



STATUTORY INSTRUMENTS

S.I. No. 263 of 2009



EUROPEAN COMMUNITIES (PET PASSPORT) REGULATIONS 2009

(Prn. A9/0982)

EUROPEAN COMMUNITIES (PET PASSPORT) REGULATIONS 2009

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 effect to Regulation No. 998/2003 of the European Parliament and of the Council of 26 May 2003¹ as amended by Commission Regulation (EC) No. 592/2004 of 30 March 2004² and by Regulation (EC) No. 454/2008 of the European Parliament and of the Council of 21 May 2008³ hereby make the following Regulations—

1. These Regulations may be cited as the European Communities (Pet Passport) Regulations 2009.

Interpretation.

2. (1) In these Regulations—

“approved transporter” means any airline or ferry company approved by the Minister under Regulation 5;

“approved entry point” means a port or airport in the State designated under Regulation 6;

“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,
- (b) a person appointed under regulation 7,
- (c) a member of the Garda Síochána, or
- (d) an officer of Customs and Excise;

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

“Pet passport Regulations” means Regulation No. 998/2003 of the European Parliament and of the Council of 26 May 2003 as amended by Commission Regulation (EC) No. 592/2004 of 30 March 2004 and Commission Regulation (EC) No. 454/2008 of 21 May 2008;

¹OJ No. L146, 13.6.2003, p.1

²OJ No. L94, 31.3.2004, p.7

³OJ No. L145, 4.6.2008, p.238

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 17th July, 2009.*

“premises” includes land (including land under water) with or without buildings, a vehicle (including a boat, ship, hovercraft, aircraft or offshore installation) (being an offshore installation, within the meaning of the Safety, Health and Welfare (Offshore Installations) Act 1987 (No. 18 of 1987)), railway wagon, container or other thing used in connection with, or ancillary to, a thing aforementioned;

(2) A word or an expression used in these Regulations and which is also used in the Pet passport Regulations has, unless the contrary intention appears, the same meaning in these Regulations that it has in the Pet passport Regulations.

Import of pet animals

3. A person shall not bring a pet animal into the State from Sweden, Malta or a country mentioned in Part B or Part C of Annex II to the Pet passport Regulations unless the pet animal—

- (a) is over three months old,
- (b) is identified with an electronic identification system (transponder). Where the transponder does not comply with ISO Standard 11784 or Annex A to ISO Standard 11785, the owner or person responsible for the pet animal on behalf of the owner must provide the means necessary for reading the transponder at the time of any inspection.
- (c) is accompanied by a passport relating to the pet animal—
 - (i) issued by the competent authority certifying valid anti-rabies vaccination, or revaccination if applicable, in accordance with the recommendations of the manufacturing laboratory, carried out on the animal in question with an inactivated vaccine of at least one antigenic unit per dose (WHO standard), and
 - (ii) which certifies that the pet animal has been treated for echinococcus and ticks not more than 48 hours and not less than 24 hours prior to entry into the State,
- (d) has been tested in accordance with the second indent of Article 6(1) of the Pet passport Regulations at least six months prior to entry into the State,
- (e) enters the State at an approved entry point, and
 - (i) is transported by an approved carrier, or
 - (ii) has prior approval from the Minister to enter the State and satisfies the conditions of that approval.

4. A person shall not bring more than 5 pet animals into the State at any one time.

Approval of transporters and entry points

5. (1) A person shall not transport a pet animal into the State other than in accordance with an approval granted under these Regulations (“transporter’s approval”).

(2) The Minister may grant a transporter’s approval, attach conditions to a transporter’s approval, revoke or vary a condition, suspend or withdraw a transporter’s approval or refuse an application.

(3) An application for a transporter’s approval shall be made in a form, be accompanied by any material and contain any particulars that the Minister specifies.

(4) The Minister shall not consider an application for a transporter’s approval if the application does not contain all the material and particulars sought by the Minister.

(5) Without prejudice to the generality of paragraph (2), the Minister may refuse an application or withdraw a transporter’s approval if—

- (a) the applicant or person to whom a transporter’s approval is granted has failed to comply with a condition attached to a transporter’s approval,
- (b) the applicant or person to whom a transporter’s approval is granted is not, in the opinion of the Minister, a fit and proper person for approval,
- (c) in relation to the application, information required has not been furnished or information that is furnished is, in the opinion of the Minister, false or misleading, or
- (d) it is, in the opinion of the Minister—
 - (i) necessary to prevent the risk or spread of animal or human disease,
 - (ii) necessary to eradicate animal or human disease, or
 - (iii) necessary, incidental, supplementary or consequential for the purposes of giving effect to an act of the institutions of the European Communities.

(6) Other than in the case of paragraph (7), if the Minister proposes to suspend or withdraw a transporter’s approval, or to refuse an application, he or she shall—

- (a) notify the applicant or holder of the transporter’s approval in writing of the proposal and of the reasons for the proposal, and that he or she may make representations to the Minister in relation to the proposal within 21 days of the notification,

- (b) consider a representation duly made before deciding whether to proceed with, modify or annul the proposal, and
- (c) notify the applicant or holder of the transporter's approval of the decision and the reasons for the decision.

(7) If the Minister is of the opinion that it is necessary to prevent the risk of disease or to give effect to an Act of an institution of the European Communities he or she may withdraw a transporter's approval in accordance with paragraph (8).

(8) If the Minister withdraws a transporter's approval in accordance with this paragraph, he or she shall—

- (a) notify the holder of the transporter's approval in writing of the decision and the reasons for the decision, and that he or she may make representations to the Minister in relation to the decision within 21 days of the date of the notification,
- (b) consider a representation made, and
- (c) confirm, modify or annul the decision and notify the former holder of the transporter's approval of the decision and the reasons for the decision.

(9) A person to whom a transporter's approval is granted shall make such returns to the Minister as and when, and in such form as, the Minister may from time to time direct.

(10) A person who, immediately before the revocation of the Regulations revoked by Regulation 17, was approved under Regulation 6 of those Regulations is considered to be the holder of a transporter's approval and may be dealt with as if approved under this Regulation.

(11) The Minister shall maintain and publish, in a manner that he or she considers appropriate, a list of approvals granted under this Regulation, divide the list into different classes and include such information as he or she considers appropriate on the list.

(12) If the Minister withdraws a transporter's approval under this Regulation or the approval expires, an entry on the list maintained under paragraph (11) ceases to have effect and the Minister shall, as soon as may be after withdrawing the approval, remove details of the withdrawn approval from the list.

6. (1) The Minister may approve a place where a pet animal may enter the State and shall notify approved transporters of such approval.

(2) The Minister may revoke, suspend or withdraw an approval issued under paragraph (1).

Appointment of Authorised Officer

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

(2) An authorised officer shall be issued with a warrant of appointment and shall, when exercising or seeking to exercise any power under these Regulations, if requested by the person affected, produce the warrant to that person and a form of personal identification.

(3) An appointment as an authorised officer ceases—

- (a) if the Minister terminates the appointment, whether or not the appointment was for a fixed period,
- (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.

Functions of authorised officer

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

- (a) a pet animal, or other thing to which the Pet passport Regulations relate, is present or may be present on the premises,
- (b) a pet animal, or other thing to which the Pet passport Regulations relate, is or has been stored or otherwise dealt with on the premises,
- (c) the premises has been approved for a purpose specified in the Pet passport Regulations, is required to be so approved or is subject to an application for approval or is ancillary to such a premises,
- (d) a document relating to a pet animal, or other thing to which the Pet passport Regulations or these Regulations relate, is or may be on the premises, or
- (e) an offence is being or has been committed under these Regulations,

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

- (i) search the premises,
- (ii) stop a person, vehicle, vessel or container,
- (iii) board and search a vehicle, vessel or container,
- (iv) search a person, if the authorised officer considers it necessary,

- (v) examine a pet animal, or other thing to which the Pet passport Regulations or these Regulations relate, vehicle, vessel, container or other thing that may consist of or contain a pet animal,
- (vi) take, without payment, samples of a pet animal or other thing to which the Pet passport Regulations or these Regulations relate as he or she may reasonably require and carry out or cause to be carried out on the samples such tests, analyses, examinations or inspections as he or she considers necessary or expedient,
- (vii) seize and detain (for so long as is necessary) a pet animal, vehicle, vessel, container or other thing to which the Pet passport Regulations or these Regulations relate,
- (viii) require the production of a document or thing relating to a pet animal, vehicle, vessel, container or other thing to which the Pet passport Regulations or these Regulations relate,
- (ix) retain any such document or thing (for so long as is necessary),
- (x) dispose of, or require the owner or person in charge of or in possession of, a pet animal, or other thing to which the Pet passport Regulations or these Regulations relate, to dispose of it, in such manner as the authorised officer sees fit,
- (xi) give such directions to, or request such information of, such persons regarding the pet animal, or other thing to which the Pet passport Regulations or these Regulations relate as he or she considers necessary,
- (xii) require the name and address of a person and the name and address of any other relevant person including the person to whom the pet animal, or other thing to which the Pet passport Regulations or these Regulations relate, as he or she considers necessary,
- (xiii) require of the person the ownership, identity and origin of the pet animal, or other thing to which the Pet passport Regulations or these Regulations relate, or
- (xiv) mark or otherwise identify such pet animal, or other thing to which the Pet passport Regulations or these Regulations relate or a specimen taken under subparagraph (vi).

(2) An authorised officer shall not enter, other than with the consent of the occupier, a private dwelling, unless he or she has obtained a search warrant under Regulation 10 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.

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

(4) An authorised officer when exercising any powers under this Regulation may be accompanied by other persons (including an employee of or person acting on behalf of the European Commission) 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 those powers.

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

(6) Nothing in these Regulations 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.

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

Assistance to an authorised officer

9. A person who has a pet animal, a vehicle, farm machinery, equipment or document relating to any thing to which this Regulation refers in his or her possession or under his or her control, or the servant, agent or employee of the person shall give any assistance requested to an authorised officer or person who accompanies an authorised officer.

Search warrant

10. (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) that there is evidence of a contravention of the Pet passport Regulations or these Regulations therein or thereon or thereunder,
- (b) that there is in, on or under a premises, or in or on any vehicle, vessel or aircraft, a pet animal,
- (c) that there is in, on or under a premises, or in or on any vehicle, vessel or aircraft a document, record or other thing relating to a pet animal,

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, vehicle, vessel or aircraft is entered under a search warrant, an authorised officer so entering may exercise all or any of the powers conferred on an authorised officer under these Regulations.

Obstruction, etc.

11. A person shall not—

- (a) obstruct or impede an authorised officer (or a person who accompanies an authorised officer) in the exercise of his or her powers under Regulation 8,
- (b) fail, without reasonable cause, to comply with a requirement or direction of an authorised officer under Regulation 8,
- (c) in purporting to give information to an authorised officer for the performance of the officer's powers under Regulation 8—
 - (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.

Compliance Notice

12. (1) Without prejudice to the generality of Regulation 8(1), if an authorised officer is of the opinion that—

- (a) the Pet passport Regulations or these Regulations are not being or have not been complied with or there are reasons to believe that they will not be complied with, or
- (b) there is a danger to public or animal health,

he or she may, by a notice in writing (“compliance notice”) stating that opinion and served on the person who appears to be the owner, operator or person in charge of the premises, pet animal or other thing to which either the Pet passport Regulations or these Regulations relate or other thing to which the notice relates,

- (i) seize and detain the pet animal, premises, vehicle, container or other thing to which either the Pet passport Regulations or these Regulations relate,
- (ii) require him or her to take such action as the authorised officer considers necessary.

(2) A compliance notice may—

- (a) require that the pet animal or other thing to which either the Pet passport Regulations or these Regulations relate be disposed of or destroyed in a manner specified in the notice,

- (b) prohibit or regulate any operation on the premises to which the notice relates,
 - (c) prohibit the transport or the further transport of the pet animal or other thing to which either the Pet passport Regulations or these Regulations relate, either absolutely or unless such conditions as may be specified in the notice are complied with,
 - (d) require a person to return the pet animal or other thing to which either the Pet passport Regulations or these Regulations relate to the place of departure by a route which in the opinion of the authorised officer is the most direct or prudent,
 - (e) require that such alterations be made to a premises or means of transport as may be specified in the notice,
 - (f) require a person to secure in a manner specified by the authorised officer (if any) the pet animal or other thing, or
 - (g) require a person to cleanse and disinfect a vehicle, premises, container or part thereof.
- (3) A person shall comply with a compliance notice or a requirement of a compliance notice unless and until the notice is annulled under Regulation 13 (5) or until the notice has been withdrawn by an authorised officer.
- (4) A requirement contained in a compliance notice may specify a time limit within which it is to be complied with.
- (5) A requirement specified in a compliance notice may be modified or withdrawn in a further notice and the earlier notice has effect subject to the modification or withdrawal.
- (6) A compliance notice may require the person in control of a pet animal or other thing to which either the Pet passport Regulations or these Regulations relate, of premises, means of transport or other thing to choose between two or more of the requirements specified in the notice.

Appeal against compliance notice

13. (1) A person affected by a compliance notice may, within 7 days of the service of the notice, apply to the Judge of the District Court having jurisdiction in the District Court District where a pet animal is situated or to the Judge of the District Court having jurisdiction in the District Court District where the person bringing the appeal ordinarily resides or carries on business on the grounds that the notice or any of the terms thereof are not justified having regard to the Pet passport Regulations or these Regulations (in this Regulation referred to as “an appeal”).

(2) An appeal may be heard at any sitting of the District Court within the appropriate District Court District.

(3) Notice of an appeal shall contain a statement of the grounds upon which it is alleged that the notice or any of the terms thereof are not justified and shall be served on the Minister at least 48 hours prior to the hearing of the appeal.

(4) A copy of the notice of appeal shall be lodged with the District Court Clerk at least 48 hours prior to the hearing of the appeal.

(5) On the hearing of an appeal a Judge of the District Court may confirm, modify, or annul the notice.

(6) A person, including a person on whom a compliance notice has been served, shall not—

- (a) pending the determination of an appeal, deal with the pet animal or other thing to which either the Pet passport Regulations or these Regulations relate, premises, means of transport or other thing to which the notice relates, other than in accordance with the terms of the notice, or
- (b) after the appeal, deal with the pet animal or other thing to which either the Pet passport Regulations or these Regulations relate, premises, means of transport or other thing concerned other than in accordance with the compliance notice or compliance notice as modified.

Forgery

14. (1) A person shall not forge or utter knowing it to be forged—

- (a) a passport, certificate, approval or other document issued under these Regulations,
- (b) a direction or requirement of an authorised officer under Regulation 8 if the direction or requirement is in documentary form.

(2) A person shall not alter with intent to defraud or deceive, or to utter knowing it to be so altered—

- (a) a passport, certificate, approval or other document issued under these Regulations,
- (b) a direction or requirement of an authorised officer under Regulation 8 where the requirement or direction is in documentary form.

(3) A person shall not have, without lawful authority (the proof of which lies on him or her), in his or her possession or under his or her control a forged or altered passport, certificate or other document issued under these Regulations.

Offences and Penalties

15. (1) A person who contravenes the Pet passport Regulations or these Regulations commits an offence and is liable—

- (a) on summary conviction to a fine not exceeding €5,000 or to a term of imprisonment not exceeding 6 months or to both, or
- (b) on conviction on indictment to a fine not exceeding €250,000 or a term of imprisonment not exceeding 3 years or to both.

(2) A summary offence under these Regulations may be prosecuted by the Minister.

(3) If an offence under these Regulations is committed by a body corporate and it 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 who, when the offence is committed, is 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, is guilty of an offence and liable to be proceeded against and punished as if guilty of the first-mentioned offence.

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

Fixed payment notice

16. (1) If an officer of the Minister authorised in that behalf has reasonable grounds for suspecting 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 from the date of the notice make to the Minister a payment of €250 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 Minister at the address specified in the notice the payment specified in the notice accompanied by the notice,
- (b) the Minister 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

17. (1) The European Communities (Pet passport Regulations) (S.I. 423 of 2004) are revoked.

(2) A pet passport, certificate, approval or other document granted under the Regulations revoked by paragraph (1) remains in force and may be dealt with as if granted under the corresponding provisions of these Regulations.



GIVEN under my Official Seal
8 July 2009

BRENDAN SMITH.
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 deal with the movement of certain pet animals within the EU and from certain third countries.

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
Le ceannach díreach ón
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