies with Annex II of Commission Regulation (EC) No. 504/2008 and which is approved by the Department.

#### **Movement to slaughter**

11. The owner, or if different, the keeper who has primary responsibility for a horse, who does not comply with Article 15(1) (movement to slaughter) is guilty of an offence.

#### **Issue of duplicate and replacement passports**

12.—(1) A passport issuing organisation that fails to mark a passport as a duplicate, or classify the horse as being not intended for slaughter for human consumption, in accordance with Article 16(1) is guilty of an offence.

(2) The derogation in Article 16(2) may not be exercised.

(3) A passport issuing organisation that issues a replacement passport other than in accordance with Article 17 (issuing replacement documents) is guilty of an offence.

#### **Procedure on death**

13.—(1) When a horse is killed for disease control purposes, in accordance with Article 19(2)(a)(i) the owner or keeper who has primary responsibility for it must return the passport to the passport issuing organisation as soon as is reasonably practicable and inform the Department's veterinary surgeon that he or she has done so.

(2) When a horse is slaughtered for human consumption, in accordance with Article 19(2)(a)(ii)—

- (a) the official veterinarian must record the identification number of the horse and mark the passport accordingly, and
- (b) the food business operator must return the marked passport to the passport issuing organisation as soon as is reasonably practicable and inform the Department's veterinary surgeon that he or she has done so.

(3) In any other case, notwithstanding Article 19(2)(b), the owner or keeper must return the passport to the passport issuing organisation within 30 days of the death of the horse.

(4) The return of the passport under this regulation is the attestation required under Article 19(1)(c).

(5) Failure to comply with paragraph (1), 2(b) or (3) is an offence.

### **Procedure by the passport issuing organisation on death**

14. When a passport issuing organisation is notified of the death of a horse and it receives the passport pursuant to regulation 13, it must invalidate the passport and ensure that the transponder number cannot be re-used, in accordance with Article 19(1)(a) and (b), but it may return the invalidated passport to the owner.

### **Permitted treatment for horses intended for human consumption**

15.—(1) —A veterinary surgeon who fails to comply with Article 20 of Commission Regulation (EC) No. 504/2008 is guilty of an offence

(2) A veterinary surgeon who fails to enter into a passport the details required in Section V, VI, VII or IX of the passport is guilty of an offence

### **Databases**

16.—(1) A passport issuing organisation that fails to comply with Article 21 (records on a database) is guilty of an offence.

(2) For the purposes of Article 21 (3), the communication of the information to the central database must be made in accordance with a written notice served on the passport issuing organisation by the Department.

### **Prohibitions**

17. It is an offence to—

- (a) destroy or deface a passport;
- (b) alter any entry in a passport;
- (c) make a forged passport;
- (d) be knowingly in possession of a forged passport.

## **PART 3**

### **Enforcement**

#### **Powers of entry**

18.—(1) An authorised officer may, on producing a duly authenticated authorisation document, at all reasonable hours, enter any premises (excluding any premises not containing any horse and used only as a dwelling) for the purpose of administering and enforcing these Regulations; and in this regulation “premises” includes any vehicle or container.

(2) An authorised officer may—

- (a) require the production of a passport and mark it as necessary;
- (b) carry out any inquiries;
- (c) have access to, and inspect and copy any records (in whatever form they are held) relevant to these Regulations;
- (d) remove such records to enable them to be copied;
- (e) have access to, inspect and check the operation of any computer and any associated apparatus or material that is or has been in use in connection with the records, and for this purpose may require any person having charge of, or otherwise concerned with the operation of the computer, apparatus or material to afford the authorised officer such assistance as may reasonably be required and, where records are kept by means of computer, may require the records to be produced in a form in which they may be taken away;

- (f) where an authorised officer has entered any premises and it is not reasonably practicable to determine whether documents on those premises are relevant to these Regulations, the authorised officer may seize them to ascertain whether or not they are relevant;
- (g) mark any horse or other thing for identification purposes; and
- (h) be accompanied by—
  - (i) such other persons as the authorised officer considers necessary; and
  - (ii) any representative of the European Commission acting for the purpose of the enforcement of a Community obligation.

(3) It is an offence to deface, obliterate or remove any mark applied under paragraph (2) except under the written authority of an authorised officer.

(4) In this regulation “authorised officer” means any person authorised by the Department to enforce these Regulations.

### **Obstruction**

19. It is an offence to—

- (a) intentionally obstruct any person acting under these Regulations;
- (b) without reasonable cause fail to give to any person acting under these Regulations any assistance or information that person may reasonably require under these Regulations;
- (c) furnish to any person acting under these Regulations any information knowing it to be false or misleading; or
- (d) fail to produce a record or passport when required to do so to any person acting under these Regulations.

### **Penalties**

20. A person guilty of an offence under these Regulations is liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum; or
- (b) on conviction on indictment, to a fine

### **Offences by bodies corporate**

21. For the purposes of these Regulations, section 20(2) of the Interpretation Act (Northern Ireland) 1954 applies with the omission of the words “the liability of whose members is limited” and where the affairs of a body corporate are managed by its members, applies in relation to the acts or defaults of a member in connection with the member’s functions of management as if the member were a director of the body corporate.

### **Offences by partnerships and unincorporated associations**

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

(2) For the purposes of such proceedings—

- (a) Rules of court relating to the service of documents are to have effect as if the partnership or association were a body corporate;

(b) Section 18 of the Criminal Justice Act (Northern Ireland) 1945(a) and Article 166 of and Schedule 4 to the Magistrates' Courts (Northern Ireland) Order 1981(b) apply in relation to the partnership or association as they apply in relation to a body corporate.

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

(4) Where an offence under these Regulations committed by a partnership is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a partner, that partner (as well as the partnership) is guilty of the offence and is liable to be proceeded against and punished accordingly.

For these purposes, "partner" includes a person purporting to act as a partner.

(5) Where an offence under these Regulations committed by an unincorporated association is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, an officer of the association, that officer (as well as the association) is guilty of the offence and is liable to be proceeded against and punished accordingly.

For these purposes, "officer" means an officer of the association or a member of its governing body, or a person purporting to act in such capacity.

### **Revocations**

23. The Horse Passports Regulations (Northern Ireland) 2004(c) are revoked.

Sealed with the Official Seal of the Department of Agriculture and Rural Development on 19<sup>th</sup> February 2010.

L.S.

*John Speers*

A senior officer of the Department of Agriculture and Rural Development

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(a) 1945 c. 15. Sub-sections (1) and (2) were repealed by 1964 c.21 (NI). Sub-section (3) was amended by Article 10 of 1972 NI 1 and by section 85 and paragraph 1 of Schedule 12 to 2002 c.26.

(b) 1981 No. 1675 N.I. 26.

(c) S.R. 2004/497.

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations enforce Commission Regulation (EC) No. 504/2008 in Northern Ireland. They provide for identification of horses, and replace the Horse Passports Regulations (Northern Ireland) 2004.

Part 2 of the Regulations create offences for breach of provisions of the Commission Regulation.

Part 3 provides that the Regulations are enforced by the Department of Agriculture and Rural Development for Northern Ireland, and gives powers to inspectors of that authority.

Breach of the Regulations is an offence punishable—

- (a) On summary conviction, to a fine not exceeding the statutory maximum or
- (b) On conviction on indictment, to a fine.

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