



STATUTORY INSTRUMENTS.

S.I. No. 77 of 2009



EUROPEAN COMMUNITIES (IDENTIFICATION OF BOVINES)
REGULATIONS 2009

(Prn. A9/0358)

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EUROPEAN COMMUNITIES (IDENTIFICATION OF BOVINES)
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I, BRENDAN SMITH, Minister for Agriculture, Fisheries and Food, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972), for the purpose of giving full effect to Title I to Regulation (EC) No. 1760/2000 of the European Parliament and of the Council of 17 July 2000¹, Commission Regulation (EC) No. 494/1998 of 27 February 1998², Commission Regulation (EC) No. 1082/2003 of 23 June 2003³, Commission Regulation (EC) No. 499/2004⁴ of 17 March 2004 and Commission Regulation (EC) No. 911/2004 of 29 April 2004⁵, and for the purpose of giving effect to Council Directive (EEC) No. 92/102/EEC⁶ of 27 November 1992 so far as that Directive relates to the identification of bovines, hereby make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the European Communities (Identification of Bovines) Regulations 2009 and come into operation on 4 May 2009.

Interpretation

2. (1) In these Regulations—

“authorised officer” means—

- (a) an authorised officer within the meaning of section 17A (inserted by the Diseases of Animals (Amendment) Act 2001 (No. 3 of 2001)) of the Diseases of Animals Act 1966 (No. 6 of 1966),
- (b) an authorised officer within the meaning of the National Beef Assurance Scheme Act 2000 (No. 2 of 2000),
- (c) a member of the Garda Síochána,
- (d) an officer of Customs and Excise, or
- (e) a person appointed under Regulation 20.

¹O.J. L 204 of 11.8.2000, p.1.

²O.J. L 60 of 28.2.1998, p. 78.

³O.J. L 156 of 25.6.2003, p. 9.

⁴O.J. L 80 of 18.3.2004, p. 24.

⁵O.J. L 163 of 30.4.2004, p. 65.

⁶O.J. L 355 of 5.12.1992, p. 32.

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 13th March, 2009.*

“approved ear-tag” means—

- (a) in the case of a bovine born before 31 December 1996, subject to Regulation 7, an ear-tag applied to each ear in accordance with the Bovine Tuberculosis (Attestation of State and General Provisions Amendment Order 2003 (S.I. No. 32 of 2003),
- (b) in the case of a bovine born between 1 January 1996 and 31 December 1998, subject to Regulation 7, an ear-tag applied to each ear in the form formerly prescribed by the Bovine Tuberculosis (Attestation of State and General Provisions) Order 1996 (S.I. No. 103 of 1996),
- (c) in the case of a bovine born between 1 January 1996 and 31 December 1998 that is not tagged in accordance with paragraph (b) of this definition, a bovine born after 31 December 1998 or a bovine to which Regulation 8 applies, an ear-tag applied to each ear in the form formerly prescribed by the Bovine Tuberculosis (Attestation of State and General Provisions) Order 1999 (S.I. No. 277 of 1999) and now approved under Regulation 6,
- (d) in the case of a bovine born after 31 December 1998, an ear-tag, that conforms to the standards established in Chapter I of Commission Regulation (EC) No. 911/2004 of 29 April 2004, applied to each ear in the form approved under Regulation 6,
- (e) in the case of a bovine imported from another Member State, an ear-tag, that conforms to the standards established in Chapter I of Commission Regulation (EC) No. 911/2004 of 29 April 2004, attached to each ear in accordance with the Bovine Identification Regulation, or
- (f) in the case of a bovine imported from outside the Community, an ear-tag, that conforms to the standards established in Chapter I of Commission Regulation (EC) No. 911/2004 of 29 April 2004, attached to each ear in accordance with the Bovine Identification Regulation.

“Bovine Identification Regulation” means Regulation (EC) No. 1760/2000 of the European Parliament and of the Council of 17 July 2000;

“cattle identity card” means an identity card issued in accordance with Article 32 of the Bovine Tuberculosis (Attestation of the State and General Provisions) Order, 1989 (S.I. 308 of 1989);

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

“passport” means a record issued by the Minister in accordance with Article 6.1 of the Bovine Identification Regulation;

“permit” means a movement permit issued in accordance with Article 13 of the Bovine Tuberculosis (Attestation of the State and General Provisions) Order 1989 (S.I. 308 of 1989), in accordance with the National Beef Assurance Scheme Act 2000 (No. 2 of 2000) or in accordance with these Regulations;

“premises” includes land (including land under water) with or without buildings.

(2) A word or expression that is used in these Regulations and is also used in the Bovine Identification Regulation has, in these Regulations, the same meaning as it has in the Bovine Identification Regulation.

Registration of birth and issue of passports

3. (1) The keeper shall, within 7 days of tagging a bovine in accordance with Regulation 5, or importing a bovine in accordance with Regulation 9(3), notify the birth or import of the bovine to the Minister.

(2) A notification under paragraph (1) shall be in a form, contain the information (which may include DNA) and be communicated in a manner (including electronic communication) that the Minister may determine.

(3) The Minister may—

(a) issue a passport or cause a passport to be issued in respect of a bovine which is the subject of notification under this Regulation, and

(b) enter details of the bovine on a computerised database (“Animal Identification and Movement (AIM) system”),

if satisfied that the notification is complete, valid and accurate.

(4) If notification under paragraph (1) is made by an agent, it is deemed to be made by the keeper but failure of an agent to notify is not a defence for the keeper in any proceedings.

(5) A passport remains the property of the Minister and shall be produced for inspection or surrendered on request to an authorised officer.

Approval of ear-tags, etc.

4. (1) The Minister may grant approval for the manufacture, sale, supply and use of an ear-tag, attach conditions to the approval, vary a condition, attach a new condition, revoke an approval or refuse an application.

(2) An application for approval of an ear-tag shall be in a form and contain such information and be accompanied by any material (including a sample of the ear-tag subject to the application) that the Minister may require.

(3) An approval issued under this Regulation shall be valid for a period that the Minister may determine.

(4) Notwithstanding the generality of paragraph (1), the Minister shall refuse an application or revoke an approval if, in his or her opinion—

(a) the ear-tag does not conform with Chapter I of Commission Regulation (EC) No. 911/2004 of 29 April 2004, or

(b) the result of a test or experience suggests that the ear-tag is not suitable for or durable in Irish conditions.

Obligation to tag

5. The keeper of a bovine shall, no later than 20 days after birth or before it leaves the holding, identify the bovine with approved ear-tags.

Attaching ear-tag

6. (1) A person shall not attach an ear-tag that may be confused with an approved ear-tag or cause or permit another person to attach an ear-tag to a bovine unless:

- (a) it is an approved ear-tag,
- (b) an ear-tag is securely attached to each ear of the bovine, and
- (c) each ear-tag bears the same logo and sequence of numbers and relates to the premises where the bovine was born or first registered.

(2) A keeper shall maintain sufficient supply of approved ear-tags to meet the tagging requirements for the number of bovines on the premises and store them in a secure place.

(3) A person, other than a manufacturer or supplier of tags, shall not without lawful authority, have in his or her possession or under his or her control, sell, supply, purchase or acquire an approved ear-tag unless it is appropriate to an animal that is on his or her premises or under his or her control.

Replacing ear-tags

7. If an approved ear-tag attached to a bovine is lost or becomes illegible, the keeper of the bovine shall replace it in accordance with Article 1(6) of Commission Regulation (EC) No. 911/2004 of 29 April 2004.

Tampering with tags, etc.

8. (1) A person shall not tamper with, deface or otherwise alter, or interfere with an approved ear-tag and shall not, without lawful authority, have possession or control of an approved ear-tag that has been tampered with, defaced or otherwise altered or interfered with.

(2) A person shall not have possession or control of, sell, supply or acquire an ear-tag which could be confused with an approved ear-tag.

(3) A person shall not have possession or control of, sell, supply or acquire a bovine to which an ear-tag referred to in paragraphs (1) or (2) is attached.

Imports

9. (1) A person shall not import a bovine from another Member State unless it is identified and accompanied by a passport relating to the bovine issued in accordance with the Bovine Identification Regulation.

(2) A person who imports a bovine from another Member State, shall, at time of import, surrender the passport for the purposes of Article 6(1) of the Bovine Identification Regulation.

(3) A person who imports a bovine from a third country shall, no later than 20 days of its arrival and prior to it moving, identify the bovine in accordance with Article 4(3) of the Bovine Identification Regulation.

Herd register

10. (1) A keeper shall maintain, in chronological order, a record (“herd register”) of—

- (a) the information specified in Article 8 of Commission Regulation No. 911/2004 of 29 April 2004 in relation to each bovine in the herd, and
- (b) the number of bovines in the herd, for the purposes of Article 7(1) of the Bovine Identification Regulation.

(2) The keeper shall make an entry in the herd register no more than 7 days after the occurrence.

(3) The Minister may specify the form of a herd register, including a non-legible form if that form is capable of being converted into legible form, and if so, a keeper shall maintain the herd register in the form specified.

(4) A keeper shall maintain the herd register for a period of no less than 7 years from the final entry and make it available for inspection in legible form, on request by an authorised officer.

Possession of bovine, etc

11. (1) A person shall not, without legal authority, have possession or control of a bovine—

- (a) aged 27 days old or more, or
- (b) under 27 days if it has been moved from its holding of birth, unless—
 - (i) it is identified with approved ear-tags,
 - (ii) details of the bovine have been entered in the herd register maintained in accordance with Regulation 10,
 - (iii) a passport has been issued in respect of the bovine, and
 - (iv) details of the bovine have been notified to the Minister.

(2) A person shall not acquire, move, sell, supply, slaughter or export a bovine unless it conforms with paragraph (1).

(3) Notwithstanding paragraph (1) or (2), a person may have possession or control of, move, acquire, sell, supply or slaughter a bovine in accordance with a permit issued by an authorised officer.

Transfer of bovine

12. (1) A person shall not, except in accordance with a permit, transfer ownership or responsibility for a bovine to another person unless the passport

or cattle identity card relating to the bovine is duly completed and transferred to the second mentioned person.

(2) A person, shall not, except in accordance with a permit, accept ownership or responsibility for, acquire or take possession or control of, a bovine, without lawful authority, unless—

- (a) the bovine is accompanied by the passport or cattle identity card relating to the bovine duly completed in accordance with this Regulation, and
- (b) he or she completes the section of the passport headed “RECORD OF KEEPERS (TO BE COMPLETED BY EACH NEW KEEPER ON ARRIVAL OF ANIMAL AT HOLDING)” within seven days.

Livestock marts

13. (1) The operator of a livestock mart shall not cause or permit a bovine to be present at the mart (including the curtilage of the mart) unless, immediately upon arrival he or she, or his or her servant, agent or employee completes and signs, in the first available line on the passport or cattle identity card, in the section headed “Record of Transactions at Marts (to be completed by Mart Official)”:

- (i) the date of arrival at the mart,
- (ii) the code number of the mart, and
- (iii) the lot number relating to the bovine.

(2) A person shall not move a bovine from a mart premises or cause or permit another person to move the bovine unless the passport or cattle identity card relating to the bovine is completed in accordance with paragraph (1), and the bovine is moved directly to its place of destination.

Slaughter of bovines

14. When a bovine is slaughtered, the owner or person in charge of the establishment where it is slaughtered shall within seven days, surrender the passport duly completed, to the Minister.

Information

15. A keeper shall furnish to the Minister or an authorised officer, on request, all information regarding the origin, identification, sale, supply or disposal by other means of a bovine that is or was on his or her premises or under his or her control.

Appointment of authorised officers

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

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

(3) An appointment as an authorised officer ceases—

(a) if it is terminated pursuant to paragraph (2),

(b) if it is for a fixed period, on the expiry of that period, or

(c) if the person appointed is an officer of the Minister, upon the person ceasing to be such an officer.

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

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

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

Functions of authorised officer

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

(a) a bovine is present, has been present or may be present on a premises,

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

(c) a premises is being used, has been used or may be used in connection with the keeping, sale, supply, slaughter, processing of a bovine or keeping or manufacture of food from a bovine,

(d) a premises is being used, has been used or may be used in connection with the sale, supply, storage or manufacture of an ear-tag or a passport, cattle identity card, herd register, permit, record, other record, relating to a bovine or used in connection with a bovine, or

(e) an ear-tag, passport, cattle identity card, herd register, permit, record or other record, relating to a bovine or used in connection with a bovine is present, was present or may be present on a premises,

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

(i) search the premises,

(ii) stop a person, vehicle, vessel,

- (iii) board and search a container, equipment, machinery, plant, vehicle, vessel or container or other thing,
 - (iv) examine an animal, ear-tags, passport, cattle identity card, permit, herd register, record, other record, container, equipment, machinery, plant, vehicle, vessel or other thing,
 - (v) take, without payment, extracts from, samples from, copies of or photographs of a bovine, a food, ear-tags, passport, cattle identity card, permit, herd register, record, other record, container, equipment, machinery, plant, vehicle, vessel, container or other thing or an article, substance or liquid as he or she may reasonably require and carry out or cause to be carried out on a sample such tests, analyses, examinations or inspections as may be reasonably necessary or expedient,
 - (vi) seize and detain (for so long as is necessary) a bovine, ear-tags, passport, cattle identity card, herd register, permit, record, other record, including a record in non-legible form, vehicle, vessel, container and anything considered to be evidence of or connected to an offence under these Regulations,
 - (vii) require the production of passport, cattle identity card, herd register, permit, record, container, equipment, machinery, plant, vehicle, vessel, or other thing,
 - (viii) retain a record, equipment or thing (for so long as is necessary),
 - (ix) give a direction to, or request information of, a person regarding a bovine, ear-tags, passport, cattle identity card, herd register, permit, record, other record, container, equipment, machinery, plant, vehicle, vessel or other thing as he or she considers necessary,
 - (x) require the name and address of a person and the name and address of any other relevant person including the person to whom a bovine is being delivered or who is causing it to be delivered,
 - (xi) require of a person the ownership, identity and origin of a bovine, record referred to in subparagraph (xii), container, equipment, machinery, plant, vessel, vehicle or other thing, or
 - (xii) mark or otherwise identify a bovine, equipment, a record or thing referred to in subparagraph (viii), a food or a specimen taken under subparagraph (v).
- (2) If an authorised officer has reasonable cause to suspect that—
- (a) an offence is being or has been committed under these Regulations,

- (b) a contravention of an act of the institutions of the European Communities relating to identification of animals is being or has been committed, or
- (c) evidence of an offence or contravention may be, is or has been on a premises,

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

- (i) search a person, where the authorised officer considers it necessary,
- (ii) seize and detain, a bovine, ear-tags, passport, cattle identity card, register, record, other record, container, equipment, machinery, plant, vessel, vehicle, or other thing,
- (iii) dispose of a bovine, ear tags, container, equipment, machinery, plant, vehicle, vessel, or other thing or
- (iv) require the owner or person in charge of or in possession of a bovine, to dispose of a bovine, ear tags, container, equipment, machinery, plant, vehicle, vessel, or other thing used in connection with, or that may have been in contact with, the bovine in a manner that the authorised officer sees fit.

(3) An authorised officer shall not enter, except with the consent of the occupier, a private dwelling, unless he or she has obtained a search warrant under Regulation 18 other than if he or she has reasonable cause to suspect that before a search warrant could be sought in relation to the dwelling anything to which paragraph (1) relates is being or is likely to be destroyed or disposed of.

(4) An authorised officer may use reasonable force, if necessary, in exercise of his or her powers under this Regulation.

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

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

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

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

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

Search warrant

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

- (a) evidence of or relating to the commission or intended commission of an offence under these Regulations is to be found on a premises,
- (b) there is or was a bovine or equipment or other thing made, used or adapted for use (including manufacture and transport) in connection with a bovine, or
- (c) an ear-tag, passport, cattle identity card, herd register, or other record or other record related to a thing to which subparagraph (a) or (b) refers is or may be on the premises,

the judge may issue a search warrant.

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

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

Notice

19. (1) An authorised officer may, by notice in writing require a keeper to identify a bovine, in accordance with Articles 1, 2 and 4 of Commission Regulation (EC) No. 494/ 1998 of 27 February 1998 (“Commission Regulation”).

(2) If a person fails to comply with paragraph (1) an authorised officer shall destroy or cause to be destroyed a bovine in accordance with the Commission Regulation.

(3) If an authorised officer destroys or causes to be destroyed a bovine in accordance with Article 1(2) of the Commission Regulation the costs (including ancillary costs) may be recovered by the Minister—

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

(4) A person shall not move an animal in respect of which a notice under this Regulation has been served except in accordance with a permit.

Obstruction

20. A person shall not—

- (a) obstruct or impede an authorised officer in the exercise of Regulation 17,
- (b) fail, without reasonable cause, to comply with a requirement or direction of an authorised officer under Regulation 17,
- (c) in making an application for registration under Regulation 3 or approval under Regulation 4 or in purporting to give information to an authorised officer for the performance of the officer's powers under Regulation 17,
 - (i) make a statement that he or she knows to be false in a material particular or recklessly make a statement which is false in a material particular, or
 - (ii) fail to disclose a material particular,
- (d) tamper or otherwise interfere with a sample taken under Regulation 17, or
- (e) aid or abet a contravention of an act of the institutions of the European Communities or these Regulations.

Forgery

21. (1) A person shall not include on any application, notification, passport, cattle identity card, herd register or record a particular which he knows to be false or does not know to be true or recklessly include in such application, notification, form, passport, cattle identity card, herd register or record a particular which is false or which he does not know to be true.

(2) A person shall not tamper, deface or otherwise alter a passport, cattle identity card, ear-tag or herd register and shall not, without lawful authority, have possession or control of a passport, cattle identity card, ear-tag or herd register that has been tampered with, defaced or otherwise altered or interfered with.

Service

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

- (a) by delivering it to the person,

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

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

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

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

Fees

23. (1) The Minister may determine a fee in respect of

- (a) an application for approval of ear-tags,
- (b) purchase of ear-tags,
- (c) notification of registration of birth of a bovine,
- (d) issue of a passport,
- (e) a late, incomplete, or inaccurate notification,
- (f) postage costs, or
- (g) the performance of a function under these Regulations,

such fee, (which may cover one or more of the matters specified in this paragraph), not exceeding the cost, estimated by the Minister, of providing the service to which the fee relates and different fees may be charged for different classes of notification or functions.

(2) A fee under paragraph 1 may be charged in respect of one or more of the matters referred to in that paragraph.

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

(4) As an alternative to the fees the Minister may determine a charge covering some or all of the matters listed in paragraph (1) to be paid either when ordering tags or at registration and that tags will not issue or registration will not be made if the charges are not paid.

(5) A person who (a) receives a notification or (b) supplies approved ear-tags shall not accept the notification or supply the ear-tags unless the notification or application for ear-tags is accompanied by the appropriate fee (if any).

(6) A person who receives monies under paragraph 4 shall remit the monies to the Minister in accordance with the directions of the Minister.

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

(8) The Public Offices Fees Act 1879 does not apply to a fee or charge pursuant to this Regulation.

Offences

24. (1) A person who contravenes, or causes or permits a contravention of

(a) Article 4, 6(2), (4) or (5), 7(1), (2), (3) of the Bovine Identification Regulation, or

(b) Regulation 3(1), 5, 6, 7, 8, 9, 10 (1), (2) or (4), 11, 12, 13, 14, 15, 21, or 22(3) of these Regulations,

commits an offence and is liable on summary conviction to a fine not exceeding €5,000 or to a term of imprisonment not exceeding 6 months, or to both.

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

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

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

Evidence

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

- (a) that the person received a sample,
- (b) that, for the period specified in the certificate, the person had the sample in his or her possession,
- (c) that the person gave the sample to another person named in the certificate, or
- (d) the person carried out a procedure for the purpose of detecting in the sample, a substance or contamination or that the sample contained a substance as is, or was contaminated in a manner, specified in the certificate,

is (without proof of the signature of the person or that he or she is employed at the laboratory), unless the contrary is proved, evidence of the matters stated in the certificate.

(2) A certificate purporting to be signed by an officer of the Minister and to certify that on a specific day or days or during the whole of a specified period—

- (a) a particular ear-tag was not an approved ear-tag,
- (b) a passport or a cattle identity card was not issued or completed in compliance with these Regulations,
- (c) a herd register was not maintained in a manner specified by the Minister, or
- (d) a notification was or was not issued in compliance with these Regulations,

is, without proof of the signature of the person purporting to sign the certificate or that he or she is an officer of the registering authority, evidence, unless the contrary is shown, of the matters stated in the certificate.

(3) In proceedings for an offence under these Regulations the court may, if matters stated in a certificate under paragraph (1) or (2) be given, and may for the purpose of receiving oral evidence adjourn the matter.

(4) In proceedings for an offence, evidence an act of the institutions of the European Communities may be given by production of a copy of the act certified by an officer of the Minister to be a copy of the act, and it is not necessary to prove the signature of the officer or that he or she is an officer of the Minister.

(5) Paragraph (4) is in addition to and not in substitution for the European Communities (Judicial Notice and Documentary Evidence) Regulations 1972 (S.I. No. 341 of 1972).

Fixed payment notice

26. (1) If an officer of the Minister authorised by the Minister in that behalf has reasonable grounds for suspecting that a person is committing or has committed an offence under these Regulations, a notice in writing may be served 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 registering authority a payment of €200 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) If 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 registering authority at the address specified in the notice the payment specified in the notice accompanied by the notice,
- (b) the registering authority may receive the payment, issue a receipt for it and retain the money so paid, and any payment so received shall not be recoverable in any circumstances by the person who made it, and
- (c) a prosecution in respect of the alleged offence shall not be instituted in the period specified in the notice, and if the payment so specified is made during that period, no prosecution in respect of the alleged offence shall be instituted.

(3) In 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 lies on the defendant.

Revocations and Savers

27. (1) The following are revoked—

- (a) Article 32(2) and 39 (inserted by the Bovine Tuberculosis (Attestation of State and General Provisions) (Amendment) Order 2006 (S.I. No. 63 of 2006)) of the Bovine Tuberculosis (Attestation of State and General Provisions) Order 1989 (S.I. No. 308 of 1989),

- (b) Article 19(7) (inserted by the Brucellosis (General Provisions) (Amendment) Order 2001 (S.I. No. 229 of 2001)) of the Brucellosis in Cattle (General Provisions) Order 1991 (S.I. No. 114 of 1991),
- (c) the Bovine Tuberculosis (Attestation of State and General Provisions) Order 1996 (S.I. No. 103 of 1996),
- (d) the European Communities (Registration of Bovine Animals) Regulations 1996 (S.I. No. 104 of 1996),
- (e) the European Communities (Supply of Information on the Origin, Identification and Destination of Bovine Animals) Regulations 1999 (S.I. No. 258 of 1999),
- (f) the European Communities (Identification and Registration of Bovine Animals) Regulations 1999 (S.I. No. 276 of 1999),
- (g) the Bovine Tuberculosis (Attestation of State and General Provisions) Order 1999 (S.I. No. 277 of 1999),
- (h) European Communities (Identification and Registration of Animals) (Amendment) Regulations 2000 (S.I. No. 46 of 2000),
- (i) the Brucellosis (General Provisions) (Amendment) Order 2001 (S.I. No. 229 of 2001),
- (j) the European Communities (Identification and Registration of Bovine Animals) (Amendment) Regulations 2002 (S.I. No. 83 of 2002),
- (k) the European Communities (Identification and Registration of Bovine Animals) (Amendment) Regulations 2004 (S.I. No. 687 of 2004),
- (l) the European Communities (Identification and Registration of Bovine Animals) (Amendment) Regulations 2006 (S.I. No. 18 of 2006), and
- (m) the Bovine Tuberculosis (Attestation of State and General Provisions) (Amendment) Order 2006 (S.I. No. 63 of 2006),

(2) Article 6(1)(h) of the Bovine Tuberculosis (Attestation of State and General Provisions) Order 1989 and Article 5(2)(f)(i) of the Brucellosis in cattle (General Provisions) Order 1991 do not apply to a bovine identified with ear-tags attached to the bovine in accordance with these Regulations or, in the case of an imported animal, Article 4 of the Bovine Identification Regulation.

(3) A notice served under an instrument revoked by paragraph (1) that is in force immediately before the making of these Regulations continues in force and may be dealt with as if served under these Regulations.

(4) The Bovine Tuberculosis (Attestation of State and General Provisions) Order 1989 the Brucellosis in Cattle (General Provisions) Order 1991, so far as either of those Orders relates to the identification of a bovine, are construed

and have effect as if subject to these Regulations or the equivalent provision of these Regulations.

(5) These Regulations are in addition to and not in substitution for the National Beef Assurance Scheme Act (Animal Movement) Regulations 2008 (S.I. No. 400 of 2008).



GIVEN under my Official Seal,
11 March 2009

BRENDAN SMITH TD,
Minister for Agriculture, Fisheries and Food.

EXPLANATORY NOTE.

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

These Regulations give effect to Title I of Regulation (EC) No. 1760/2000 of the European Parliament and of the Council of 17 July 2000 and Commission implementing Regulations in relation to the identification of bovine animals and lay down obligations and responsibilities in relation to the keeping of records and provision of information.

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