

STATUTORY INSTRUMENTS

S.I. No. 399 of 2004.

**EUROPEAN COMMUNITIES (EQUINE STUD-BOOK AND COMPETITION)
REGULATIONS 2004.**

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S.I. No. 399 of 2004

European Communities (Equine Stud-Book and Competition) Regulations 2004.

I, Joe Walsh, Minister for Agriculture and Food, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972) and for the purpose of giving further effect to Council Directive No. 90/427/EEC of 26 June 1990¹, Council Directive No. 90/428/EEC of 26 June 1990², Commission Decision 92/216/EEC of 26 March 1992³, Commission Decision No. 92/353/EEC of 11 June 1992⁴, Commission Decision No. 92/354/EEC of 11 June 1992⁵ and effect to Commission Decision No. 93/623/EEC of 20 October 1993⁶, Commission Decision No. 96/78/EC of 10 January 1996⁷, Commission Decision No. 96/79/EC of 12 January 1996⁸ and Commission Decision No. 2000/68/EC of 22 December 1999⁹, hereby make the following Regulations –

Citation and commencement

1. (1) These Regulations may be cited as the European Communities (Equine Stud-Book and Competition) Regulations 2004.

(2) Subject to paragraph (3) these Regulations come into operation on 4 October 2004.

(3) Regulation 6(2) comes into operation on 1 July 2004 and Regulation 6(3) comes into operation on 1 January 2005.

Interpretation

2. (1) In these Regulations—

“approved body” means

(a) in relation to an association or organisation which has its head office located within the State, a body approved by the Minister under Regulation 3,

¹O.J. No. L224, 18.8.1990, p. 55.

²O.J. No. L224, 18.8.1990, p. 60.

³O.J. No. L104, 22.4.1992, p. 77.

⁴O.J. No. L192, 11.7.1992, p. 63.

⁵O.J. No. L192, 11.7.1992, p. 66.

⁶O.J. No. L298, 3.12.1993, p.45.

⁷O.J. No. L19, 25.1.1996, p. 39

⁸O.J. No. L19, 25.1.1996, p. 41

⁹O.J. No. L23, 28.1.2000, p. 72.

(b) in relation to an association or organisation which has its head office located in another Member State, a body approved by the competent authority of that Member State, or

(c) in relation to an association or organisation which has its head office located within the State, a body approved by the Minister under Regulation 7;

“authorised officer” means a person appointed by the Minister under Regulation 12 or Regulation 16(1);

“Council Directives and Decisions” means Directive 90/427 and Directive 90/428 and Decision 92/216, Decision 92/353, Decision 92/354, Decision 93/623 and Decision 2000/68;

“Directive 90/426” means Council Directive No. 90/426/EEC of 26 June 1990¹⁰;

“Directive 90/427” means Council Directive No. 90/427/EEC of 26 June 1990;

“Directive 90/428” means Council Directive No. 90/428/EEC of 26 June 1990;

“Decision 92/216” means Commission Decision No. 92/216/EEC of 26 March 1992;

“Decision 92/353” means Commission Decision No. 92/353/EEC of 11 June 1992;

“Decision 92/354” means Commission Decision No. 92/354/EEC of 11 June 1992;

“Decision 93/623” means Commission Decision No. 93/623/EC of 20 October 1993;

“Decision 96/78” means Commission Decision No. 96/78/EC of 10 January 1996;

“Decision 96/79” means Commission Decision No. 96/79/EC of 12 January 1996;

“Decision 2000/68” means Commission Decision No. 2000/68/EC of 22 December 1999;

“exemption” means an exemption granted by the Minister under Regulation 9;

¹⁰ O.J. No. L224, 18.8.1990, p.42

“horse” means equidae as defined by Directive 90/426 and Directive 90/427;

“identification document” means an identification document referred to in Article 8 of Directive 90/427, which has been issued for a horse by an approved body;

“keeper” means a person who is not the owner of a horse but is appointed by the owner to have charge of that horse;

“market” includes to offer for sale, lease, supply or hire and cognate words shall be construed accordingly;

“Member State” means a Member State of the European Communities;

“Minister” means the Minister for Agriculture and Food;

“move” means any movement out of a holding or other place, including movement between premises, entering competitions, for the purpose of breeding, being sold or being presented for slaughter;

“Regulation 2377/90” means Council Regulation (EEC) No. 2377/90 of 26 June 1990¹¹;

“stud-book” means, a book, register, file or data medium in which horses are entered or registered with mention of all their known ancestors;

“veterinary surgeon” means a person registered under the Veterinary Surgeons Act 1931 (No. 36 of 1931).

(2) A word or expression that is used in these Regulations and is also used in the Council Directives and Decisions has, unless the contrary intention appears, the meaning in these Regulations that it has in the Council Directive or Decision in which it occurs.

- (3)
- (a) In these Regulations a reference to a Regulation is to a Regulation of these Regulations, unless it is indicated that reference to some other Regulations is intended.
 - (b) In these Regulations a reference to a paragraph or subparagraph is to the paragraph or subparagraph of the provision in which the reference occurs, unless it is indicated that reference to some other provision is intended.

¹¹ O.J. No. L224, 18.8.90, p. 1

Approval of bodies for the purposes of maintaining stud-books

3. (1) The Minister may grant an approval to a person or to an international association or organisation for the purposes of maintaining a stud-book subject to the provisions of paragraph (2).
- (2) The Minister may refuse to grant an approval if—
- (a) he or she is satisfied that the provisions of the Council Directives and Decisions will not be complied with,
 - (b) he or she considers that the granting of approval would endanger the preservation of the breed or jeopardise the improvement or selection programme of one or more organisations or associations already approved, or
 - (c) horses, of the breed to be entered or registered in the stud-book for which approval is sought, may be entered or registered in a section of a stud-book which is—
 - (i) maintained by a person or an international organisation or association already approved, and
 - (ii) operated in conformity with point 3 (b) of the Annex to Decision 92/353.
- (3) An application for approval shall be—
- (a) submitted in writing by the applicant to the Minister,
 - (b) legible and shall state the name and address of the applicant,
 - (c) accompanied by a fee determined in accordance with Regulation 13.
- (4) The Minister may, upon receipt of an application for approval, require such information from the applicant as he or she considers necessary to ensure that the provisions of the Council Directives and Decisions will be complied with.
- (5) A person who in making an application for approval shall not wilfully make a false or misleading statement.
- (6) An approval shall be valid for such period as the Minister may determine.

- (7) The Minister may attach conditions to an approval at the time it is granted or subsequently and he or she may amend or revoke a condition attached to the approval and shall notify the holder of, or applicant for the approval, in writing of the conditions, amendment or revocation in relation to that approval.
- (8) The Minister may, if he or she is satisfied that the relevant provisions of the Council Directives and Decisions are not being or will not be complied with, refuse an approval applied for or revoke an approval granted and shall notify the holder of, or applicant for an approval, in writing of the refusal or revocation.
- (9) The Minister shall not—
- (a) revoke an approval, or
 - (b) refuse an application for approval,
- without -
- (i) notifying the holder of, or applicant for, the approval of his or her intention to revoke the approval or refuse the application, as the case may be,
 - (ii) specifying his or her reasons for the intended revocation or refusal of the approval, and
 - (iii) affording the holder or applicant the opportunity of making representations or having representations made on his or her behalf to the Minister within 14 days of the issue of the notification referred to in subparagraph (i) and having had regard to any such representations.
- (10) A person shall not contravene an approval or a condition of an approval.

Entry and registration of horses in stud books

4. An approved body shall enter and register a horse in a stud-book in accordance with the terms of decisions adopted under Article 4 (2) of Directive 90/427 and Decision 96/78.

Marketing of semen, ova and embryos

5. A person shall not market the semen, ova and embryos of horses entered or registered in a stud-book maintained by an approved body unless accompanied by a zootechnical certificate drawn up in accordance with the terms of decisions adopted under Article 8 (2) of Directive 90/427 and Decision 96/79.

Identification of horses

6.
 - (1) A person shall ensure that a horse entered or registered in a stud-book maintained by an approved body, when it is being moved, is accompanied by an identification document issued by the approved body which maintains the stud-book or by any international association which manages competitions for horses in accordance with Decision 93/623 and Decision 2000/68.
 - (2) The owner or keeper of a horse, other than a horse subject to paragraph (1), shall ensure that, when it is being moved, it is accompanied by an identification document referred to in Article 3 of Decision 2000/68.
 - (3) A person presenting a horse for slaughter for human consumption, shall provide the identification documents referred to in paragraphs (1) or (2) which were issued at least six months before the date of presentation for slaughter.
 - (4) The identification documents referred to in this regulation shall include at least the information specified in the Annex to Decision 93/623 as amended by Decision 2000/68.
 - (5) The representative of the competent authority referred to in the Annex to Decision 2000/68 may be a veterinary surgeon.
 - (6) An approved body when issuing identity documents for a horse, shall identify the horse by a number that has not been used before, in accordance with Article 7(3) of Directive 90/426, and shall enter that number in the appropriate place on the identity document.

Approval to issue identification documents

7.
 - (1) The Minister may grant an approval to a person for the purposes of issuing identification documents referred to in Article 3 of Decision 2000/68.

- (2) The Minister may seek applications for approval from other persons for the purposes of issuing the identification document referred to in Article 3 of Decision 2000/68.
- (3) The Minister may refuse to grant an approval if he or she is satisfied that the provisions of the Council Directives and Decisions will not be complied with.
- (4) An application for approval shall be—
 - (a) submitted in writing by the applicant to the Minister,
 - (b) legible and shall state the name and address of the applicant,
 - (c) accompanied by a fee determined in accordance with Regulation 13.
- (5) The Minister may, upon receipt of an application for approval, require such information from the applicant as he or she considers necessary to ensure that the provisions of the Council Directives and Decisions will be complied with.
- (6) A person who in making an application for approval shall not wilfully make a false or misleading statement.
- (7) An approval shall be valid for such period as the Minister may determine.
- (8) The Minister may attach conditions to an approval at the time it is granted or subsequently and he or she may amend or revoke a condition attached to the approval and shall notify the holder of, or applicant for the approval, in writing of the conditions, amendment or revocation in relation to that approval.
- (9) The Minister may, if he or she is satisfied that the relevant provisions of the Council Directives and Decisions are not being or will not be complied with, refuse an approval applied for or revoke an approval granted and shall notify the holder of, or applicant for an approval, in writing of the refusal or revocation.
- (10) The Minister shall not—
 - (a) revoke an approval, or
 - (b) refuse an application for approval,without -

- (i) notifying the holder of, or applicant for, the approval of his or her intention to revoke the approval or refuse the application, as the case may be,
- (ii) specifying his or her reasons for the intended revocation or refusal of the approval, and
- (iii) affording the holder or applicant the opportunity of making representations or having representations made on his or her behalf to the Minister within 14 days of the issue of the notification referred to in subparagraph (i) and having had regard to any such representations.

(11) A person shall not contravene an approval or a condition of an approval.

Non-discrimination in competitions for horses

8. (1) A person organising a competition within the State shall, unless an exemption has been granted under Regulation 9, not discriminate between—
- (a) a horse originating in the State and a horse originating in another Member State and
 - (b) a horse entered or registered in a stud-book maintained by an approved body located in the State and a horse registered or entered in a stud-book maintained by an approved 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 the provisions of Regulation 8

9. (1) The Minister may grant an exemption from Regulation 8 to a person organising a competition for horses if he or she is satisfied that the competition is—

- (a) reserved for horses entered or registered in a stud-book for the purpose of permitting the improvement of a breed;
 - (b) a regional competition for the purpose of selecting horses;
or
 - (c) a traditional or historic event.
- (2) An application for an exemption shall be—
- (a) submitted in good time, in writing by the applicant to the Minister,
 - (b) shall be legible and shall state—
 - (i) the name and address of the applicant,
 - (ii) details of the competition and 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 he or she considers necessary for him to ensure that Directive 90/428 will be complied with and to decide whether or not to grant the exemption.
- (4) A person to whom an exemption is granted under this Regulation must submit to the Minister details of the total number of competitions held as defined by Article 2 of Directive 90/428, the number of competitions or events held for which an exemption was granted in accordance with Article 4(2) of Directive 90/428 and the percentage of prize money reserved in accordance with Article 4(2) of Directive 90/428.
- (5) A person who in making an application for an exemption shall not wilfully make a false or misleading statement.
- (6) The Minister may, if he or she is not satisfied that the grounds on which the exemption is applied for or granted are being or will be complied with, refuse an exemption applied for or revoke an exemption granted and shall notify the person in writing of the refusal or revocation.
- (7) The Minister shall not—
- (a) revoke an exemption granted, or
 - (b) refuse to grant an exemption, or
 - (c) attach a condition to an exemption or amend such 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 representations or having 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 issue of the notification referred to in subparagraph (i) and having had regard to any such representations.

(8) A person shall not contravene an exemption or a condition of an exemption.

Administration of veterinary treatment

- 10.** (1) A veterinary surgeon who is asked to administer veterinary treatment to a horse shall, when he or she is given an identity document by the owner or keeper of a horse
- (a) be satisfied that the horse is the one described in the identity document,
 - (b) enter the treatments administered to the horse as required in the appropriate sections of the identity document,
 - (c) where a treatment is administered other than those listed in Annex I, II and III of Regulation 2377/90/EEC, the veterinary surgeon administering the treatment shall indicate on the identity document that the horse is unfit for human consumption.
- (2) When the owner or keeper of the horse does not give an identity document to the veterinary surgeon, the veterinary surgeon shall not administer any treatment to the animal.
- (3) Notwithstanding paragraph (2), where the health or welfare of the horse is at risk the veterinary surgeon may administer an authorised treatment listed in Annex I, II and III of Regulation 2377/90/EEC. The veterinary surgeon shall notify the local District Veterinary Office of any such treatment.

Identity documents

- 11.** A person shall not,
- (a) amend an identity document except as provided for by these Regulations,
 - (b) hold more than one identity document for a horse at the same time,
 - (c) retain an identity document unless he or she is the owner or keeper of the horse or
 - (d) do anything to lead a person to believe the identity document is different in material respect to the identity document held.

Authorised officers

- 12.** (1) The Minister may appoint such and so many persons as he or she thinks fit to be authorised officers.
- (2) An authorised officer, on production of the officer's authorisation, if so required by any person affected, may -
- (a) at all reasonable times enter any premises or place, including any land, vehicle, wagon, vessel, aircraft or other means of transport where he or she reasonably suspects that—
 - (i) an identification document, stud-book or part of a stud-book, or any article, book, document or other record associated with an identification document or a stud-book held by an approved body is being maintained, stored or transported, or
 - (ii) a competition for horses is being held, or
 - (iii) a horse is present
 - (b) require any person at the premises or place or the owner or person in charge and any other person present to give him or her such information and to produce to him or her such books, documents and other records within the power or procurement of the person as he or she may reasonably require,

- (c) examine and take copies of, or extracts from, any such records as aforesaid,
 - (d) if accompanied by a member of the Garda Síochána in uniform, stop any vehicle which he or she reasonably suspects to contain a horse, identification document, stud-book or part of a stud-book or any article, book, document or other record associated with an identification document or a stud-book maintained by an approved body.
- (3) A person shall not obstruct or otherwise interfere with an authorised officer in the performance of his or her functions under this Regulation or in purported compliance with such a requirement under subparagraph (2) (b), shall not give information to an authorised officer that he or she knows to be false or misleading in a material respect.
- (4) A person shall not, with intent to deceive, tamper or interfere with any copy, extract or sample taken under these Regulations.
- (5) Where an authorised officer finds or comes into possession of any article, book, document or other record which he or she reasonably believes to be evidence of the commission of an offence under these Regulations, he or she may seize it and detain it for use in evidence in a prosecution under these Regulations for such period from the date of the seizure as may be reasonable or, if proceedings are commenced in which the article, book, document or other record is required for use in evidence, until the conclusion of the proceedings.

Fees

- 13.**
- (1) The Minister shall charge a fee in respect of an application for an approval under these Regulations of such amount as the Minister may determine.
 - (2) The owner or person in charge of the association or organisation to which an application for approval relates shall pay the fee charged under this Regulation and the Minister shall not consider an application until the fee under this Regulation in respect thereof has been paid.
 - (3) A fee shall be collected and shall be paid into or disposed of for the benefit of the Exchequer in accordance with the directions of the Minister for Finance.
 - (4) A fee charged under this Regulation shall not exceed an amount equal to the costs, estimated by the Minister, incurred in relation to an application for approval and the performance of functions in relation to the association or organisation concerned by an authorised officer for the purposes of the application.

Offences

- 14.** (1) A person who contravenes these Regulations is guilty of an offence.
- (2) A person guilty of an offence under these Regulations shall be liable on summary conviction to a fine not exceeding €3,000.
- (3) An offence under these Regulations may be prosecuted by the Minister.
- (4) Where an offence under these Regulations has been committed by a body corporate and is proved to have been so committed with the consent or connivance of or to be attributable to any neglect on the part of a person, being a director, manager, secretary or other officer of the body corporate or a person who was purporting to act in any such capacity, that person as well as the body corporate, shall be guilty of an offence and shall be liable to be proceeded against and punished as if he were guilty of the first-mentioned offence.

On-the-spot fines

- 15.** (1) Where an authorised officer has reasonable grounds for believing that a person is committing or has committed an offence under these Regulations, he or she may serve a notice in writing on that person stating that –
- (a) the person is alleged to have committed the offence,
 - (b) the person may during the period of 28 days on the date of the notice make to the Minister a payment of €100 accompanied by the notice, and
 - (c) a prosecution in respect of the alleged offence will not be instituted during the period specified in 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 notice is given under paragraph (1) —
- (a) a person to whom the notice applies may, during the period specified in the notice, make to the Minister at the address specified in the notice the payment specified in the notice accompanied by the notice;
 - (b) the Minister shall issue a receipt for a payment received under subparagraph (a) and retain the money so paid,

and any payment so received shall not be recoverable in any circumstances by the person who made it;

- (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 a prosecution for an offence under these Regulations the onus of proving that a payment pursuant to a notice under this Regulation has been made shall lie on the defendant.

Saver

- 16. (1) An authorised officer appointed under The European Communities (Equine Stud-Book and Competition) Regulations 1993 (S.I. No. 305 of 1993) and holding office immediately before the commencement of these Regulations continues in office after such commencement as if appointed under these Regulations.
- (2) An approval granted under The European Communities (Equine Stud-Book and Competition) Regulations 1993 (S.I. No. 305 of 1993) and in force immediately before the commencement of these Regulations continues in force after such commencement as if granted under these Regulations

Revocation

- 17. The European Communities (Equine Stud-Book and Competition) Regulations 1993 (S.I. No. 305 of 1993) are revoked.

GIVEN under my Official Seal,
24th June 2004

L.S.

JOE WALSH,

Minister for Agriculture and Food

EXPLANATORY NOTE.

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

These Regulations, which give legal effect to Directives 90/427/EEC and 90/428/EEC and Decisions 93/623/EEC and 2000/68/EEC (copies of which may be obtained from the Government Publications Sale Office, Molesworth Street, Dublin 2), set out the criteria which a body must meet if it is to maintain an officially recognised stud-book, provide for the non-discriminatory treatment of competition horses and provide for the issuing of identity documents for and control of movement of non-registered horses.

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