

2009 No. 1611

ANIMALS, ENGLAND

The Horse Passports Regulations 2009

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SCHEDULE — Dartmoor, Exmoor and the New Forest

The Secretary of State, being designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b) in relation to the common agricultural policy of the European Community, in exercise of the powers conferred by that section, makes the following Regulations.

PART 1

Introduction

Citation, application and commencement

1. These Regulations may be cited as the Horse Passports Regulations 2009; they apply in England and come into force on 1st August 2009.

Meaning of “horse” and “passport”

2. In these Regulations—

- (a) “horse” means wild or domesticated solipeds within the genus *Equus* of the family Equidae, and their crosses, and
- (b) “passport” means the identification document for the identification of a horse in accordance with Commission Regulation (EC) No. 504/2008 (implementing Council Directives 90/426/EEC and 90/427/EEC as regards method of identification of equidae(c)).

PART 2

Enforcement of Commission Regulation (EC) No. 504/2008

Competent authority for Commission Regulation (EC) No. 504/2008

3. The Secretary of State is the competent authority for the purposes of Commission Regulation (EC) No. 504/2008 and acts as the member State for the purposes of that Regulation.

Sale of horses

4.—(1) An owner who sells a horse must give its passport to the buyer at the time of the sale.

(a) S. I. 1972/1811.

(b) 1972 c. 68.

(c) OJ No L 149, 7.6.2008, p. 3.

(2) The buyer must notify the transaction to the passport issuing organisation for registration of the new ownership within 30 days, and include—

- (a) the buyer's name and address, and
- (b) the identification of the horse.

(3) In this regulation "sell" includes any transfer of ownership.

(4) Failure to comply with this regulation is an offence.

Passports

5.—(1) The owner of a horse and, if different, the keeper who has primary responsibility for it who fail to comply with Article 3(1) of Commission Regulation (EC) No. 504/2008 are guilty of an offence.

(2) In accordance with Article 5(5) of that Regulation—

- (a) only an owner may apply for a passport, and
- (b) the owner must apply for a passport within the time limits set out in Article 5, and failure to do so is an offence.

(3) If an application for a passport is received outside the time limits, the passport issuing organisation must stamp the passport that the horse is not intended for slaughter for human consumption.

Application for duplicate and replacement passports

6. Any person who applies for a duplicate or replacement passport in contravention of Article 5(8) of Commission Regulation (EC) No. 504/2008 is guilty of an offence.

Importation

7. The owner of a horse who—

- (a) fails to comply with Article 8(1) of Commission Regulation (EC) No. 504/2008 (identification of imported horses), or
- (b) fails to request a passport issuing organisation within 30 days of importation to act in accordance with Article 8(2) of that Regulation (provision of additional information),

is guilty of an offence.

Detecting previous active marking of horses

8. A veterinary surgeon who, in implanting a transponder into a horse, who fails to carry out the procedures set out in Article 10(1) of Commission Regulation (EC) No. 504/2008 (measures to detect previous active marking) is guilty of an offence.

Transponders

9.—(1) A passport issuing organisation that fails to comply with Article 11(1) of Commission Regulation (EC) No. 504/2008 (implantation of a transponder) is guilty of an offence.

(2) The minimum qualification for implanting a transponder for the purposes of that Article is membership of the Royal College of Veterinary Surgeons.

Accompanying documentation

10.—(1) The owner of a horse and, if different, the keeper who has primary responsibility for it who fail to comply with—

- (a) Article 13(1) of Commission Regulation (EC) No. 504/2008 (movement and transport),

- (b) Article 14(1) of that Regulation (smart cards), or
- (c) Article 14(3) of that Regulation (temporary documents),

are guilty of an offence.

(2) A smart card must be in a format approved by the Secretary of State under this regulation, and the Secretary of State must only authorise a smart card on being satisfied that it will operate effectively.

Movement to slaughter

11. The owner of a horse and, if different, the keeper who has primary responsibility for it who fail to comply with Article 15(1) of Commission Regulation (EC) No. 504/2008 (movement to slaughter) are guilty of an offence.

Issue of duplicate and replacement passports

12.—(1) A passport issuing organisation that fails to stamp a passport as a duplicate, or classify the animal as being not intended for slaughter for human consumption, in accordance with Article 16(1) of Commission Regulation (EC) No. 504/2008, is guilty of an offence.

(2) The derogation in Article 16(2) of that Regulation may not be exercised.

(3) A passport issuing organisation that issues a replacement passport other than in accordance with Article 17 of that Regulation (issuing replacement documents) is guilty of an offence.

Procedure on death

13.—(1) When a horse is slaughtered or killed for disease control purposes, the official veterinary surgeon responsible for the slaughter or killing must, in accordance with Article 19(2)(a)(i) of Commission Regulation (EC) No. 504/2008, return the passport to the passport issuing organisation as soon as is reasonably practicable.

(2) When a horse is slaughtered for human consumption, in accordance with Article 19(2)(a)(ii) of that Regulation the occupier of the slaughterhouse must give the passport to the official veterinary surgeon at the slaughterhouse, who must record the identification number of the animal, mark the passport accordingly and send the marked passport to the passport issuing organisation as soon as is reasonably practicable.

(3) In any other case, notwithstanding Article 19(2)(b) of that Regulation, the keeper must return the passport to the passport issuing organisation within 30 days of the death of the horse, and failure to do so is an offence.

(4) The return of the passport under this regulation is the attestation required under Article 19(1)(c) of that Regulation.

Procedure by the passport issuing organisation on death

14. When a passport issuing organisation is notified of the death of a horse, it must invalidate the passport and ensure that the transponder number cannot be re-used, in accordance with Article 19(1)(a) and (b) of Commission Regulation (EC) No. 504/2008, but it may return the invalidated passport to the owner.

Treatment with a veterinary medicinal product

15.—(1) A veterinary surgeon who fails to comply with Article 20 of Commission Regulation (EC) No 504/2008 is guilty of an offence.

(2) A veterinary surgeon who fails to enter into a passport the details required in section V, VI, VII or IX of the passport is guilty of an offence.

Databases

16.—(1) A passport issuing organisation that fails to comply with Article 21 of Commission Regulation (EC) No. 504/2008 (records on a database) is guilty of an offence.

(2) For the purposes of Article 21(3) of that Regulation, the communication of the information to the central database must be made in accordance with a written notice served on the passport issuing organisation by the Secretary of State.

Prohibitions

17. It is an offence to—

- (a) destroy or deface a passport;
- (b) alter any entry in a passport; or
- (c) be in possession of a passport knowing it to be forged.

Dartmoor, Exmoor and the New Forest

18. The Schedule makes provision for Dartmoor, Exmoor and the New Forest.

PART 3

Powers and penalties

Enforcement

19. These Regulations are enforced by the following local authorities—

- (a) in any part of England where there is, within the meaning of the Local Government Changes for England Regulations 1994^(a), a unitary authority for that local government area, that authority;
- (b) where there is not a unitary authority—
 - (i) in a metropolitan district, the council of that district;
 - (ii) in a non-metropolitan county, the council of that county; or
 - (iii) in each London borough, the council of that borough;
- (c) in the City of London, the Common Council.

Powers of entry

20.—(1) An inspector may, on producing a duly authenticated authorisation if required, at all reasonable hours, enter any premises (excluding any premises not containing any horse and used only as a dwelling) for the purpose of administering and enforcing these Regulations; and in this regulation “premises” includes any vehicle or container.

(2) An inspector may—

- (a) require the production of a passport and mark it as necessary;
- (b) carry out any inquiries;
- (c) have access to, and inspect and copy any documents or records (in whatever form they are held) relevant to these Regulations, and remove them to enable them to be copied;
- (d) inspect and check the operation of any computer and any associated apparatus or material that is or has been in use in connection with documents or records; and
- (e) mark any horse for identification purposes.

(a) S. I. 1994/867.

(3) Where an inspector has entered any premises and it is not reasonably practicable to determine whether documents on those premises are relevant to these Regulations, the inspector may seize them to ascertain whether or not they are relevant.

(4) The inspector may be accompanied by—

- (a) such other persons as the inspector considers necessary, and
- (b) any representative of the European Commission acting for the purpose of the enforcement of a Community obligation.

(5) It is an offence to deface, obliterate or remove any mark applied under this regulation except under the written authority of an inspector.

(6) In this regulation and regulation 21 “inspector” means a person appointed as such by a local authority or the Secretary of State for the enforcement of these Regulations or under the Animal Health Act 1981(a).

Obstruction

21. It is an offence—

- (a) intentionally to obstruct an inspector acting in the execution of these Regulations;
- (b) without reasonable cause, to fail to give to an inspector acting in the execution of these Regulations any assistance or information that that person may reasonably require under these Regulations;
- (c) to furnish to any person acting in the execution of these Regulations any information knowing it to be false or misleading; or
- (d) to fail to produce a document, record or passport when required to do so to any person acting in the execution of these Regulations.

Penalties

22. A person guilty of an offence under these Regulations is liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum, or
- (b) on conviction on indictment, to a fine.

Offences by bodies corporate

23.—(1) Where a body corporate is guilty of an offence under these Regulations, and that offence is proved to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of—

- (a) any director, manager, secretary or other similar person of the body corporate, or
- (b) any person who was purporting to act in any such capacity,

that person, as well as the body corporate, is guilty of the offence.

(2) In this regulation “director”, in relation to a body corporate whose affairs are managed by its members, means a member of the body corporate.

Offences by partnerships and unincorporated associations

24.—(1) Proceedings for an offence under these Regulations alleged to have been committed by a partnership or an unincorporated association may be brought in the name of the partnership or association.

(2) For the purposes of such proceedings—

(a) 1981 c. 22.

- (a) rules of court relating to the service of documents are to have effect as if the partnership or association were a body corporate;
- (b) section 33 of the Criminal Justice Act 1925(a) and Schedule 3 to the Magistrates' Courts Act 1980(b) apply in relation to the partnership or association as they apply in relation to a body corporate.

(3) A fine imposed on a partnership or association on its conviction for an offence under these Regulations is to be paid out of the funds of the partnership or association.

(4) Where an offence under these Regulations committed by a partnership is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a partner, that partner (as well as the partnership) is guilty of the offence and is liable to be proceeded against and punished accordingly.

For these purposes, "partner" includes a person purporting to act as a partner.

(5) Where an offence under these Regulations committed by an unincorporated association is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, an officer of the association, that officer (as well as the association) is guilty of the offence and is liable to be proceeded against and punished accordingly.

For these purposes, "officer" means an officer of the association or a member of its governing body, or a person purporting to act in such capacity.

Revocations

25. The Horse Passports (England) Regulations 2004(c) are revoked.

30th June 2009

Jim Fitzpatrick
Minister of State
Department for Environment, Food and Rural Affairs

SCHEDULE

Regulation 18

Dartmoor, Exmoor and the New Forest

Application of this Schedule

1.—(1) The derogation in Article 7 of Commission Regulation (EC) No. 504/2008 applies in relation to horses—

- (a) identified in the lists kept by the Verderers of the New Forest(d) or entered in the stud book of the New Forest Pony Breeding and Cattle Society(e);

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- (a) 1925 c. 86. Subsections (1) and (2) of section 33 were repealed by the Magistrates' Courts Act 1952 (c. 55), section 132 and Schedule 6; subsection (3) was amended by the Courts Act 1971 (c. 23), section 56(1) and Schedule 8, part II, paragraph 19; subsection (4) was amended by the Courts Act 2003 (c. 39), section 109(1) and (3), Schedule 8, paragraph 71 and Schedule 10, and by the Magistrates' Courts Act 1980 (c. 43), section 154 and Schedule 7, paragraph 5; subsection (5) was repealed by the Magistrates' Court Act 1952, section 132, Schedule 6.
 - (b) 1980 c. 43. Sub-paragraph 2(a) was amended by the Criminal Procedure and Investigations Act 1996 (c. 25), section 47, Schedule 1, paragraph 13, and was repealed by the Criminal Justice Act 2003 (c. 44), sections 41 and 332, Schedule 3, part 2, paragraph 51, sub-paragraphs (1), (13)(a), and Schedule 37, part 4 (with effect from a date to be appointed); paragraph 5 was repealed by the Criminal Justice Act 1991 (c. 53), sections 25(2) and 101(2) and Schedule 13; paragraph 6 was amended by the Criminal Justice Act 2003, section 41, Schedule 3, part 2, paragraph 51, sub-paragraphs (1) and (13)(b) (with effect from a date to be appointed).
 - (c) S.I. 2004/1397.
 - (d) The Verderers of the New Forest is a body corporate incorporated under section 22 of the New Forest Act 1977 (c. cxxi).
 - (e) The New Forest Pony Breeding and Cattle Society and the Exmoor Pony Society are passport issuing organisations recognised by the Secretary of State under Commission Regulation (EC) No 504/2008.

- (b) identified in the lists kept by the Dartmoor Commoners' Council^(a); or
- (c) entered in the stud book of the Exmoor Pony Society.

(2) Dartmoor, Exmoor and the New Forest, are designated for the purposes of Article 7 of Commission Regulation (EC) No. 504/2008 (“designated areas”) as areas containing defined populations of horses living under wild or semi-wild conditions that do not need to be identified with passports while they remain within the designated area.

(3) For the purposes of this Schedule these are the areas designated in maps marked as such^(b) and deposited at the offices of the Secretary of State for Environment, Food and Rural Affairs, Nobel House, 17 Smith Square, London SW1P 3JR.

Veterinary treatment

2. If a horse without a passport in a designated area is treated with any veterinary medicinal product the owner must ensure that it is fully identified and implanted with a transponder in accordance with Commission Regulation (EC) No. 504/2008 within 30 days of treatment, and failure to do so is an offence.

Movement off the designated area

3.—(1) It is an offence to move a horse without a passport off the designated area (other than temporarily for welfare reasons) unless the horse is marked with a sticker issued by a passport issuing organisation dated with the date on which it was attached to the horse and bearing a unique identification number.

(2) Unless the horse is aged under 12 months and is being taken for slaughter for human consumption it must also be accompanied by a passport application containing its silhouette and the number of the identifying sticker.

(3) The person moving the horse must take it directly to the holding of destination outside the designated area.

(4) Within 30 days of arrival at the holding of destination the owner must apply for a passport for it, and failure to do so is an offence (this does not apply in the case of a horse taken to a slaughterhouse for slaughter for human consumption, but it is an offence to slaughter such a horse more than seven days after the date on the identifying sticker).

(5) It is an offence to move the horse off the holding of destination until it has received a passport.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations enforce Commission Regulation (EC) No. 504/2008 in England. They provide for identification of horses, and replace the Horse Passports (England) Regulations 2004.

Part 2 of the Regulations create offences for breach of provisions of the Commission Regulation, and provide for the administration of veterinary medicinal products for horses intended for human consumption. The Schedule makes special provisions for Dartmoor, Exmoor and the New Forest.

Part 3 provides that the Regulations are enforced by the local authority, and gives powers to inspectors of those authorities.

Breach of the Regulations is an offence punishable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum, or

(a) The Dartmoor Commoners' Council was established by section 3(1) of the Dartmoor Commons Act 1985 (c. xxxvii).
(b) These maps, for illustrative purposes only, can be accessed on - <http://www.defra.gov.uk/animalh/id-move/horses/legislation.htm>, but the version deposited at the offices of the Secretary of State is the definitive version.

(b) on conviction on indictment, to a fine.

A full impact assessment has been prepared and placed in the libraries of both Houses of Parliament. It is available on the Defra website at www.defra.gov.uk

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STATUTORY INSTRUMENTS

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The Horse Passports Regulations 2009

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