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SCOTTISH STATUTORY INSTRUMENTS

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**2009 No. 231**

**ANIMALS**

**The Horse Identification (Scotland) Regulations 2009**

<i>Made</i>	- - - -	<i>3rd June 2009</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>4th June 2009</i>
<i>Coming into force</i>	- -	<i>1st July 2009</i>

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 2(2) of, and paragraph 1A of Schedule 2 to, the European Communities Act 1972<sup>(1)</sup> and all other powers enabling them to do so.

These Regulations make provision for a purpose mentioned in section 2(2) of the European Communities Act 1972, and it appears to the Scottish Ministers that it is expedient for the reference in regulation 2 to the Commission Regulation to be a reference to that instrument as amended from time to time.

**PART 1**

**Introduction**

**Citation, commencement and extent**

- 1.—(1) These Regulations may be cited as the Horse Identification (Scotland) Regulations 2009.
- (2) These Regulations come into force on 1st July 2009.
- (3) These Regulations extend to Scotland only.

**Interpretation**

- 2.—(1) In these Regulations—  
“horse” means a wild or domesticated soliped within the genus *Equus* of the family *Equidae*, and their crosses; and

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(1) 1972 c. 68. Section 2(2) was amended by the Scotland Act 1998 (c. 46) (“the 1998 Act”), Schedule 8, paragraph 15(3) and the Legislative and Regulatory Reform Act 2006 (c. 51) (“the 2006 Act”), section 27(1). Paragraph 1A of Schedule 2 was inserted by section 28 of the 2006 Act. The functions conferred upon a Minister of the Crown under section 2(2) of the European Communities Act 1972, insofar as within devolved competence, were transferred to the Scottish Ministers by virtue of section 53 of the 1998 Act.

“the Commission Regulation” means Commission Regulation (EC) No. 504/2008 implementing Council Directives 90/426/EEC and 90/427/EEC as regards methods for the identification of equidae<sup>(2)</sup>.

(2) Any reference in these Regulations to the Commission Regulation is a reference to that instrument as amended from time to time.

(3) Expressions used both in these Regulations and in the Commission Regulation shall have the same meaning in these Regulations as they have in the Commission Regulation.

(4) Any reference in these Regulations to a numbered Article is a reference to the Article so numbered in the Commission Regulation.

## PART 2

### Enforcement of the Commission Regulation

#### **Competent authority**

3. The Scottish Ministers are the competent authority for the purposes of the Commission Regulation.

#### **Sale of horses**

4.—(1) Any person who sells a horse must give its identification document to the buyer at the time of sale.

(2) Any person who buys a horse must, within 30 days of purchase, return the identification document for that horse to the issuing body together with their name and address.

(3) In this regulation “sells” includes any transfer of ownership.

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

#### **Identification of horses**

5.—(1) The owner of a horse or, if different, the keeper who has primary responsibility for it, must comply with Article 3(1).

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

#### **Time limit for applying for an identification document**

6.—(1) The owner of a horse or, if different, the keeper who has primary responsibility for it, must apply for an identification document for that horse within the time limits set out in Article 5, and failure to do so is an offence.

(2) Where an issuing body receives an application outwith the time limits set out in Article 5 it must classify the animal as not intended for human consumption by marking the identification document accordingly.

#### **Application for duplicate and replacement identification documents**

7. Any person who knowingly applies for a duplicate or replacement identification document in contravention of Article 5(8) commits an offence.

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(2) O.J. No. L 149, 07.06.2008, p.3.

### **Importation**

8. The owner of a horse who—
- (a) fails to comply with Article 8(1), or
  - (b) fails, within 30 days, to request an issuing body to act in accordance with Article 8(2),
- commits an offence.

### **Detecting previous marking**

9. A veterinary surgeon who implants a transponder into a horse must take the measures set out in Article 10(1), and failure to do so is an offence.

### **Transponders**

- 10.—(1) An issuing body must comply with Article 11(1).
- (2) For the purposes of Article 11, the minimum qualification for implantation of a transponder is membership of the Royal College of Veterinary Surgeons.
- (3) Failure to comply with this regulation is an offence.

### **Restriction on movement of horses without an identification document**

- 11.—(1) The owner of a horse or, if different, the keeper who has primary responsibility for it, must comply with—
- (a) Article 13(1);
  - (b) Article 14(1); or
  - (c) shall ensure that the horse may be moved under a temporary document issued under Article 14(3).
- (2) Failure to comply with this regulation is an offence.

### **Movement to slaughter**

- 12.—(1) Subject to paragraph (2), the owner of a horse or, if different, the keeper who has primary responsibility for it, must comply with Article 15(1), and failure to do so is an offence.
- (2) The movement of horses in accordance with Article 15(2) is authorised by way of derogation from Article 15(1).

### **Issue of duplicate and replacement identification documents**

- 13.—(1) Where an issuing body issues a duplicate identification document it must comply with the requirements set out in Article 16(1).
- (2) The derogation in Article 16(2) may not be exercised.
- (3) Where an issuing body issues a replacement identification document it must do so in accordance with Article 17.
- (4) Failure to comply with this regulation is an offence.

### **Return of identification document upon death**

- 14.—(1) When a horse is slaughtered or killed for disease control purposes in accordance with Article 19(2)(a)(i), the owner must return the identification document to the issuing body as soon as is reasonably practicable and inform the official veterinarian that he or she has done so.

(2) When a horse is slaughtered for human consumption, in accordance with Article 19(2)(a)(ii) the occupier of the slaughterhouse must give the identification document to the official veterinary surgeon at the slaughterhouse, who must—

- (a) record the identification number of the animal;
- (b) mark the identification document; and
- (c) send the marked identification document to the issuing body as soon as is reasonably practicable.

(3) In any other case, notwithstanding Article 19(2)(b), the owner or, if different, the keeper must return the identification document to the issuing body within 30 days of death of the horse.

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

(5) The return of the identification document under this Regulation constitutes the attestation required under Article 19(1)(c).

#### **Procedure by the issuing body on death**

15. Upon receipt of an attestation returned in accordance with Article 19(1)(c) an issuing body must—

- (a) invalidate the identification document;
- (b) ensure that the microchip number cannot be re-used; and
- (c) destroy the invalidated identification document or return it to the owner.

#### **Permitted treatment for horses intended for human consumption**

16.—(1) A veterinary surgeon must comply with Article 20.

(2) A veterinary surgeon must enter into an identification document the details required in paragraph 4, 5 and 7 of Part A of Part II of Annex I to the Commission Regulation.

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

#### **Databases**

17.—(1) An issuing body that fails to comply with Article 21 commits an offence.

(2) For the purposes of Article 21(3), the communication of the information to the central database must be made in accordance with a written notice served on the issuing body by the Scottish Ministers.

#### **Prohibitions**

18. It is an offence to—

- (a) destroy or deface an identification document;
- (b) alter any entry in an identification document;
- (c) make a forged identification document;
- (d) knowingly be in possession of a forged identification document; or
- (e) provide any information in an application for an identification document knowing it to be false or misleading.

#### **Horses living under wild or semi-wild conditions**

19.—(1) The derogation in Article 7 is exercised.

(2) For the purposes of this regulation, “designated areas” are areas notified by the Scottish Ministers to the Commission by 31st December 2009 containing defined populations of horses living under wild or semi-wild conditions that do not require to be identified with identification documents while they remain within the designated area.

(3) If a horse without an identification document in a designated area is treated with any veterinary medicinal product the owner must ensure that it is fully identified and microchipped in accordance with the Commission Regulation within 30 days of treatment, and failure to do so is an offence.

(4) It is an offence to move a horse without an identification document off the designated area unless it is marked with a sticker issued by an issuing body dated with the date on which it was attached to the horse and bearing a unique identification number.

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

(6) Subject to paragraph (7), the owner must apply for an identification document for a horse within 30 days of its departure from the designated area and failure to do so is an offence.

(7) Paragraph (6) 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 2 days after the date on the identifying sticker.

## PART 3

### Enforcement

#### Enforcement

**20.**—(1) These Regulations are enforced by the local authority.

(2) The Scottish Ministers may direct, in relation to cases of a particular description or any particular case, that they will enforce these Regulations instead.

(3) In this regulation “local authority” means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994<sup>(3)</sup>.

#### Powers of entry

**21.**—(1) An inspector may, on producing a duly authenticated document showing the authority of that inspector, 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 an identification document and mark it as necessary;
- (b) carry out any inquiries;
- (c) have access to, and inspect and copy any records (in whatever form they are held) kept under these Regulations;
- (d) remove such records to enable them to be copied;
- (e) have access to, inspect and check the operation of any computer and any associated apparatus or material that is or has been in use in connection with the records; and for this purpose may require any person having charge of, or otherwise concerned with the

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(3) 1994 c. 39, section 2(2) was amended by the Environment Act 1995 (c. 25), Schedule 22, paragraph 232(1).

operation of, the computer, apparatus or material to afford the inspector such assistance may reasonably be required and, where a record is kept by means of a computer, may require the records to be produced in a form in which they may be taken away;

- (f) mark any animal or other thing for identification purposes; and
- (g) be accompanied by—
  - (i) such other persons as the inspector considers necessary; and
  - (ii) any representative of the European Commission properly interested in the administration of these Regulations.

(3) It is an offence to deface, obliterate or remove any mark applied under paragraph (2) except under the written authority of an inspector.

(4) If an inspector enters any unoccupied premises, the inspector shall leave them as effectively secured against unauthorised entry as they were before entry.

(5) In this regulation “inspector” means a person appointed as such by a local authority or the Scottish Ministers for the enforcement of these Regulations or under the Animal Health Act 1981<sup>(4)</sup>.

### **Obstruction**

**22.**—(1) Any person who—

- (a) intentionally obstructs any person acting in the execution of these Regulations;
- (b) without reasonable cause, fails to give to any person acting in the execution of these Regulations any assistance or information which that person may reasonably require for the purpose of exercising their functions under these Regulations;
- (c) furnishes to any person acting in the execution of these Regulations any information knowing it to be false or misleading; or
- (d) without reasonable cause, fails to produce a record or identification document when required to do so to any person acting in the execution of these Regulations,

commits an offence.

(2) Nothing in paragraph (1) above is to be construed as requiring any person to answer any question or give any information if to do so might incriminate that person.

### **Penalties**

**23.** A person who commits an offence under these Regulations shall be liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding 3 months or both; or
- (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding 2 years or both.

### **Offences by bodies corporate, partnerships and unincorporated associations**

**24.**—(1) Where an offence under these Regulations committed—

- (a) by a body corporate, is proved to have been committed with the consent or connivance of, or is attributable to any neglect on the part of a person who—
  - (i) is a director, manager, secretary or other similar officer of the body corporate; or
  - (ii) was purporting to act in any such capacity,

(4) 1981 c. 22.

- (b) by a Scottish partnership, is committed with the consent or connivance of, or is attributable to any neglect on the part of a person who—
  - (i) is a partner; or
  - (ii) was purporting to act in that capacity; or
- (c) by an unincorporated association other than a Scottish partnership, is committed with the consent or connivance of, or is attributable to any neglect on the part of, a person who—
  - (i) is concerned in the management or control of the association; or
  - (ii) was purporting to act in the capacity of a person so concerned,

the individual (as well as the body corporate, Scottish partnership or, as the case may be, unincorporated association) is guilty of the offence, and is liable to be proceeded against and punished accordingly.

(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.

### **Revocations**

**25.** The Horse Passports (Scotland) Regulations 2005<sup>(5)</sup> and the Horse Passports (Scotland) Amendment Regulations 2007<sup>(6)</sup> are revoked.

St Andrew's House,  
Edinburgh  
3rd June 2009

*RICHARD LOCHHEAD*  
A member of the Scottish Executive

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<sup>(5)</sup> S.S.I. 2005/223, as amended by S.S.I. 2007/217.

<sup>(6)</sup> S.S.I. 2007/217.

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations make provision in Scotland for the enforcement of Commission Regulation (EC) No. 504/2008.

These Regulations revoke and replace the Horse Passports (Scotland) Regulations 2005. They also revoke the Horse Passports (Scotland) Amendment Regulations 2007.

They provide for identification of horses by means of an identification document which is to be linked to an animal by an electronic microchip. The microchip contains a unique life number which will be recorded on the identification document and within a National Equine Database.

Part 1 of the Regulations extends the rules on equine identification to include zebra and other exotic *Equidae* not previously covered.

Part 2 of the Regulations creates offences for breach of provisions of the Commission Regulation, and provides for the administration of veterinary medicinal products for horses intended for human consumption.

Part 3 provides that the Regulations are enforced by the local authority, except in certain specified circumstances, and confers powers on inspectors.

Breach of the Regulations is an offence punishable on summary conviction by a fine up to the statutory maximum or three months imprisonment, or both. On indictment the penalty is an unlimited fine or two years imprisonment, or both (regulation 23).

A Regulatory Impact Assessment has been prepared and placed in the Scottish Parliament Reference Centre. Copies can be obtained from the Scottish Executive Environment and Rural Affairs Department, Pentland House, 47 Robb's Loan, Edinburgh, EH14 1TY.