

## **EUROPEAN COMMUNITIES (ZOOTECNICAL AND GENEALOGICAL CONDITIONS APPLICABLE TO IMPORTS FROM THIRD COUNTRIES) REGULATIONS 1998**

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 effect to Council Directive No. 94/28/EC of 23 June 1994, Commission Decision No. 96/509/EC of 18 July 1996 and Commission Decision No. 96/510/EC of 18 July 1996 hereby make the following Regulations:  
1O.J. No. L178, 12. 7. 1994, p. 66.  
2O.J. No. L210, 20. 8. 1996, p. 47.  
3O.J. No. L210, 20. 8. 1996, p. 53.

### **REG 1**

#### **1. Citation and commencement**

- (1) These Regulations may be cited as the European Communities (Zootechnical and Genealogical Conditions Applicable to Imports from Third Countries) Regulations, 1998.
- (2) These Regulations shall come into operation on the 1st day of March, 1998.

### **REG 2**

#### **2. Interpretation**

##### **(1) In these Regulations—**

"animal" means any animal listed, for the time being, in Annex II to the Treaty of Rome excluding cattle and water buffalo;

"approved herd-book" means a herd-book which is maintained by a third country authority listed for the time being in accordance with Article 3 of the Council Directive;

"authorised officer" means a person authorised in writing by the Minister to exercise for the purposes of these Regulations and the Council Directive the powers conferred on an authorised officer by these Regulations or an officer of Customs and Excise;

"Commission Decision 96/509/EC" means Commission Decision No. 96/509/EC of 18 July 1996;

"Commission Decision 96/510/EC" means Commission Decision No. 96/510/EC of 18 July 1996;

1O.J. No. L178, 12. 7. 1994, p. 66.

2O.J. No. L210, 20. 8. 1996, p. 47.

3O.J. No. L210, 20. 8. 1996, p. 53.

"the Council Directive " means Council Directive No. 94/28/EC of 23 June 1994;

1O.J. No. L178, 12. 7. 1994, p. 66.

"herd-book" means a flock-book, herd-book, stud-book or register in which animals are entered or registered with mention of their ancestors;

"import" means to bring into the State and cognate words shall be construed accordingly;

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

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

"officer of Customs and Excise" has the same meaning as in the Customs Act, 1956 (No. 7 of 1956);

"pedigree animal" means an animal entered or registered in an

approved herd-book;

"premises" includes any house or land or water and fixed or moveable structure therein and also includes vessels, vehicles, trains, aircraft and other means of transport;

"third country" means a country which is not a Member State.

(2) A word or expression that is used in these Regulations and is also used in the Council Directive or Commission Decision 96/509/EC or Commission Decision 96/510/EC has, unless the contrary intention appears, the meaning in these Regulations that it has in the Council Directive or in the Commission 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.

### REG 3

#### 3. Importation of pedigree animals.

(1) A person who imports or attempts to import a pedigree animal from a third country, save in accordance with this Regulation, shall be guilty of an offence.

(2) A pedigree animal shall not be imported from a third country unless—

(a) it is accompanied by pedigree and zootechnical certificates drawn up in accordance with the applicable provisions of the Council Directive and Commission Decision 96/510/EC,

(b) it is accompanied by evidence that the animal will be entered or registered in a herd-book maintained within the territory of a Member State.

### REG 4

#### 4. Importation of pedigree animals' semen

(1) A person who imports or attempts to import semen of a pedigree animal from a third country, save in accordance with this Regulation, shall be guilty of an offence.

(2) Semen of a pedigree animal shall not be imported from a third country unless—

(a) it is accompanied by a pedigree and zootechnical certificate drawn up in accordance with the applicable provisions of the Council Directive, Commission Decision 96/509/EC and Commission Decision 96/510/EC,

(b) it is taken from an animal which has undergone performance tests and genetic value assessment on the basis of the principles provided for in Community rules in accordance with the applicable provisions of the Council Directive and Commission Decision 96/509/EC.

(3) The Minister may authorise the importation of semen from a third country where the pedigree animal which has produced the semen has not undergone performance tests and genetic value assessment on the basis of the principles provided for in Community rules within the limits of quantities necessary for approved organisations or

associations to carry out such official tests.

#### REG 5

##### 5. Importation of pedigree animals' ova

- (1) A person who imports or attempts to import an ovum of a pedigree animal from a third country, save in accordance with this Regulation, shall be guilty of an offence.
- (2) An ovum of a pedigree animal shall not be imported from a third country unless it is accompanied by a pedigree and zootechnical certificate drawn up in accordance with the applicable provisions of the Council Directive and Commission Decision 96/510/EC.

#### REG 6

##### 6. Importation of pedigree animals' embryos

- (1) A person who imports or attempts to import an embryo of a pedigree animal from a third country, save in accordance with this Regulation, shall be guilty of an offence.
- (2) An embryo of a pedigree animal shall not / be imported from a third country unless it is accompanied by a pedigree and zootechnical certificate drawn up in accordance with the applicable provisions of the Council Directive and Commission Decision 96/510/EC.

#### REG 7

##### 7. Powers of authorised officers and officers of customs and excise

- (1) The Minister may appoint in writing such and so many persons as the Minister thinks fit to be authorised officers for the purposes of all or any of the provisions of these Regulations.
- (2) Every authorised officer shall be furnished with a warrant of his or her appointment as an authorised officer stating that he or she is acting under these Regulations.
- (3) An authorised officer, on production of the officer's authorisation, if so required by any person affected, may, for the purposes of these Regulations—
  - (a) subject to paragraph (4) at all reasonable times enter and search any premises where the officer reasonably suspects that any breeding animals or their products or any thing the subject of these Regulations is being used, collected, stored, sold, packaged, transported, imported or exported,
  - (b) there or at any other place, carry out such examinations, tests, checks and inspections of the premises or place and any equipment, machinery or plant thereat and any animal, product or thing found thereat as the officer reasonably considers necessary or expedient for the purposes of his or her functions under these Regulations,
  - (c) take, without payment, such samples of any substance (or, if the authorised officer is an official veterinarian, take from any animal a sample, at the premises or place as he or she may reasonably require for the purposes of such functions) and carry out or have carried out on the samples such examination checks and inspections according with any relevant provisions of these Regulations as he or she considers necessary or expedient for the purposes of his or her functions under these Regulations,

(d) require any person at the premises or place or the owner or person in charge thereof or any person employed in connection therewith 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 for the purposes of such functions.

(e) examine and take copies of, or extracts from, any such records (including in the case of information in non-legible form a copy of or extract from such information in permanent legible form),

(f) seize or detain any breeding animals, semen, ova or embryos including any container in which semen, ova or embryos are kept which he or she reasonably believes have been produced or imported or to be intended for export in contravention of these Regulations, (g) if accompanied by a member of the Garda Síochána, stop any vehicle which the officer reasonably suspects of containing any breeding animals, their semen, ova or embryos the subject of these Regulations.

(4) An authorised officer shall not, other than with the consent of the occupier, enter a private dwelling (other than any shed, outoffice, yard or land appurtenant to the dwelling or usually enjoyed with the dwelling) unless the officer has obtained a warrant from the District Court under paragraph (5) authorising such entry.

(5) If a judge of the District Court is satisfied by information on oath by an authorised officer that there is reasonable cause for suspecting that—

(a) evidence of or relating to the commission or intended commission of an offence under these Regulations is to be found in any premises,

(b) there is or was any product or thing the subject of these Regulations in any premises, or

(c) a document directly or indirectly connected with any product or thing the subject of these Regulations is in the possession or control of a person in any premises, such judge may issue a search warrant.

(6) A search warrant issued under paragraph (5) shall be expressed and operate to authorise a named authorised officer, accompanied by such authorised officers, members of the Garda Síochána or officers of Customs and Excise as the named officer thinks necessary, at any time or times within one month from the date of issue of the warrant, on production if so requested of the warrant, to enter (if necessary by force) the premises named in the warrant.

(7) Where a premises is entered under a search warrant issued under paragraph (5) all or any of the powers set out in paragraph (3)

(b) to (g) may be exercised by the authorised officer who so enters.

(8) A person who obstructs or otherwise interferes with an authorised officer in the performance of the officers functions under these Regulations or who, in purported compliance with a requirement under subparagraph (3)(d), gives information to an authorised officer that he or she knows to be false or misleading in a material respect shall be guilty of an offence.

(9) A person who, with intent to deceive—

(a) tampers with any breeding animal, product or thing the subject of these Regulations so that a sample of it taken under these Regulations does not accurately represent the aforementioned breeding

animal, product, or thing, or

(b) tampers or interferes with any sample taken under these Regulations, shall be guilty of an offence.

(10) Where an authorised officer finds or comes into possession of any breeding animal, product or thing the subject of these Regulations or any breeding animal, product or thing which the officer reasonably believes to be evidence of the commission of an offence under these Regulations, the officer may seize it and detain it for use in evidence in a prosecution for an offence under these Regulations for such period from the date of the seizure as may be reasonable or, if proceedings are commenced in which the breeding animal, product or thing the subject of these Regulations is required for use in evidence, until the conclusion of the proceedings.

(11) An authorised officer may by notice in writing given to the owner or the person who appears to be in charge or control of any breeding animal, product or thing the subject of these Regulations which has been seized and detained in accordance with these Regulations—

(a) require anything specified in the notice to be done by the person to whom the notice is directed before the breeding animal, product or thing the subject of these Regulations is released by an authorised officer, or

(b) either—

(i) require the disposal of the breeding animal, product or thing the subject of these Regulations by the person to whom the notice is directed, upon its release by the authorized officer, in the manner specified in the notice and at the expense of the owner, or  
(ii) indicate the authorised officer's intention to dispose of the breeding animal, product or thing the subject of these Regulations in a specified manner and at the expense of the owner, the manner of disposal in either case being such as to prevent the breeding animal, product or thing the subject of these Regulations, being exported, imported or used in contravention of these Regulations, and where a notice under this paragraph requires a specified thing to be done, an authorised officer may retain control of the breeding animal, product or thing the subject of these Regulations to which the notice relates until the requirements of the notice have been complied with.

(12) Where a notice is given under paragraph (11) a person shall not, without the consent of the authorised officer by whom the notice was directed, move, dispose of, interfere with or otherwise deal with the breeding animal, product or thing the subject of these Regulations other than in compliance with the requirements of the notice.

(13) Any person who is aggrieved by a notice under this Regulation may, not later than 21 days after the date of the notice, or such further period (if any) as the District Court may allow, appeal against the notice to the District Court.

(14) Notice of an appeal under paragraph (13) shall be given to the Minister by the person bringing the appeal at least 7 days prior to the hearing of the appeal.

(15) (a) Where an appeal is brought under paragraph (13), the District Court shall make such order as it considers just (including an order directing that the breeding animal, product or thing the

subject of these Regulations be disposed of, at the expense of the owner, in such manner as it may specify).

(b) The cost of disposal by an authorised officer under this Regulation or pursuant to an order of the District Court under this Regulation shall be recoverable by the Minister by whom it is incurred as a simple contract debt in any court of competent jurisdiction from the person who was the owner of the breeding animal, product or thing the subject of these Regulations at the time of its seizure and detention under these Regulations.

(16) A notice under this Regulation shall not come into force until—

(a) in the case where there is an appeal to the District Court against the notice, the appeal and any appeal there from has been determined, or

(b) in any other case, the period during which such an appeal may be brought has expired.

(17) (a) The jurisdiction conferred on the District Court by this Regulation shall be exercised by the judge of that court for the time being assigned to the District Court district in which the breeding animal, product or thing the subject of these Regulations was seized or in which the owner or person then in charge or control thereof ordinarily resides or carries on any profession, business or occupation.

(b) For the purposes of subparagraph (a) the breeding animal, product or thing the subject of these Regulations shall be deemed to be situated in a district court district as if it is situated on a premises which is situated wholly or partly in such district.

(18) An officer of customs and excise may seize and detain any breeding animal, semen, ova or embryos the subject of these Regulations being exported or imported as respects which he or she reasonably believes that there is a failure to comply with a provision of these Regulations and may for that purpose open any package containing or suspected by the officer to contain any product or thing the subject of these Regulations.

(19) In this Regulation "thing" includes a substance or a liquid.

## REG 8

### 8. Penalties and offences

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

(2) A person guilty of an offence under these Regulations shall be liable on summary conviction to a fine not exceeding £1,500.

(3) Where a person is convicted of contravening these Regulations and after such conviction continues to contravene the provision concerned, he or she shall be guilty of a further offence on every day on which the contravention continues and for each such offence he or she shall be liable on summary conviction to a fine not exceeding £250.

(4) Where an offence is committed under these Regulations by a body corporate and is proved 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 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 or she were guilty of the first-mentioned offence.

GIVEN under my Official Seal, this 6th day of February, 1998.

JOE WALSH,

Minister for Agriculture and Food

#### EXPLANATORY NOTE

These Regulations, which give legal effect to Council Directive 94/28/EC, relate solely to the importation of pedigree animals (excluding cattle), their semen, ova and embryos. They set out the zootechnical and genealogical conditions which must be met when importing pedigree animals, their semen, ova and embryos from third countries