

2018 No. 761

ANIMALS, ENGLAND

The Equine Identification (England) Regulations 2018

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The Secretary of State is a Minister designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b) (“the 1972 Act”) in relation to the common agricultural policy.

The Secretary of State makes these Regulations in exercise of the powers conferred by section 2(2) of the 1972 Act, as read with paragraph 1A of Schedule 2 to that Act(c).

These Regulations make provision for a purpose mentioned in section 2(2) of the 1972 Act and it appears expedient to the Secretary of State for certain references to provisions of European Union instruments to be construed as references to those provisions as amended from time to time.

PART 1

Introductory

Citation, commencement and application

1.—(1) These Regulations may be cited as the Equine Identification (England) Regulations 2018 and, except for regulation 13(2)(c), come into force on 1st October 2018.

(2) Regulation 13(2)(c) comes into force on 1st October 2020.

(3) These Regulations apply in England only.

Interpretation

2. In these Regulations—

“Article” means an Article of the EU Regulation;

“compliance notice” has the meaning given in regulation 39;

“designated area” means an area described as such in regulation 17;

“enforcement costs” means the costs which a person is required to pay under an enforcement costs recovery notice;

“enforcement costs recovery notice” has the meaning given in regulation 42;

“enforcing authority” means a local authority falling within regulation 33;

“equine” means a wild, semi-wild or domesticated soliped within the genus *Equus* of the family Equidae and their crosses;

“EU Regulation” means Commission Implementing Regulation (EU) 2015/262 of 17 February 2015(d) laying down rules pursuant to Council Directives 90/427/EEC(e) and 2009/156/EC(f) as regards the methods for the identification of equidae, as amended from time to time;

“fixed monetary penalty” has the meaning given in regulation 41;

(a) S.I. 1972/1811.

(b) 1972 c.68. Section 2(2) was amended by section 27 of the Legislative and Regulatory Reform Act 2006 (c.51) and by section 3 of, and the Schedule to, the European Union (Amendment) Act 2008 (c.7).

(c) Paragraph 1A of Schedule 2 to the European Communities Act 1972 was inserted by section 28 of the Legislative and Regulatory Reform Act 2006. It was amended by section 3 of, and the Schedule to, the European Union (Amendment) Act 2008 and by S.I. 2007/1388.

(d) OJ No. L 59, 3.3.2015, p.1.

(e) OJ No. L 224, 18.8.1990, p.55. The directive was amended by Council Directive 2008/73/EC of 15 July 2008 (OJ No. L 219, 14.8.2008, p.40).

(f) OJ No. L 192, 23.7.2010, p.1. The directive was amended by Council Directive 2013/20/EU of 13 May 2013 (OJ No. L 158, 10.6.2013, p.234) and by Commission Implementing Decision (EU) 2016/1840 of 14 October 2016 (OJ No. L 280, 18.10.2016, p.33).

“fixed monetary penalty notice” has the meaning given in regulation 41;

“ID” means the identification document for the identification of an equine in accordance with the EU Regulation and these Regulations;

“inspector” means a person appointed as such under regulation 34 or under the Animal Health Act 1981(a);

“issuing body” means a person approved, authorised or designated by the Secretary of State, in accordance with Article 5, to issue an equine ID;

“keeper” has the meaning given in Article 2;

“non-compliance penalty” has the meaning given in regulation 40;

“non-compliance penalty notice” has the meaning given in regulation 40;

“offender” has the meaning given in regulation 37(1);

“owner” has the meaning given in Article 2;

“responsible person” means—

- (a) the owner; or
- (b) if the owner does not have primary day-to-day responsibility for the equine concerned, the keeper;

“transponder” has the meaning given in Article 2;

“wild or semi-wild equine” means an equine falling within regulation 17(1);

“within 24 hours” means before the end of the period of 24 hours beginning with the time at which—

- (c) for the purposes of regulation 15(1)(a), the information is created or amended;
- (d) for the purposes of regulation 15(1)(b), the issuing body receives the Secretary of State’s request; or
- (e) for the purposes of regulation 18, the wild or semi-wild equine enters onto the holding area,

but not including any time that is not part of a working day; and for this purpose “working day” means a day other than a Saturday, a Sunday, Christmas Day, Good Friday or a day which is a bank holiday within the meaning of the Banking and Financial Dealings Act 1971(b).

PART 2

Administrative and procedural provisions and requirements

Competent authority and zootechnical authority for the purposes of the EU Regulation

3. The Secretary of State is the competent authority and the zootechnical authority for the purposes of the EU Regulation and acts as the member State for the purposes of that Regulation.

Transfer of ownership of equines

4.—(1) A person who transfers the ownership of an equine to another person (the “transferee”) must provide that equine’s ID to the transferee at the time of the transfer.

(2) Before the end of the period of 30 days beginning with the day on which the transfer took effect, the transferee must—

- (a) notify the issuing body of—

(a) 1981 c.22.
(b) 1971 c.80.

- (i) the transfer of ownership; and
 - (ii) the transferee's name, address and contact details; and
- (b) send the ID for the equine concerned to the issuing body.

Identification of equines

5. A person must not keep an equine unless it is identified in accordance with the EU Regulation and these Regulations.

Applications for IDs

6.—(1) For the purposes of Articles 3(3) and 11(2), the owner of an equine born in the EU and located on a holding in England must ensure that an application for an ID for that equine is received by an issuing body on or before the date set out in paragraph (2).

(2) The date is the later of—

- (a) the last day of the period of 6 months beginning with the day on which the equine was born; or
- (b) 30th November in the year in which the equine is born.

Completion of existing IDs for equines imported into the EU

7. The keeper must provide to the issuing body all information necessary to allow the body to complete an existing ID for the purposes of Article 15(2), subject to Article 15(3), so that it complies with the requirements of Article 7(2).

Modification of identity details in equine IDs

8. If the owner believes that any identity details contained in the equine's ID require modification or updating, whether pursuant to Article 27(1) or otherwise, the owner must ask the issuing body to modify or update the ID.

Format and content of equine IDs

9.—(1) An issuing body—

- (a) must ensure that any stock of pre-printed blank IDs ("pre-printed blank stock") which it holds or maintains;
- (b) must ensure that any ID which it issues from such pre-printed blank stock; and
- (c) may ensure that ID which it issues otherwise than from pre-printed blank stock,

complies with paragraph (2).

(2) For the purpose of paragraph (1), the ID or the pre-printed blank stock must, as a minimum, contain a serial number that is printed on each of the pages which form sections I to III of the ID (as set out in Annex I to the EU Regulation).

(3) An issuing body must ensure that all IDs and pre-printed blank stock are securely managed on its premises.

(4) If an ID or any pre-printed blank stock is lost, missing or stolen, the issuing body concerned must—

- (a) notify the Secretary of State as soon as possible of the loss, misplacement or theft; and
- (b) with the notification mentioned in sub-paragraph (a), inform the Secretary of State of—
 - (i) the circumstances of the loss, misplacement or theft; and
 - (ii) the serial numbers for the ID or the pre-printed blank stock concerned.

(5) For the purposes of Article 9(1)(c), as read with, and subject to, Article 10(3), the issuing body concerned must ensure that section IV (details of ownership) of an ID is completed before the ID is issued under Article 9.

Verification of equine IDs

10. Upon request from the Secretary of State, an issuing body must verify whether an equine ID that has been, or which appears to have been, issued by it is unique, genuine and authentic.

Requirement to provide ID to a veterinary surgeon treating an equine

11.—(1) This regulation applies if a veterinary surgeon is treating an equine.

(2) Upon reasonable request from the veterinary surgeon, the responsible person must provide the equine's ID to the veterinary surgeon without delay.

Slaughter or death of an equine

12.—(1) Where, in accordance with Article 34(1)(c)(ii), an official veterinarian, or a person acting under the supervision of an official veterinarian, is required to return an invalidated ID to the issuing body, the official veterinarian, or the person acting under his or her supervision, must return that ID to the issuing body as soon as is reasonably practicable.

(2) In this regulation, “official veterinarian” has the meaning given in Article 2.

Transponders

13.—(1) For the purposes of Article 18(3), a person may only implant, or knowingly participate in the implantation of, a transponder into an equine if the person possesses the minimum qualification, and for this purpose the “minimum qualification” is that the person concerned is a current and registered member of the Royal College of Veterinary Surgeons.

(2) For the purposes of Article 18(5), the responsible person must arrange for a veterinary surgeon to implant a transponder into an equine that is deemed to be identified in accordance with Articles 4(2) or 43(1) if—

- (a) a previously implanted and recorded transponder ceases to function;
- (b) the equine arrives in England having been subject to an alternative method of identity verification authorised by another member State under Article 21; or
- (c) the equine—
 - (i) does not fall within sub-paragraphs (a) or (b);
 - (ii) has not already had a transponder implanted in compliance with the requirements or specifications as to transponders set out in the EU Regulation or Commission Regulation (EC) No 504/2008(a) of 6 June 2008 implementing Council Directives 90/426/EEC(b) and 90/427/EEC as regards methods for the identification of equidae; and
 - (iii) was born on or before 30th June 2009.

(3) A veterinary surgeon who implants a transponder into an equine must ensure that the transponder displays a code that is unique to the transponder.

(a) OJ No. L 149, 7.6.2008, p. 3.

(b) OJ No. L 224, 18.8.1990, p.42. The directive was repealed by Council Directive 2009/156/EC of 30 November 2009.

Smart cards

14.—(1) An equine in respect of which an ID has been issued may be moved or transported by the responsible person into, or within, England without being accompanied by its ID if it is accompanied by a smart card issued in accordance with Article 25.

(2) The Secretary of State may issue guidance about the format of smart cards.

(3) In this regulation, “smart card” has the meaning given in Article 2.

Provision of information by issuing body to Secretary of State

15.—(1) An issuing body must provide the following information to the Secretary of State—

(a) within 24 hours of the information being created or amended by the body—

(i) the identification details described in Article 27(1);

(ii) the information recorded in the issuing body’s database under Article 38(1);

(b) within 24 hours of a request from the Secretary of State, such other information (not falling within sub-paragraph (a)) as the Secretary of State may reasonably request in relation to the issuing of any ID by the issuing body or the carrying out by the issuing body of its functions under these Regulations or the EU Regulation.

(2) Following a request in writing from an issuing body, the Secretary of State may extend the time within which the issuing body is to provide the information under paragraph (1) to the Secretary of State.

(3) Any extension of time under paragraph (2) must be notified to the issuing body in writing.

Databases

16.—(1) For the purposes of Article 40(1), an issuing body must incorporate the information falling within Articles 28(e) and 38(1) into the central database.

(2) The Secretary of State may issue guidance to issuing bodies about the central database and how to enter information into it.

(3) The Secretary of State may share any data or information held or stored in, or which is to be held or stored in, the central database with the Scottish Ministers, the Welsh Ministers and, in Northern Ireland, the Department of Agriculture, Environment and Rural Affairs.

(4) In this regulation, “central database” means the database established by the Secretary of State in accordance with Article 39.

PART 3

Wild and semi-wild equines

Exceptions in respect of certain wild or semi-wild equines

17.—(1) The derogation in Article 13 applies in relation to equines that are—

(a) identified in the lists kept by the Dartmoor Commoners’ Council(**a**);

(b) entered in the stud book kept by the Exmoor Pony Society(**b**);

(c) identified in the lists kept by the Verderers of the New Forest(**a**) or entered in the stud book kept by the New Forest Pony Breeding and Cattle Society(**b**); or

(a) The Dartmoor Commoners’ Council, 1 Canal Road, Tavistock, Devon PL19 8AR (tel: 01822 618892; email: office@dartmoorcommoners.org.uk).

(b) The Exmoor Pony Society, Woodmans, Brithem Bottom, Cullompton, Devon EX15 1NB (tel: 01884 839930; email: secretary@exmoorponysociety.org.uk).

(d) identified in the lists kept by the National Trust(c) as Konik equines located at Wicken Fen(d).

(2) For the purposes of Article 13, Dartmoor, Exmoor the New Forest and Wicken Fen are designated as areas (“designated areas”) containing defined populations of equines living under wild or semi-wild conditions that do not need to be identified with IDs while they remain within the designated area.

(3) Upon request from the Secretary of State, a body which keeps a list or a stud book described in paragraph (1) must, within 14 days of the date of the request, provide to the Secretary of State a copy of that list or stud book.

(4) For the purposes of this Part, a designated area is an area marked as such in a map deposited and available for inspection at the Department for Environment, Food and Rural Affairs(e).

Holding wild or semi-wild equines

18. The responsible person may hold or pen a wild or semi-wild equine on an area (“holding area”) dedicated for that purpose, within a designated area, whilst awaiting the issue of an ID for the equine if the application for the ID has been submitted within 24 hours of the equine’s entry onto the holding area.

Requirement for ID and transponder for wild or semi-wild equines treated with veterinary medicinal products

19. If a wild or semi-wild equine without an ID in a designated area is treated with any veterinary medicinal product, the responsible person must ensure that the equine has an ID and is implanted with a transponder—

- (a) in accordance with the EU Regulation; and
- (b) within 30 days of the treatment.

Wild and semi-wild equines: requirement for ID for movement from designated area

20. Subject to regulation 21, the responsible person may not move a wild or semi-wild equine without an ID out of a designated area.

Exception to requirement for ID: wild or semi-wild equines aged under 12 months moved for slaughter

21.—(1) The responsible person may move a wild or semi-wild equine out of a designated area without an ID if—

- (a) the equine is being moved out of the designated area temporarily and for welfare reasons; or
- (b) the equine—
 - (i) is aged under 12 months;
 - (ii) is being moved directly from the designated area in which it was born to a place for slaughter (whether or not for the purpose of human consumption);

(a) The Verderers of the New Forest, The Queen’s House, Lyndhurst, Hampshire SO43 7NH (tel: 023 8028 2052; email: enquiries@verderers.org.uk).

(b) The New Forest Pony Breeding and Cattle Society, Deepslade House, Ringwood Road, Bransgore, Hampshire BH23 8AA (tel: 01425 672775; email: info@newforestpony.com).

(c) The National Trust, PO Box 574, Manvers, Rotherham, South Yorkshire S63 3FH (tel: 0344 800 1895; email: enquiries@nationaltrust.org.uk).

(d) A copy of the lists and stud books of wild or semi-wild equines referred to in this paragraph can be inspected by contacting the Equine ID Team, Animal Public Health and Traceability Division, Department for Environment, Food and Rural Affairs, Nobel House, 17 Smith Square, London SW1P 3JR (tel: 0208 026 2729).

(e) See footnote immediately above for relevant contact details.

- (iii) has not previously been treated with any veterinary medicinal product; and
- (iv) has a sticker issued by an issuing body attached to it before it leaves the designated area, and the sticker must be marked with a unique identification number and the date on which it was attached to the equine.

(2) The responsible person must ensure that an equine falling within paragraph (1)(b) is slaughtered within 7 days of the date shown on the sticker.

Requirements for wild or semi-wild equines aged 12 months or over moved for slaughter

22.—(1) This regulation applies to a wild or semi-wild equine that is—

- (a) aged 12 months or over; and
- (b) being moved from a designated area to a place for slaughter (whether or not for the purpose of human consumption).

(2) The responsible person must ensure that the equine has (in addition to an ID) a sticker issued by an issuing body attached to it before it leaves the designated area, and the sticker must be marked with a unique identification number and the date on which it was attached to the equine.

(3) The responsible person must ensure that an equine falling within paragraph (1) is slaughtered within 7 days of the date shown on the sticker.

Requirements for wild or semi-wild equines moved other than for slaughter

23.—(1) This regulation applies to a wild or semi-wild equine that is—

- (a) of any age; and
- (b) being moved from a designated area to another place (the “holding destination”) for a purpose other than for slaughter.

(2) The responsible person must ensure that the equine has (in addition to an ID) a sticker issued by an issuing body attached to it before it leaves the designated area, and the sticker must be marked with a unique identification number and the date on which it was attached to the equine.

(3) The responsible person must ensure that an equine falling within paragraph (1) reaches its holding destination within 7 days of the date shown on the sticker.

(4) The responsible person must ensure that a transponder is inserted into the equine before the expiry of the period of 30 days beginning with the day on which the equine arrives at the holding destination.

(5) Unless temporarily or for welfare reasons, the responsible person must ensure that the equine is not moved out of the holding destination until the transponder has been inserted.

PART 4

Criminal offences

General

24.—(1) An owner is guilty of an offence if the owner breaches a prohibition, or fails to comply with a requirement, which applies to an owner (including an owner as a responsible person) in Parts 2 and 3 or in the EU Regulation.

(2) A keeper is guilty of an offence if the keeper breaches a prohibition, or fails to comply with a requirement, which applies to a keeper (including a keeper as a responsible person) in Parts 2 and 3 or in the EU Regulation.

(3) An issuing body is guilty of an offence if the issuing body breaches a prohibition, or fails to comply with a requirement, which applies to an issuing body in Parts 2 and 3 or in the EU Regulation.

(4) It is not an offence to fail to provide a copy of a list or a stud book under regulation 17(3).

(5) Subject to paragraph (6), a veterinary surgeon is guilty of an offence if the veterinary surgeon breaches a prohibition, or fails to comply with a requirement, which applies to a veterinary surgeon in Parts 2 and 3 or in the EU Regulation.

(6) A veterinary surgeon is not guilty of any offence for failing to enter information into, or failing to update, an ID if the veterinary surgeon has asked the responsible person for the ID for that purpose and the responsible person does not provide, or has not provided, the ID to the veterinary surgeon.

Withholding ID from the responsible person

25. A person is guilty of an offence if the person, without reasonable excuse, withholds an equine's ID from the responsible person.

Provision of false or misleading information

26. A person is guilty of an offence if the person makes a statement or provides information that is false or misleading—

- (a) when applying for an ID to be issued or varied;
- (b) in relation to the entering of information into an ID or the registration of an ID; or
- (c) to any person acting in relation to the enforcement of these Regulations or the EU Regulation.

Possession of a forged ID

27.—(1) A person is guilty of an offence if the person is in possession of an ID knowing it to be a forgery.

(2) Paragraph (1) does not apply if the person, at the time concerned, holds a forged ID simply for the purpose of destroying it or providing it to an enforcing authority, the police or the Secretary of State.

Improper destruction, defacement or alteration, etc

28. A person is guilty of an offence if the person, otherwise than in accordance with any entitlement, obligation or requirement to do so in these Regulations or the EU Regulation—

- (a) destroys or defaces an ID;
- (b) alters any entry in an ID; or
- (c) defaces, obliterates or removes any mark applied under regulation 35, except under the written authority of an inspector.

Offences relating to implantation of transponder

29. A person is guilty of an offence if the person knowingly—

- (a) implants, or attempts to implant, into an equine, a device which—
 - (i) is not a genuine transponder; or
 - (ii) has previously been inserted into, or used for, another animal; or
 - (iii) tampers with, or otherwise alters, a transponder with intent to deceive.

Obstruction

30. A person is guilty of an offence if the person—

- (a) intentionally obstructs an inspector acting in the course of enforcing these Regulations or the EU Regulation;

- (b) without reasonable cause, fails to give to an inspector acting in the course of enforcing these Regulations or the EU Regulation any assistance or information that the inspector may reasonably require for that purpose; or
- (c) fails to produce a document, record or ID when required to do so to any person acting in the course of enforcing these Regulations or the EU Regulation.

Offences by bodies corporate

31.—(1) Where a body corporate is guilty of an offence under these Regulations, and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of—

- (a) any director, manager, secretary or other similar person of the body corporate; or
- (b) any person who was purporting to act in any such capacity,

that person (as well as the body corporate) is also guilty of the offence.

(2) In this regulation “director”, in relation to a body corporate whose affairs are managed by its members, means a member of the body corporate.

Offences by partnerships and unincorporated associations

32.—(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 33 of the Criminal Justice Act 1925(a) and Schedule 3 to the Magistrates’ Courts Act 1980(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 for an offence under these Regulations is to be paid out of the funds of the partnership or association.

(4) Where a partnership is guilty of an offence under these Regulations, and that offence 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 also guilty of the offence.

(5) For these purposes, “partner” includes a person purporting to act as a partner.

(6) Where an unincorporated association is guilty of an offence under these Regulations, and that offence 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 also guilty of the offence.

(7) 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.

(a) 1925 c.86. Relevant amending enactments are Schedule 6 to the Magistrates’ Court Act 1952 (c.55) and Schedule 8 to the Courts Act 1971 (c.23).

(b) 1980 c.43. Relevant amending enactments are sections 25 and 101 of, and Schedule 13 to, the Criminal Justice Act 1991 (c.53); and Schedules 3 and 37 to the Criminal Justice Act 2003 (c.44).

PART 5

Enforcement and penalties

Enforcing authorities

- 33.** These Regulations and the EU Regulation are enforced by the following local authorities—
- (a) in any part of England where there is, within the meaning of the Local Government Changes for England Regulations 1994^(a), a unitary authority for that local government area, that authority;
 - (b) where there is not a unitary authority—
 - (i) in a metropolitan district, the council of that district;
 - (ii) in a non-metropolitan county, the council of that county; or
 - (iii) in each London borough, the council of that borough;
 - (c) in the City of London, the Common Council.

Appointment of inspectors

34. The Secretary of State or an enforcing authority may appoint a person (an “inspector”) for the purpose of enforcing these Regulations or the EU Regulation.

Inspectors: powers of entry and general powers

35.—(1) An inspector may, on producing a duly authenticated authorisation if required, enter any land, premises (excluding any premises not containing any equine and used only as a dwelling) or property for the purpose of administering and enforcing these Regulations or the EU Regulation; and, for the purposes of this regulation, “premises” includes any vehicle or container.

- (2) An inspector may—
- (a) require the production of an ID and mark it as necessary;
 - (b) carry out any inquiries;
 - (c) have access to, and inspect and copy any documents or records (in whatever form they are held) relevant to these Regulations or the EU Regulation, and remove them to enable them to be copied;
 - (d) inspect and check the operation of any computer and any associated apparatus or material that is, or that may have been, in use in connection with documents or records; and
 - (e) mark any equine for identification purposes.
- (3) Where an inspector has entered any premises and it is not reasonably practicable to determine whether documents on those premises are relevant to these Regulations or the EU Regulation, the inspector may seize them to ascertain whether or not they are relevant.
- (4) The inspector may be accompanied by—
- (a) such other persons as the inspector considers necessary; and
 - (b) any representative of the European Commission acting for the purpose of the enforcement of an EU obligation.

Criminal penalties

36. Subject to regulations 32 and 37, a person who is guilty of an offence under these Regulations is liable, on summary conviction, to a fine.

(a) S.I. 1994/867, to which there are amendments but none are relevant for these Regulations.

Choosing to pursue civil sanctions instead of criminal penalties

37.—(1) An enforcing authority may impose a civil sanction, or a combination of civil sanctions, under Part 6 against a person (an “offender”) if the authority is satisfied beyond reasonable doubt that the offender is guilty of an offence described in Part 4.

(2) Criminal proceedings against the offender may not be started or continued if an enforcing authority, in respect of the offence—

- (a) chooses to apply civil sanctions under paragraph (1); and
- (b) serves on the offender—
 - (i) a compliance notice;
 - (ii) a non-compliance penalty notice; or
 - (iii) a fixed monetary penalty notice.

PART 6

Civil sanctions

Application

38. This Part applies if an enforcing authority decides, under regulation 37(1), to impose a civil sanction, or a combination of civil sanctions, on an offender.

Compliance notice

39.—(1) An enforcing authority may, by way of serving a written notice (a “compliance notice”) on the offender, require the offender to take such steps as the authority may specify, within such periods as may be specified, to secure that the act or omission giving rise to the offence does not continue or recur.

(2) A compliance notice may not be served if a fixed monetary penalty notice has been served on the offender for the same act or omission.

Non-compliance penalty notice

40.—(1) If an offender fails to comply with a compliance notice, the enforcing authority may, by way of serving a written notice (a “non-compliance penalty notice”) on the offender, require the offender to pay to the authority such sum (the “non-compliance penalty”) as the authority may specify in respect of that failure to comply.

(2) The enforcing authority may determine—

- (a) the amount of the non-compliance penalty, but this must not exceed the amount which corresponds with level 1 on the standard scale; and
- (b) whether any discount is offered in relation to early payment and, if so, the amount of any such discount (but see regulation 43(2)).

(3) If the requirements of a compliance notice are met before the payment period specified in a related non-compliance penalty notice expires, liability to pay the non-compliance penalty is discharged.

Fixed monetary penalty notice

41.—(1) An enforcing authority may, by way of serving a written notice (a “fixed monetary penalty notice”) on an offender, require the offender to pay to the authority such sum (the “fixed monetary penalty”) as the authority may specify in relation to the act or omission giving rise to the offence.

(2) A fixed monetary penalty—

- (a) may only be imposed if it is not reasonably practicable for the enforcing authority to serve a compliance notice; and
 - (b) may not be imposed more than once for the same act or omission.
- (3) The enforcing authority may determine—
- (a) the amount of the fixed monetary penalty, but this must not exceed the amount which corresponds with level 1 on the standard scale; and
 - (b) whether any discount is offered in relation to early payment and, if so, the amount of any such discount (but see regulation 43(2)).

Enforcement costs recovery notice

42.—(1) An enforcing authority may, by way of serving a written notice (an “enforcement costs recovery notice”) on an offender on whom a compliance notice has been served, require the offender to pay the costs incurred by the authority in relation to the compliance notice up to the time of its service on the offender.

- (2) In sub-paragraph (1), the reference to “costs” means reasonably and necessarily incurred—
- (a) investigation costs;
 - (b) administration costs; and
 - (c) costs of obtaining expert advice, including legal advice.

(3) An enforcing authority must provide a detailed breakdown of the costs specified in an enforcement costs recovery notice if requested to do so by the offender.

Information to be provided in or with a notice

43.—(1) If serving a notice, the enforcing authority must ensure that the notice contains, or is served with, the following information—

- (a) the name and address of the offender on whom the notice is served;
- (b) the reasons for serving the notice, including the date of the act or omission giving rise to the offence;
- (c) information as to the steps that the offender must take in response to the notice, including the amount of any penalty that must be paid and the period within which those steps must be completed or any payment made;
- (d) information as to—
 - (i) the right of appeal;
 - (ii) the consequences of an appeal, including notification that the notice is suspended pending final determination or withdrawal of any appeal; and
 - (iii) the consequences of failure to comply with the notice.

(2) If an enforcing authority offers a discount for early payment under regulation 40(2)(b) or 41(3)(b), the authority may not require payment of the full, undiscounted sum described in the notice before the expiry of the period of 28 days beginning with the date on which the notice is served.

- (3) In this regulation, “notice” means—
- (a) a compliance notice;
 - (b) a non-compliance penalty notice;
 - (c) a fixed monetary penalty notice; or
 - (d) an enforcement costs recovery notice.

Withdrawing and re-issuing a notice

44.—(1) An enforcing authority may, at any time, in writing, withdraw a notice served by the authority under this Part.

(2) Paragraph (3) applies to a notice served on an offender under this Part but which is subsequently withdrawn by the enforcing authority before the offender files an appeal against the decision specified in the notice.

(3) The enforcing authority may serve a further notice on the offender for the failure described in the original notice.

(4) In this regulation, “notice” has the meaning given in regulation 43(3).

Appeals

45.—(1) A person may appeal against the following decisions of an enforcing authority—

- (a) a decision, by the service of a notice under regulation 39, to serve a compliance notice on that person;
- (b) a decision, by the service of a notice under regulation 40, to impose a non-compliance penalty on that person;
- (c) a decision, by the service of a notice under regulation 41, to impose a fixed monetary penalty on that person;
- (d) a decision, by the service of a notice under regulation 42, to require that person to pay enforcement costs.

(2) The grounds for appeal are that—

- (a) the decision was based on an error of fact;
- (b) the decision was wrong in law or for any other reason;
- (c) the decision was unreasonable for any reason.

(3) An appeal under this Part is to the First-tier Tribunal.

(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 cancel, confirm or vary the notice appealed against.

Period within which payment is required and power to recover payments

46.—(1) To the extent that a decision to impose a non-compliance penalty, a fixed monetary penalty, or a decision to recover enforcement costs is upheld on appeal, or if the appeal is withdrawn, the penalty or costs must be paid before the expiry of the period of 28 days (“the period in which payment is required”) beginning with the day on which the appeal is determined or withdrawn.

(2) Following the period in which payment is required, an enforcing authority may recover any non-compliance penalty or fixed monetary penalty imposed under this Part, and any enforcement costs recoverable by the authority under this Part—

- (a) as a civil debt; or
- (b) on the order of the court, as if payable under a court order.

Receipts

47.—(1) Subject to paragraph (2) and (3), an enforcing authority may retain sums (“receipts”) paid in respect of enforcement notices served under this Part.

(2) The amount which an enforcing authority may retain under paragraph (1) must not exceed reasonable and necessary costs (“costs”) incurred, in relation to enforcement notices, by the authority in discharging its functions under Parts 4 and 5 and this Part.

(3) If receipts exceed costs, the enforcing authority must pay the excess into the Consolidated Fund.

(4) For the purposes of paragraph (2), costs may include, in relation to enforcement notices—

- (a) investigation costs;
- (b) administration costs; and
- (c) costs of obtaining expert advice, including legal advice.

(5) Upon request from the Secretary of State, an enforcing authority must provide to the Secretary of State information as to receipts and costs.

(6) In this regulation, “enforcement notices” means non-compliance penalty notices and fixed monetary penalty notices.

PART 7

Miscellaneous

Review

48.—(1) The Secretary of State must from time to time—

- (a) carry out a review of the regulatory provision contained in these Regulations; and
- (b) publish a report setting out the conclusions of the review.

(2) The first report must be published before 1st October 2023.

(3) Subsequent reports must be published at intervals not exceeding 5 years.

(4) Section 30(3) of the Small Business, Enterprise and Employment Act 2015^(a) requires that a review carried out under this regulation must, so far as is reasonable, have regard to how effect is given to the EU Regulation in other member States.

(5) Section 30(4) of the Small Business, Enterprise and Employment Act 2015 requires that a report published under this regulation must, in particular—

- (a) set out the objectives intended to be achieved by the regulatory provision referred to in paragraph (1)(a);
- (b) assess the extent to which those objectives are achieved;
- (c) assess whether those objectives remain appropriate; and
- (d) if those objectives remain appropriate, assess the extent to which they could be achieved in another way which involves less onerous regulatory provision.

(6) In this regulation, “regulatory provision” has the same meaning as in sections 28 to 32 of the Small Business, Enterprise and Employment Act 2015 (see section 32 of that Act).

Amendment of the Veterinary Medicines Regulations 2013

49. In regulation 2 of the Veterinary Medicines Regulations 2013^(b), in the definition of “horse passport”, for “a passport issued in accordance with the provisions of Commission Regulation (EC) No 504/2008 implementing Council Directives 90/426/EEC and 90/427/EEC as regards”, substitute “an identification document which complies with Commission Implementing Regulation (EU) 2015/262 laying down rules pursuant to Council Directives 90/427/EEC and 2009/156/EC as regards the”.

^(a) Section 30 of the Small Business, Enterprise and Employment Act 2015 (c.26) was amended by section 19 of the Enterprise Act 2016 (c.12).

^(b) S.I. 2013/2033.

Revocation of the Horse Passports Regulations 2009

50. The Horse Passports Regulations 2009(a) are revoked.

Signed by authority of the Secretary of State for the Environment, Food and Rural Affairs.

22nd June 2018

Gardiner of Kimble
Parliamentary Under Secretary of State
Department for Environment, Food and Rural Affairs

EXPLANATORY NOTE

(This note is not part of the Order)

These Regulations supplement, and make provision for the enforcement, of Commission Implementing Regulation (EU) 2015/262 (the “EU Regulation”) in England. They provide for the identification of equine animals, and replace the Horse Passports Regulations 2009 (S.I. 2009/1611).

Part 2 of the Regulations contains provisions which set out various administrative and procedural requirements. In particular, regulation 3 designates the Secretary of State as the competent authority and the zootechnical authority for the purposes of the EU Regulation. Other provisions in Part 2 set out various requirements in relation to the identification of equine animals and the identity document in relation to an equine animal.

Part 3 sets out various exceptions in relation to wild or semi-wild equine animals.

Part 4 sets out various criminal offences for breach of provisions of these Regulations and the EU Regulation.

Part 5 contains provisions about enforcement and penalties and gives powers to inspectors of enforcing local authorities. In particular, regulation 37 provides that enforcing local authorities may choose to apply civil sanctions instead of criminal penalties where they are sure that an offence has been committed. Part 6 then sets out the civil sanctions that are available to enforcing local authorities.

Part 7 sets out miscellaneous provisions, in particular for the review of these Regulations and the revocation of the Horse Passports Regulations 2009.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen.

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(a) S.I. 2009/1611.

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