

S.I. No. 151/1994 - European Communities (Breeding Pig Herd-Book and Register) Regulations, 1994

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EUROPEAN COMMUNITIES (BREEDING PIG HERD-BOOK AND REGISTER) REGULATIONS, 1994

I, JOE WALSH, Minister for Agriculture, Food and Forestry, 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 effect to Council Directive No. 88/661/EEC of 19 December 1988¹, Council Directive No. 90/118/EEC of 5 March 1990², Council Directive No. 90/119/EEC of 18 July 1989³, Commission Decision No. 89/501/EEC of 18 July 1989⁴, Commission Decision No. 89/502/EEC of 18 July 1989⁵, Commission Decision No. 89/503/EEC of 18 July 1989⁶, Commission Decision No. 89/504/EEC of 18 July 1989⁷, Commission Decision No. 89/505/EEC of 18 July 1989⁸, Commission Decision No. 89/506/EEC of 18 July 1989⁹ and Commission Decision No. 89/507/EEC of 18 July 1989¹⁰, hereby make the following Regulations:

¹O.J. No. L382, 31/12/1988, p. 36.

²O.J. No. L71, 17/3/1990, p. 34.

³O.J. No. L71, 17/3/1990, p. 36.

⁴O.J. No. L247, 23/8/1989, p. 19.

⁵O.J. No. L247, 23/8/1989, p. 21.

⁶O.J. L247, 23/8/1989, p. 22.

⁷O.J. No. L247, 23/8/1989, p. 31.

⁸O.J. No. L247, 23/8/1989, p. 33.

⁹O.J. No. L247, 23/8/1989, p. 34.

¹⁰O.J. No. L247, 23/8/1989, p. 43.

1 *Citation and Commencement.*

1. (1) These Regulations may be cited as the European Communities (Breeding Pig-Herd book and Register) Regulations, 1994.

(2) These Regulations shall come into operation on the 31st day of May, 1994.

2 *Interpretation.*

2. (1) In these Regulations—

"application for approval" means an application to the Minister in respect of an approval for the maintenance of a herd- book or register for the purposes of these Regulations and the Directives and Decisions;

"an approval" means an approval granted by the Minister under Regulation 3;

"approved breeders' association or organisation" means—

(a) a breeders' association or organisation which has its headquarters located within the State and has been granted an approval, or

(b) a breeders' association or organisation which has its headquarters located in another Member State and is approved by, or under the control of, the competent authority of that Member State;

"approved private undertaking" means—

(a) a private undertaking which has its headquarters located within the State and has been granted an approval, or

(b) a private undertaking which has its headquarters located in another Member State and is approved by the competent authority of that Member State;

"authorised officer" means a person authorised in writing by the Minister to exercise for the purposes of these Regulations and the Directives and Decisions the powers conferred on an authorised officer by these Regulations;

"Decision 89/501" means Commission Decision No. 89/501/EEC of 18 July 1989 ¹¹;

¹¹O.J. No. L247, 23/8/1989, p. 19.

"Decision 89/502" means Commission Decision No. 89/502/EEC of 18 July 1989 ¹²;

¹²O.J. No. L247, 23/8/1989, p. 21.

"Decision 89/503" means Commission Decision No. 89/503/EEC of 18 July 1989 ¹³

¹³O.J. No. L247, 23/8/1989, p. 22.

"Decision 89/504" means Commission Decision No. 89/504/EEC of 18 July 1989 ¹⁴;

¹⁴O.J. No. L247, 23/8/1989, p. 31.

"Decision 89/505" means Commission Decision No. 89/505/EEC of 18 July 1989 ¹⁵;

¹⁵O.J. No. L247, 23/8/1989, p. 33.

"Decision 89/506" means Commission Decision No. 89/506/EEC of 18 July 1989 ¹⁶;

¹⁶O.J. No. L247, 23/8/1989, p. 34.

"Decision 89/507" means Commission Decision No. 89/507/EEC of 18 July 1989 ¹⁷;

¹⁷O.J. No. L247, 23/8/1989, p. 43.

"the Decisions" means Decision 89/501, Decision 89/502, Decision 89/503, Decision 89/504, Decision 89/505, Decision 89/506 and Decision 89/507;

"Directive 88/661" means Council Directive No. 88/661/EEC of 19 December 1988 ¹⁸

¹⁸O.J. No. L382, 31/12/1988, p. 36.

"Directive 90/118" means Council Directive No. 90/118/EEC of 5 March 1990 ¹⁹;

¹⁹O.J. No. L71, 17/3/1990, p. 34.

"Directive 90/119" means Council Directive No. 90/119/EEC of 5 March 1990 ²⁰;

²⁰O.J. No. L71, 17/3/1990, p. 36.

"the Directives" means Directive 88/661, Directive 90/118 and Directive 90/119;

"herd-book" means, any book, file or data medium in which pure-bred breeding pigs of a specified breed are entered or registered with mention of their ancestors;

"hybrid breeding pig" means an animal of the porcine species which is produced by the deliberate cross breeding of—

(a) pure-bred breeding pigs of different breeds or lines, or

(b) animals which are the product of the deliberate cross breeding of pure-bred breeding pigs of different breeds or lines, or

(c) pure-bred breeding pigs and animals which are produced by the deliberate cross breeding of—

(i) pure-bred breeding pigs of different breeds or lines, or

(ii) animals which are the product of the deliberate cross breeding of pure-bred breeding pigs of different breeds or lines.

"marketed" means offered for sale, lease or hire;

"Member State" means a Member State of the European Communities;

"the Minister" means the Minister for Agriculture, Food and Forestry;

"pure-bred breeding pig" means an animal of the porcine species whose parents and grandparents are entered or registered in a herd-book of a particular breed and which itself is eligible for entry in a herd-book of that particular breed;

"register" means any book, file or data medium in which hybrid breeding pigs are entered or registered with mention of their ancestors.

(2) A word or expression that is used in these Regulations and is also used in the Directives or in the Decisions has, unless the

contrary intention appears, the meaning in these Regulations that it has in the Directive or in the Decision concerned, save where the context otherwise requires.

(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.

3 Approval of bodies for the purposes of maintaining herd-books for pure-bred breeding pigs and registers for hybrid breeding pigs. **3.** (1) The Minister shall for the purposes of these Regulations and the Directives and Decisions approve—

(a) breeders' associations or organisations whose headquarters are located in the state for the purposes of maintaining a herd-book if—

(i) he is satisfied that the applicable provisions of Directive 88/661, Directive 90/118 and Decision 89/501 will be complied with, and

(ii) where for a given breed one or more breeders' organisation or association have already been approved under this Regulation, he does not consider that the granting of approval would endanger the preservation of the breed or jeopardise the zootechnical programme of the breeders' associations or organisations already approved, or

(*b*) a breeders' association or organisation, or private undertaking whose headquarters are located in the state for the purposes of maintaining a register if he is satisfied that the applicable provisions of Directive 88/661, Directive 90/119 and Decision 89/504 shall be complied with.

(2) 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 and where the applicant is a body corporate its principal place of business,

(*c*) accompanied by the fee determined in accordance with Regulation 8, and

(*d*) addressed to—

The Officer in Charge,

Livestock Breeding Division (Pigs),

Department of Agriculture, Food and Forestry,

Farnham Street,

Cavan,

or to such other person or address as the Minister may direct and as published in at least 2 daily newspapers published and circulating in the State.

(3) The Minister may, upon receipt of an application for approval, require such information from the applicant as he considers necessary for him to ensure that the Directives and Decisions will be complied with and to decide whether or not to grant the approval.

(4) A person who in making an application for approval wilfully makes a false or misleading statement shall be guilty of an offence.

(5) Where the Minister grants an approval he shall notify the owner or person in charge of the breeders' association, breeders' organization or private undertaking concerned in writing of that approval.

(6) An approval shall be valid for 5 years.

(7) The Minister may, for the purpose of ensuring due compliance with applicable provisions of the Directives and Decisions, attach conditions to an approval at the time it is granted or subsequently and he may amend or revoke a condition attached to the approval and shall notify the owner or person in charge of the breeders' association, breeders' organization or private undertaking concerned in writing of the conditions, amendment or revocation in relation to that approval.

(8) The Minister may, if he is not satisfied that the relevant provisions—

(*a*) in the case of a herd-book, of Directive 88/661, Directive 90/118 and Decision 89/501, or

(*b*) in the case of a register, of Directive 88/661, Directive 90/119 and Decision 89/504,

are being or will be complied with by the breeders' association, breeders' organization, or private undertaking concerned refuse an application for approval or revoke an approval.

(9) The Minister shall not—

(*a*) revoke an approval, or

(*b*) refuse an application for approval, or

(*c*) attach a condition to an approval or amend such a condition,

without—

(*d*) notifying the holder of, or applicant for, the approval of his intention to revoke the approval or refuse the application, or attach or amend the condition, as the case may be,

(*e*) specifying his reasons for the intended revocation or refusal of the approval, or the attaching or amendment of the condition, and

(*f*) affording the holder of, or applicant for, the approval the opportunity of making representations or having representations made on his 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 receipt by that person of the notification referred to in subparagraph (*d*) and having had regard to any such representations.

(10) A person who contravenes an approval or a condition of an approval shall be guilty of an offence.

4 Entry of pure-bred breeding pigs in herd-books and hybrid breeding pigs in registers. **4.** (1) A pure-bred breeding pig shall neither be entered nor registered in a herd-book maintained by an approved breeders' association or organisation otherwise than in accordance with Decision 89/502.

(2) A hybrid breeding pig shall neither be entered nor registered in a register maintained by an approved breeders' association or organisation, or private undertaking otherwise than in accordance with Decision 89/505.

5 Marketing of pure-bred and hybrid breeding pigs, their embryos, semen and ova. **5.** (1) A pure-bred breeding pig which is entered or registered in a herd-book maintained by an approved breeders' association or organisation, or the semen or ova and embryos of such an animal, shall, when marketed, be accompanied by a zootechnical certificate drawn up in accordance with the applicable provisions of Decision 89/503.

(2) A hybrid breeding pig which is entered or registered in a register maintained by an approved breeders' association or organisation, or private undertaking, or the semen or ova and embryos of such an animal, shall, when marketed, be accompanied by a zootechnical certificate drawn up in accordance with the applicable provisions of Decision 89/506.

6 Monitoring of the genetic merit of pure-bred and hybrid breeding pigs. **6.** An approved breeders' association or organisation, or private undertaking shall, in respect of herd-books and registers which it maintains, calculate, or make arrangements to have calculated, the genetic merit of pure-bred and hybrid breeding pigs entered or registered in those herd-books or registers in accordance with Decision 89/507.

7 Powers of authorised officers. **7.** (1) An authorised officer, on production of the officer's authorisation, if so required by any person affected, may, for the purposes of these Regulations and the Directives—

(a) at all reasonable times enter any premises or place, including any land, vehicle, wagon, vessel, aircraft or other means of transport where he reasonably suspects that a herd-book or register or part of a herd-book or register, or any article, book, document or other record associated with a herd-book or register maintained by an approved breeders' association or organisation, or private undertaking is being stored or transported,

(*b*) require any person at the premises or place or the owner or person in charge thereof and any person employed in connection therewith to give him such information and to produce to him such books, documents and other records within the power of procurement of the person as he may reasonably require for the purposes of such functions,

(*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 reasonably suspects to contain a herd-book or register or part of a herd-book or register or any article, book, document or other record associated with a herd-book or register, maintained by an approved breeders' association or organisation, or private undertaking.

(2) A person who obstructs or otherwise interferes with an authorised officer in the performance of his functions under this Regulation or who, in purported compliance with a requirement under subparagraph (1) (*b*), gives information to an authorised officer that he knows to be false or misleading in a material respect shall be guilty of an offence.

(3) If any person, with intent to deceive, tampers or interferes with any copy or extract taken under these Regulations, he shall be guilty of an offence.

(4) Where an authorised officer finds or comes into possession of any article, book, document or other record which he reasonably believes to be evidence of the commission of an offence under these Regulations, he 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.

8 *Fees.*

8. (1) There shall be charged by the Minister in respect of an approval such fee as the Minister, with the consent of the Minister for Finance, may determine.

(2) A fee charged under this Regulation shall be payable by the breeders' association or organisation to which the approval concerned relates and the Minister may refuse to grant an approval until the fee under this Regulation in respect thereof has been paid.

(3) Fees under this Regulation shall be collected and taken in such manner as the Minister for Finance directs 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 payable under this Regulation may be recovered by the Minister as a simple contract debt in any court of competent jurisdiction.

(5) A fee charged under this Regulation shall not exceed an amount equal to the costs, estimated by the Minister, incurred in relation to the approval concerned and the performance of functions under these Regulations in relation to the breeders' association or organisation, or private undertaking concerned by an authorised officer for the purposes of the approval.

9 *Penalties and offences.*

9. (1) A person who contravenes Regulation 4, 5 or 6 shall be 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 £1,000.

(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 wilful 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.

(5) Where a person after conviction for an offence under these Regulations continues to contravene the provisions concerned,

he shall be guilty of a further offence on every day on which the contravention continues and for each such offence he shall be liable on summary conviction to a fine not exceeding £200.

GIVEN under my Official Seal, this 25th day of May, 1994.

JOE WALSH,

Minister for Agriculture, Food and Forestry.

EXPLANATORY NOTE.

These Regulations, which give legal effect to Council Directives 88/661/EEC, 90/118 and 90/119, and which come into effect on 31st May, 1994, provide for the approval and recognition of organisations which maintain herd-books and registers for pigs, and set out the certificates which must be produced when pigs which are entered or registered in such herd-books are marketed.