

EUROPEAN COMMUNITIES (CERTIFICATION OF ANIMALS AND ANIMAL PRODUCTS) REGULATIONS, 1999.

S.I. No. 380 of 1999.

I, JOE WALSH, Minister for Agriculture, Food and Rural Development, 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. 96/93/EC of 17 December 1996¹ on the certification of animals and animal products, hereby make the following Regulations:

¹ O.J. No. L13 of 16.1.97, p28.

1. These Regulations may be cited as the European Communities (Certification of Animals and Animal Product) Regulations, 1999.

2. (1) In these Regulations—

"certifying officer" means a person authorised by the Minister or the Minister for the Marine and Natural Resources to issue, for the purposes of veterinary legislation or regulations giving effect to such legislation, certificates howsoever described in such legislation or regulations;

"Council Directive" means Council Directive 96/93/EC of 17 December 1996 on the certification of animals and animal products;

"issue" in relation to a certificate includes, endorsing or signing a certificate;

"Minister" means the Minister for Agriculture, Food and Rural Development.

(2) A word or expression that is used in these Regulations and that is also used in the Council Directive has, unless the contrary intention appears, the same meaning in these Regulations as it has in the Council Directive.

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

3. Subject to paragraph 4 of Article 3 of the Council Directive, a certifying officer who contravenes paragraph 2 or 3 of that Article shall be guilty of an offence.

4. (1) A certifying officer who issues a certificate in respect of an animal or product of which he or she is the owner in whole or in part shall be guilty of an offence.

(2) A certifying officer who issues a certificate in respect of an animal or product that originates from a holding or establishment of which he or she is the owner in whole or in part shall be guilty of an offence.

5. (1) The Minister or the Minister for the Marine and Natural Resources, as may be appropriate, may, for the purposes of giving full effect to paragraph 1(a) of Article 4 of the Directive, give directions to certifying officers.

(2) Without prejudice to the generality of paragraph (1), a direction under that paragraph may prohibit the certification by a certifying officer of animals or products owned in whole or in part by—

(a) a close relative of the certifying officer,

(b) a business partner of the certifying officer, or

(c) a company in which the certifying officer has a controlling interest or a substantial shareholding, or a subsidiary of such company,

or an animal or product originating in a holding or establishment owned in whole or in part by any such person.

(3) The Minister or the Minister for the Marine and Natural Resources, as may be appropriate, may withdraw or vary a direction given by him or her under this Regulation.

(4) A certifying officer who contravenes a direction under this Regulation shall be guilty of an offence.

(5) In this Regulation—

"close relative" means, in relation to a certifying officer, a brother, sister, parent or spouse of the person or a child of the certifying officer or of his or her spouse;

"subsidiary" has the same meaning as it has in section 155 of the Companies Act, 1963 (No. 33 of 1963);

"substantial shareholding" means that number of shares, or that number of shares of a particular class, the ownership of which by a certifying officer would, in the opinion of the Minister or the Minister for the Marine and Natural Resources, as may be appropriate, be likely to impair his or her ability to perform impartially the functions of a certifying officer in relation to—

(a) animals or products, or

(b) animals or products originating in holdings or establishments, owned in whole or in part by the company concerned.

(6) For the purposes of this Regulation, a person (being a natural person) shall be deemed to have a controlling interest in a company if circumstances exist whereby, were that person a company, the company first-mentioned in this paragraph would be that company's subsidiary.

6. (1) A person shall not forge, or utter knowing it to be forged, a certificate purporting to be issued under these Regulations or a document purporting to be an extract therefrom (hereafter in this Regulation referred to as a "forged certificate").

(2) A person shall not alter with intent to defraud or deceive, or to utter knowing it to be so altered, a certificate issued under these Regulations or an extract therefrom (hereafter in this Regulation referred to as "an altered certificate").

(3) A person shall not, without lawful authority, have in his or her possession or under his or her control a forged certificate or an altered certificate.

(4) A person who contravenes this Regulation shall be guilty of an offence.

7. A person other than a certifying officer who purports to issue a certificate shall be guilty of an offence.

8. (1) Where a person other than a certifying officer is guilty of an offence consisting of a contravention of Regulation 6 the Minister or the Minister for the Marine and Natural Resources, as may be appropriate, may, in respect of such period as he or she considers appropriate, refuse to issue a certificate to that person.

(2) Where the Minister or the Minister for the Marine and Natural Resources refuses, in accordance with this Regulation, to issue a certificate to a person he or she shall inform the person concerned by notice in writing, of his or her decision to so refuse, the reasons therefor and the period in respect of which the decision will apply.

(3) A person to whom a notice under paragraph (2) is addressed may within 21 days of receiving such notice make representations to the Minister or the Minister for the Marine and Natural Resources, as may be appropriate, and he or she may, having considered such representations affirm, vary or revoke the decision concerned.

9. (1) A person guilty of an offence under these Regulations shall be liable on summary conviction to a fine not exceeding £1,500, or to imprisonment for a term not exceeding 12 months or to both such fine and imprisonment.

(2) Where an offence under these Regulations is 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 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 1st day of December, 1999.

JOE WALSH,

Minister for Agriculture, Food and Rural Development.

EXPLANATORY NOTE

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

These Regulations transpose Council Directive 96/93/EC of 17 December, 1996 to provide for the rules to be observed in issuing certificates required by Veterinary legislation.