



STATUTORY INSTRUMENTS.

S.I. No. 371 of 2012



EUROPEAN COMMUNITIES (EQUINE) (AMENDMENT)
REGULATIONS 2012.

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I, SIMON COVENEY, Minister for Agriculture, Food and the Marine, 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 further effect to Council Directive 90/427/EEC of 26 June 1990¹, Council Directive 90/428/EEC of 26 June 1990², Council Directive 92/65/EEC of 13 July 1992³, Commission Decision 92/216/EEC of 26 March 1992⁴, Commission Decision 92/353/EEC of 11 June 1992⁵, Commission Decision 92/354/EEC of 11 June 1992⁶, Council Directive 94/28/EC of 23 June 1994⁷, Commission Decision 95/294/EC of 24 July 1995⁸, Commission Decision 95/307/EC of 24 July 1995⁹, Commission Decision 96/78/EC of 10 January 1996¹⁰, Commission Decision 96/79/EC of 12 January 1996¹¹, Commission Decision 96/510/EC of 18 July 1996¹², Commission Decision 96/539/EC of 4 September 1996¹³, Commission Decision 2004/158/EC of 16 February 2004¹⁴, Commission Decision 2004/211/EC of 6 January 2004¹⁵, Commission Regulation (EC) No. 504/2008 of 6 June 2008¹⁶ Council Directive 2008/73/EC of 15 July 2008¹⁷, Council Directive 2009/156/EC of 30 November 2009¹⁸ and Commission Decision 2009/712/EC of 18 September 2009¹⁹, hereby make the following Regulations-

1. These Regulations may be cited as the European Communities (Equine) (Amendment) Regulations 2012.

2. The European Communities (Equine) Regulations 2011 (S.I. No. 357 of 2011) is amended—

(a) in Regulation 2(1), by deleting the definition “passport”,

¹O.J. L224 18.8.1990 p. 55

²O.J. L224 18.8.1990 p. 60

³O.J. L268 14.9.1992 p. 54

⁴O.J. L104 22.4.1992 p. 77

⁵O.J. L192 11.7.1992 p. 63

⁶O.J. L192 11.7.1992 p. 66

⁷O.J. L178 12.7.1994 p. 66

⁸O.J. L182 2.8.1992 p. 27

⁹O.J. L185 4.8.1995 p. 58

¹⁰O.J. L019 25.1.1996 p. 39

¹¹O. J. L019 25.1.1996 p. 41

¹²O.J. L210 20.8.1996 p. 53

¹³O.J. L230 11.9.1996 p. 53

¹⁴O.J. L050 20.2.2004 p. 62

¹⁵O.J. L73 3.11.2004 p. 1

¹⁶O.J. L149 7.6.2007 p. 3

¹⁷O.J. L219 14.8.2008 p. 40

¹⁸O.J. L192 23.7.2010 p. 1

¹⁹O.J. L.247 19.9.09 P.13

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 2nd October, 2012.*

(b) for Regulation 3, by substituting the following-

“3. A person shall not have in his or her possession, an equine animal unless it is identified in accordance with these Regulations and the Commission Regulation.”,

in Regulation 4(8), by substituting the following-

(c) “(8) Notwithstanding the generality of paragraph (2) the Minister may refuse an application or revoke an approval-

(a) if in his or her opinion—

(i) an act of the institutions of the European Communities or these Regulations have not or are not likely to be complied with, or

(ii) the applicant or holder of an approval has failed to comply with a condition of an approval, or

(b) the applicant has been convicted of an offence, in the previous 3 years, relating to equine animal identification, animal or public health, animal welfare or the environment.”,

(d) in Regulation 4(9), by substituting the following-

“(9) If the Minister proposes to revoke an approval 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.”,

(e) in Regulation 6(2), by substituting the following-

“(2) A person shall not implant an equine animal with a transponder unless-

(i) the transponder has been supplied by an issuing body approved under Regulation 4(2)(a) or (b), and

(ii) that person is a registered veterinary practitioner designated in accordance with Article 11(1) of the Commission Regulation.”,

(f) by deleting Regulation 6(3),

(g) by deleting Regulation 9,

(h) for Regulation 19, by substituting the following—

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

(2) The manager of a local authority may, appoint in writing, such officers of the authority as he or she considers appropriate to be authorised officers for the exercise of all or any of the functions conferred on an authorised officer under these Regulations, specified in the authorisation.

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

(4) An authorised officer, appointed under paragraph (2) may exercise any of the functions conferred on the authorised officer—

(a) within the functional area of the local authority which appointed the authorised officer, and

(b) in the functional area of another local authority with which an agreement exists for the exercise by authorised officers of the first-mentioned authority in the functional area of that other authority of the functions of an authorised officer.

(5) An appointment as an authorised officer ceases—

(a) if it is terminated pursuant to paragraph (3),

(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.

(6) Nothing in paragraph (5) is to be construed so as to prevent the Minister or the manager of a local authority from reappointing as an authorised officer a person to whom that paragraph relates.

(7) The Minister shall furnish an authorised officer (other than an officer within the meaning of the Taxes Consolidation Act 1997, an officer of the local authority or member of the Garda Síochána) with a warrant of his or her appointment as an authorised officer and, when exercising a function conferred on him or her, the officer, officer within the meaning of the Taxes Consolidation Act or member of the Garda

Síochána shall, if requested by a person affected, produce the warrant or evidence that he or she is such an officer or member to the person.

(8) The manager of a local authority shall furnish an authorised officer with a warrant of his or her appointment as an authorised officer and, when exercising a function conferred on him or her, the officer, shall, if requested by a person affected, produce the warrant or evidence that he or she is such an officer to the person.”,

(i) for Regulation 21, by substituting the following-

“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 or a contravention of the Equine Legislation 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 on a premises, or
- (c) a transponder, passport, database, record, other document related to a thing to which subparagraph (a) or (b) refers is or may be on a 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, 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.”,

(j) for Regulation 24, by substituting the following-

“24. (1) A person shall not forge, deface or utter knowing it to be forged—

- (a) a passport, application, approval, database or record or other document issued under these Regulations,

(b) a direction or requirement of an authorised officer under Regulation 20 if the direction or requirement is in documentary form.

(2) A person shall not alter with intent to deface, defraud or deceive, or to utter knowing it to be so altered—

(a) a passport, application, approval, database or record or other document issued under these Regulations,

(b) a direction or requirement of an authorised officer under Regulation 20 where the requirement or direction is in documentary form.

(3) A person shall not have, without lawful authority (the proof of which lies on him or her), in his or her possession or under his or her control a forged, defaced, or altered passport, application, approval, database or record or other document issued under these Regulations.”, and

(k) for Regulation 27, by substituting the following-

“27. (1) A person who—

(a) contravenes, or causes or permits a contravention of Regulation 3,4(1), 5, 6(2), and (4), 7, 8, 10, 11(2), 12, 13, 14, 15, 16, 18, 22 and 24 of these Regulations,

(b) contravenes, or causes or permits a contravention of the Equine Legislation,

(c) holds more than one passport for an equine animal at the same time, or

(d) retains a passport without lawful reason,

commits an offence and is liable on summary conviction to a Class A fine.

(2) An offence under these Regulations may be prosecuted in a summary manner by the Minister.

(3) 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 the wilful neglect on the part of any person, being a director, manager, secretary or other officer of the body corporate or a person who was purported to act in any such capacity, that person, as well as the body corporate, commits offence and is liable to be proceeded against and punished as if he or she was guilty of the offence.

(4) If the affairs of a body corporate are managed by its members, paragraph (3) 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.”.



GIVEN under my Official Seal
19 September 2012.

SIMON COVENEY,
Minister for Agriculture Food and the Marine.

EXPLANATORY NOTE

(This does not form part of the Instrument and does not purport to be a legal interpretation.)

These amending Regulations provide for the updating of S.I. No. 357/2011 (European Communities (Equine) Regulations 2011) to strengthen the powers of the Minister in relation to approval of an issuing body for equine passports, authorised officers and prosecutions in relation to equine identification.

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