

**EXPLANATORY MEMORANDUM TO THE
HORSE PASSPORTS (ENGLAND) REGULATIONS 2004 No.1397
SUBMITTED BY THE DEPARTMENT FOR ENVIRONMENT,
FOOD AND RURAL AFFAIRS**

1.

i) Title of the Instrument

The Horse Passports (England) Regulations 2004.

ii) Laying Authority and Purpose

This explanatory memorandum is laid before Parliament by Command of Her Majesty. This memorandum contains information for the Joint Committee on Statutory Instruments.

iii) Department responsible

Department for Environment, Food and Rural Affairs.

2. Description:

These Regulations specify:

- the format of an identification document for horses (a “horse passport”)
- when a passport has to be applied for
- who can issue a passport
- who has to sign the declaration at section IX of the passport concerning whether or not the horse is intended for slaughter for human consumption, and by when
- restrictions on the use of horses without a passport and the date from which they apply,
- offences, penalties and enforcement

They also revoke and replace the Horse Passport (England) Regulations 2003.

3. Matters of special interest to the Joint Committee on Statutory Instruments/Select Committee on Statutory Instruments:

3.1 The Joint Committee on Statutory Instruments in its First Report on the Horse Passports (England) Regulations 2003 (S.I. 2003/2780) criticised them for defective drafting and unexpected use of power. In debate on 11 December 2003, the Minister of State for Rural Affairs, the Rt. Hon. Alun Michael, apologised to Members of Parliament and advised that the defective Regulations would be replaced as soon as practicable.

3.2 The Department regrets that these replacement Regulations have not come forward before now. When the 4th Standing Committee on Delegated

Legislation met on 11 December 2003 draft regulations – which addressed the drafting criticisms – were well advanced and it was expected that little further work was needed to complete them. However, at that time further representations were also put to Government about the practical effects of some aspects of the 2003 regulations. The most significant point was about when owners must complete the declaration at section IX of the passport as to whether or not the horse was intended for human consumption. We have been in discussion with welfare and veterinary organisations and operators of slaughterhouses about this point. Another aspect which involved discussion with external parties concerned a practical problem managers of the New Forest had in facilitating the sale of foals in their year of birth. Resolving these points have taken longer than we would have wished.

3.3 This section of the Explanatory Memorandum deals with the criticisms set out in the Committee's First Report. It also explains other changes that have been made to address specific concerns put to Defra by welfare organisations and others. It was the wish to re-examine these points which has resulted in these replacement Regulations being laid at a much later date than had been intended.

Regulations 4 and 5 in S.I 2003/2780 – defective drafting

3.4 These two regulations were attempting to address the practical consequences of a confused picture concerning which horses already had a passport and those which did not, and the different format of passport documentation already in circulation and what was now required depending on whether the horse is 'registered' with a breed society for stud-book purposes and other horses. As a result the regulations themselves were confused and confusing.

3.5 The 2004 Regulations take a very different approach. The definition of 'passport' has been clarified. The process of applying for a passport (who by, when and to whom) is set out in regulations 6-8. The requirements for updating existing passports are dealt with in regulation 9.

3.6 Concerning who can issue passports, 'recognised organisations' is a term no longer used. It is replaced with 'passport-issuing organisations' being the commonly used term, and their meaning is assigned in regulation 3. A clearer description of these organisations is given. Withdrawal of recognition is dealt with in part by the Horses (Zootechnical Standards) Regulations 1992. The 2004 regulations give powers to withdraw authorisation / registration in two other cases (regulation 3(2)).

Regulation 7(2) of S.I. 2003/2780 – unexpected use of the enabling power

3.7 This had required owners to ensure their horses were entered into the lists kept by the New Forest Verderers or the Dartmoor Commoners Council. The Committee considered this approach an unusual exercise of the enabling power to make it an offence to contravene this requirement.

3.8 This requirement has been removed from the 2004 Regulations. The special arrangements applying to the New Forest and Dartmoor are now set

out in Schedule 2 and this sets out circumstances under which a passport is not required for ponies in the New Forest or on Dartmoor. Paragraphs 1 (2) and (3) specify the deadlines to be met for the exemption (for passports) to apply. Paragraph 3 sets out a new provision in response to a request from the New Forest for help in dealing with sales of foals in their year of birth where there is insufficient time - between gathering the foals off the forest and their sale - to obtain a passport.

Regulation 9(2) of S.I. 2003/2780 – defective drafting

3.9 The Committee said that the words of subsection are otiose. These are removed in the 2004 Regulations. Moreover the Government has reconsidered its policy on when the declaration at section IX of the passport must be signed. The declaration concerns whether or not the animal is 'intended for slaughter for human consumption'.

3.10 Representations were received that a requirement to sign the declaration before the horse is moved – as required by the European legislation – might result in unintended horse welfare problems. These might arise because we do not have a culture of eating horsemeat in the United Kingdom. Many owners might therefore sign the 'not intended' declaration – which is irreversible - without considering the options and cost for disposal at the end of the animal's life.

3.11 The new approach is set out in regulation 14. In line with the European legislation, it is presumed that all horses may enter the human food chain. However, owners are given the option to make it clear that this will not be the case for their animal. They do this by signing the 'not intended' declaration at section IX of the passport. Additionally, there are some specific circumstances which will trigger the signing of the relevant declaration and these are set out in regulations 14 (1), (2) and (3).

Regulation 12(c) of S.I. 2003/2780 – defective drafting

3.12 Paragraphs (a), (b) and (c) of regulation 12 appear to indicate a chronological sequence. This was not the intention. The intention behind (c) had been to provide powers for the Secretary of State to instruct Passport-issuing organisations to follow a specific code – the format of which it had been expected the European Union would have agreed before now. As no such code has yet been agreed, the 2004 Regulations (regulation 10) simply require passport-issuing organisations to use a code not previously used and to record the code in Section II of the passport.

Regulation 16(2) of S.I. 2003/2780 – defective drafting

3.13 The regulation erroneously uses the term *fitness for human consumption*, and is not used in the parallel regulation 16 of the 2004 S.I.

Regulation 18(3) (c) of S.I. 2003/2780 – time limits for keeping records

3.14 The Committee noted Defra's comments as to why a time limit for keeping records had not been specified. In the 2004 regulations, regulation 5(2) sets a three-year limit after notification of the death of the horse.

Regulation 24(1) of S.I. 2003/2780 – defective drafting

3.15 The absence of a definition for the term 'local authority' has been addressed in the 2004 Regulations (regulation 2 'Interpretation').

Regulation 25 of S.I. 2003/2780 – defective drafting

3.16 This contains some incorrect titles and the footnote also cites an incorrect S.I. number. The 2003 Regulations are themselves now revoked.

Penalties and offences

3.17 In line with Better Regulation principles we have reconsidered the offence and penalty provisions. Rather than catch the whole regulations by offence provisions, we have specified at regulation 23 those where failure to comply will be an offence. Previously all offences could have been triable either way, now only offences against regulations 3(3), 19(2)(c), 19(4) and 21 are triable either way.

Coming into force

3.18 The Horse Passports (England) Regulations 2004 will come into force on 10 June 2004.

4. Legislative Background

i) General:

These Regulations:

- Revoke and address legal drafting defects reported by the Joint Committee on Statutory Instruments on SI 2003/2780 – the Horse Passports (England) Regulations 2003; and
- Implement Commission Decision 93/623 establishing the identification document (passport) accompanying registered equidae, and Commission Decision 2000/68 amending Decision 93/623 and establishing the identification for equidae for breeding and production

The Government confirmed its intention to replace the 2003 Regulations during the debate on 11 December 2003 in the Fourth Standing Committee on Delegated Legislation (Hansard column number 15)

ii) EU legislation:

A transposition note is attached.

In implementing these European requirements we have sought to minimise the risk of the European Commission taking action to prohibit the continued use of the majority of commonly used veterinary medicines because we had failed to ensure that the key European requirements are properly reflected in the English legislation.

Changes to the requirements set out in the Horse Passport (England) Regulations 2003 are being introduced to better reflect the English culture towards slaughtering horses in abattoirs and use of horses. This reflects further discussions Defra has held with welfare and veterinary representatives since December 2003. Further representations have been made to the effect that two provisions contained in the Regulations would have unwittingly resulted in increased horse welfare problems.

The first provision concerned when owners had to sign the declaration in the passport as to whether or not the horse was 'intended to be slaughtered for human consumption'. The 2003 regulations required the declaration to be signed on receipt of the passport. A 'not intended' declaration is irreversible. Arguments were put forward that many owners only considered the costs and practical arrangements about what to do with their horse when it reached the end of its life. Closing the slaughter option – it is argued - might result in more horses being abandoned or suffering being prolonged because alternative options were too expensive.

The 2004 Regulations (regulation 14) therefore give owners greater discretion as to when the declaration has to be signed. They can sign it immediately or they can keep their options open. However, the regulations specify three circumstances which trigger a requirement to sign the declaration:

1. before a horse is administered with a veterinary substance which must never be given to a food animal,
2. before a horse is consigned to slaughter, and
3. before a horse moves abroad

In the absence of a declaration, or where the 'intended' declaration has been signed, the use of certain veterinary medicines must be recorded in the passport. Footnote 4 at section IX of the passport (see Schedule 1 to the Regulations) makes clear that the horse can not be slaughtered for human consumption until six months has elapsed since any such medicines were administered.

The second provision concerned the requirement on passport-issuing organisations to mark all late passports as 'not intended' for slaughter for human consumption. Such declarations are irreversible. Arguments were put forward that this provision increased the risk that the slaughter option in this country might become unviable, and consequential risks for the welfare of horses, including potential increase in demand for live exports.

The Government has also been considering some practical issues concerning the provision of passports for semi-feral horses and ponies. It has been prepared to agree special arrangements – but equivalent to those in the

EU Decision – for geographical areas where such horses are managed. Acceptable proposals for Dartmoor and the New Forest have been received and these are reflected in Schedule 2 to the regulations.

Implementing legislation is being introduced in Scotland, Wales and Northern Ireland to different (later) timescales than in England. However, the aim is to have a common date throughout the UK from which prohibitions on the use of horses without passports will apply, i.e. 28 February 2005.

The measures provided for in Commission Decision 93/623/EEC are in accordance with the opinion of the Standing Committee for Zootechnics and was adopted 20 October 1993. The measures provided for in Commission Decision 2000/68 are in accordance with the opinion of the Standing Committee on Zootechnics and the Standing Veterinary Committee and was adopted on 22 December 1999.

5. Extent:

The Statutory Instrument applies only to England.

6. European Convention on Human Rights.

Not applicable as this Statutory Instrument is not subject to affirmative resolution, nor does it amend primary legislation. However, the Minister of State (Rural Affairs and Local Environmental Quality): The Rt Hon Alun Michael MP is content that these regulations are compatible with the Convention.

7. Policy background.

7.1 There are two policy objectives of the Commission Decisions. The first is to protect and enhance the trade in pedigree horses, and the identification of pedigree (or registered horses) is one of a series of measures to try and harmonise the registration of such horses in equine studbooks. The other – and larger objective – is to protect the human food chain. The Commission Decision does this by having a requirement to record the administration of certain veterinary medicines in the passport. The passport is checked before the animal is slaughtered. This is to ensure that horses are not slaughtered for food if they have been administered medicines that should never be given to food producing animals, or if the required period has not elapsed since the administration of these medicines and their slaughter for food.

7.2 Although we do not normally eat horsemeat in this country, there are approximately 6,000 – 10,000 horses slaughtered whose meat is exported from this country each year.

7.3 There is a considerable interest by the horse owning public and equine groups in this measure, including general and specialised media interest. The key issues that the public are focussing on are:

- the relevance of these European rules for the United Kingdom given our culture of (not) eating horsemeat. Some have argued that passports should only be required for horses that are consigned for slaughter for human consumption.
- how the rules are being implemented. Animal Welfare Groups have lobbied for more flexibility about when the declaration as to whether or not the horse is intended for slaughter for human consumption must be signed. (See section 4ii above.) People who manage areas of semi-feral ponies have sought special dispensation from the passport requirement to better fit with how they manage those areas. More recently concerns have been expressed that there is insufficient time left to obtain a passport by the 30 June deadline which was set in the 2003 Regulations – even though this date and the general requirement to obtain a passport has been published for more than twelve months.
- the cost of obtaining a passport. The concerns vary from questioning why the cost should not be met by taxpayers, to pleading special cases for certain groups. A number of Passport-issuing organisations do offer special rates for charitable organisations.

7.4 The issue is important as we need to comply with our obligations under EC law and because we need to have a system of identifying which horses might enter the human food chain in order to be able to continue using the 75% of medicines that have not been specifically authorised to be marketed for use on food animals – which includes horses. It is also politically important because a joint industry /government national equine database is being set up, based on the information contained in horse passports. This database will help the government to implement horse passports and can be used by government to help in dealing with animal disease outbreaks and veterinary surveillance. It will be used by the equine industry as the basis for a system of recording information on breeding and performance for horse which they hope will help this country to breed and market better quality horses.

8. Impact:

On business, charities or voluntary bodies	See the attached updated Regulatory Impact Assessment.
On the Exchequer	As above.

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Department for Environment, Food and Rural Affairs
20 May 2004

Transposition Note

MEMORANDUM SHOWING HOW THE MAIN ELEMENTS OF COMMISSION DECISION 2000/68/EC OF 22 DECEMBER 1999 AMENDING COMMISSION DECISION 93/623/EEC AND ESTABLISHING THE IDENTIFICATION OF EQUIDAE FOR BREEDING AND PRODUCTION HAVE BEEN IMPLEMENTED.

Commission Decision 2000/68/EC¹

The Commission established through Commission Decision 93/623/EEC² (made under Article 8(1) of Council Directive 90/427/EEC³) the identification document (passport) which must accompany registered equidae. This Decision was implemented by the Horse Passports Order 1997⁴. Commission Decision 2000/68/EC amends Commission Decision 93/623/EEC.

The Horse Passports (England) Regulations 2003⁵ (“the 2003 Regulations”) revoked and replaced the Horse Passports Order 1997 and implemented the changes required by Decision 2000/68/EC. The Horse Passports (England) Regulations 2004 (“the 2004 Regulations”) revoke and replace the 2003 Regulations.

This note explains how Decision 2000/68/EC is now transposed in the 2004 Regulations.

Implementation of main elements of Commission Decision 2000/68/EC

Article	Effect	Implemented by (regulation number)	Comments
1	Amends the Annex to Decision 93/623/EEC to insert Section IX , relating to medicinal treatment.	8, 9, 11, 12, 14, 15, 16, 18, 23, Schedule 1	8 – passports issued must contain Section IX information; 9 – insertion of Section IX information in existing passports; 11 – language of information, including Section IX information; 12 – Section IX information to be included in passports of horses entering England 14 – Requirements for the declaration required in Section IX as to whether a horse is to

¹ OJ No. L23, 28.1.2000, p. 72.

² OJ No. L298, 3.12.93, P. 45.

³ OJ No. L224, 18.8.1990, p. 55.

⁴ S.I. 1997/2789, as amended by the Horse Passports (Amendment) Order 1998 S.I. 1998/2367.

⁵ S.I. 2003/2780.

			<p>be slaughtered for human consumption;</p> <p>15 – Prohibition on making false entries or unauthorised amendments to Section IX;</p> <p>16 – implications if the section IX information is illegible in a damaged passport;</p> <p>18 – requirements on persons administering medicinal products;</p> <p>23 – offences</p> <p>Schedule 1 – Paragraph II refers to Section IX. Section IX is set out.</p>
2	Provides that the identification number used in the horse passport must be the “life number” of the animal	10	
3	Provides that horses for breeding and production must, when moved, be accompanied by a passport containing specified information (sections I, II, III, IV and IX of the passport).	17, 18, 20	<p>17 – restrictions on the use of horses without passports;</p> <p>18 – restrictions relating to the administration of medicinal products to horses without passports;</p> <p>20 – horses for slaughter must be accompanied by a passport.</p>
4	Provides that member States must ensure horses for breeding and production are accompanied by a horse passport.	8, 17, 19	
Annex	Section IX – Medicinal Treatment – inserted into the Annex to Decision 93/623/EC.	Schedule 1, Section IX	

2. The Horse Passports (England) Regulations 2004 come into force on 10 June 2004.

DEPARTMENT FOR ENVIRONMENT FOOD AND RURAL AFFAIRS
20 May 2004

FINAL REGULATORY IMPACT ASSESSMENT

Title

1. Horse Passports (England) Regulations 2004.

Purpose and Intended Effect of the Measure

2. These Regulations:
 - Revoke and address drafting defects in SI 2003/2780 – the Horse Passports (England) Regulations 2003, (and this impact assessment is an updated version of the one produced for those 2003 regulations); and
 - Implement Commission Decision 93/623 establishing the identification document (passport) accompanying registered equidae, and Commission Decision 2000/68 amending 93/623 and establishing the identification for equidae for breeding and production.
 - They apply to an animal of the equine or asinine species or crossbreeds of those species, except zebras, and in this RIA the general term ‘horse’ is used to mean those animals.

Objectives

3. Commission Decision 93/623 set out the format for an identification document accompanying registered equidae in order to facilitate trade and movement in such animals. Registration was not itself compulsory. Owners were required to obtain passports for registered equidae born after 1 January 1998. Those requirements were first implemented through the Horse Passports Order 1997 and which was revoked by the Horse Passports (England) Regulations 2003. This RIA therefore addresses the new compliance costs arising out of Decision 2000/68. It updates the Final RIA that was submitted with the Horse Passports (England) Regulations 2003.
4. Commission Decision 2000/68:
 - extends the requirement for passports to all equidae,
 - requires each passport to carry a unique equine life number, and
 - Introduces a new section (section IX) into the passport in which the owner may declare a horse ‘intended’ or ‘not intended’ for human consumption. The section is also used to record the administration of certain veterinary drugs except anywhere the owner has declared the horse is not intended to be slaughtered for human consumption.

At a European level the primary purpose of this Decision is to prevent horsemeat entering the human food chain which has been obtained from horses administered with certain veterinary substances being presented for slaughter before the relevant withdrawal periods have elapsed, or where a medicine which should never be given to a food-producing animal has been administered. An important implementation objective for England is to enable

horse medicines for which there is no Maximum Residue Level (MRL) to be continued to be used in horses.

5. Owners or their representative will be required to apply for a passport for each horse they own, and born before 30 November 2003, before 1 July 2004. The deadline for obtaining a passport for horses born after 30 November 2003 is 31 December in year of birth or six-months after birth which ever is later. Some owners will already have passports but which will need updating to include the new section IX. They should apply for these pages before 1 July 2004.

6. The European rules require that the passport contains a diagram (silhouette) showing the horses' distinguishing markings. This diagram has to be signed by either a vet or the competent authority, i.e. the Passport-issuing Organisation (PIO). The PIO can authorise someone other than a vet to sign the silhouette on their behalf, providing that person has proven their competency and are trustworthy. Alternatively, under national administrative procedures - another person may sign the silhouette provided the horse is microchipped and the microchip number is recorded in the passport. National administrative procedures also permit the use of silhouettes signed by someone other than a vet, or a person authorised by the competent authority, where the details can be independently verified against records and a silhouette produced when the horse was freezemarked. In this latter case the procedures will only apply where the passport application was made before 1 July 2004. (Freezemarks are only applied to horses 12-months old or older.)

7. Some owners will already have obtained a silhouette for other purposes, e.g. vaccination certificates. Copies of such silhouettes can be accepted providing the rules on who can sign it have been met.

8. Passports are obtained from Passport-Issuing Organisations authorised by the Secretary of State. There are currently some seventy plus such Organisations.

9. Where ownership of the horse changes, the new owner is required to notify the Passport-issuing Organisation so they can update their records. The new owner also has to update the passport.

10. Passports will need to be surrendered to the Passport-issuing Organisation (PIO) when the horse dies, within 30 days of the death of the horse. This is so the PIO records can be updated and the passport marked to this effect. The owner is responsible for notification.

11. After 28 February 2005, slaughterhouse operators will only be able to slaughter horses:

- presented with passports,
- not declared by their owner as 'not intended for human consumption, and
- where relevant withdrawal periods for certain medicines have not been adhered to.

There are no new duties imposed on the Meat Hygiene Service. They already undertake documentary checks as part of their ante-mortem inspections required under the Fresh Meat (Hygiene and Inspections) Regulations 1995.

12. The Regulations will be enforced by Local Authority Inspectors.

Risk Assessment:

13. Between 6,000 – 10,000 horses are slaughtered in England each year for human consumption. It may be harmful to humans to eat horsemeat if in the last six months of its life it had been administered veterinary medicines for which no Maximum Residue Levels have been set, or if it had been administered with a medicine which should never be given to a food animal.

14. In addition, unless action is taken to identify those horses entering the human food chain there is a risk that many veterinary medicines currently administered to horses may be withdrawn from the market to the detriment of animal welfare.

15. The European Commission might instigate infraction proceedings if Decision 2000/68 was not implemented. In addition other Member States may refuse to permit horses to enter their country if they are not identified in accordance with the European rules.

Options: Identification of Options

(Note: These were the options considered before the Horse Passport (England) Regulations 2003 were made, and are included in this updated RIA for completeness.)

Option 1 (Complete Implementation)

16. This would require:

- the additional section on veterinary treatments to be added to all new passports for registered equidae,
- passports that have already been issued in respect of registered horses to be updated with the additional section on veterinary medicine,
- all registered horses that have not been issued with a passport to be issued with one,
- all owners of horses for breeding and production (not registered horses) to apply to an organisation authorised to issue horse passports, and obtain a passport for that horse.

Option II (Partial Implementation)

17. This would require:

- an additional section to be added to all new passports issued for registered horses (i.e. those registered with recognised breed societies or sporting organisations under the Horse Passports Order 1997) and,

if the horse is intended for human consumption, the date certain veterinary medicines administered to it, would need to be recorded in the passport,

- other horses to have a passport only if and when the horse is presented at a slaughterhouse for human consumption. (The format for such passports would be a slightly simplified version of the passport required for registered horses. This option, therefore, largely targets that minority of horses that enter the food chain from this country.)

18. For both categories stated above, it would be presumed that the horse may enter the human food chain unless the owner signed the declaration to the effect that the horse is not intended to be slaughtered for human consumption. In the absence of such a declaration the use of certain medicines would be recorded in the passport. These medicines are ones containing substances not listed in annex I-III of Council regulation 2377/90. A substance listed in Annex IV of that regulation may only be administered if the passport is signed to the effect the horse is not intended to be slaughtered for human consumption.

Issues of Equity or fairness

19. There is an issue of fairness and equity in relation to the semi feral breeds or types of ponies because of the low value of these animals, which is often less than the cost of the passport. This measure may, therefore, effectively prevent these types of horses being sold for slaughter to enter the food chain. However there are other avenues available for the sale of these horses which owners can use. The Government has been prepared to consider special arrangements for moors and other areas where large numbers of ponies roam providing such arrangements were equivalent to the European requirements. Special measures have therefore been agreed for the New Forest and Dartmoor. They will entail the authorities in these areas maintaining a list of the individual identification of such animals, which mean that passports will not be required until animals leave these areas. Additionally, the managers of the New Forest sought Government's agreement to put in place measures for foals sold in their year of birth. The legislation provides for these measures.

Benefits

20. It is not possible to put any realistic monetary value on the benefits of preventing horses entering the food chain that have been administered with certain veterinary medicines within the previous six-months; nor about the impact on the availability of horse medicines if this measure is not implemented. However, the value of the trade in horses slaughtered for human consumption is estimated to be about £2.5 million.

Option 1

21. The benefit of option 1 is that it fully implements the Commission Decision and has the support of most of the horse industry. It reduces the risk

that many commonly used veterinary substances administered to horses and for which no Maximum Residue Levels have been agreed cannot continue to be used.

22. Many Breed societies favour passports for all because they are concerned that the survival of native and other breeds is threatened because of the additional costs faced by owners of registered horses being the only group required to have passports. The British Horse Industry Confederation favour all horses having to have a passport because they consider that this could form the basis of a programme to improve breeding and may also have welfare benefits. While neither of these are objectives of this legislation this has assisted in achieving a considerable degree of support for the proposals. It could also be said that the provision of a passport – which is increasingly used in the equine sector – provides the horse owner with a useful document that confirms the identity of the horse and which will need to be produced when a horse is sold.

23. Passports for all horses also provide an opportunity for the first time to establish a national equine database. Central access to more and better data will help underpin equine sector goals to improve the competitiveness of the GB sporting horse and Government's requirements to inform policy and contingency plans to deal with outbreaks of disease. The database is being taken forward in partnership with the equine sector and is due to start operating in 2005. A central database would become a European requirement if current draft proposals are adopted.

Option II

24. It has been suggested that partial implementation of the requirements of the EU legislation could still meet the objectives of the legislation because no horse could be slaughtered for human consumption without a passport showing the date medicines have been administered to it within the previous six-months, or since birth if earlier. This suggestion was included to avoid the need to implement the retrospective requirements for registered horses because it would impose administrative and cost burdens on societies that issue passports. Similarly it would target specifically those horses entering the food chain and not require passports for all horses, many of which will never go in the human food chain.

25. This option would not, therefore, require the provision of passports for a large number of horses that will not end up in the human food chain. It could therefore, be said to be proportional to the issue of protecting the food chain. However, the benefits of having the additional section added to new passports for registered equidae is that without this horse owners may experience difficulties when registered horses travel abroad and for acceptance for horse competitions. However this option has a high risk of legal challenge from the European Commission for not implementing the measure fully.

Compliance Costs for Business, Charities and Voluntary Organisations

26. Compliance costs for obtaining a passport will fall on owners of horses. These will vary depending on personal circumstances and which Passport-issuing organisation owners approach. Owners applying for a passport for the first time, and who do not already have a valid silhouette for their horse, and where the silhouette they provide is completed and signed by a veterinarian might find that the cost of obtaining the silhouette could be between £40 and £60. Owners that already have a valid silhouette will only need to pay for the passport document. Passport average costs are around £20. Some Passport-issuing organisations offer special discounts for volume or charitable organisations.

27. There will also be some cost implications for the organisations that are authorised to issue horses passports. They have had to amend application forms, and passport documentation to come into line with the new requirements. These organisations are primarily breed societies that are often small organisations manned by volunteers and many are also registered charities. A few are large, more commercially run societies and horse databases that are private companies. There are currently over 70 such organisations authorised to issue horse passports. They may have some short-term costs to deal with an increased volume of applications and associated administrative procedures in the period to 30 June 2004. They recover their costs through a charge for passports, the level of which they set.

28. There will be some consequences for businesses that will 'use' passports. The main sector affected being slaughterers. From 28 February 2005 they will need to satisfy themselves that horses are presented with a passport which makes clear that the horse is intended for slaughter for human consumption and that certain medicines have not been administered within the relevant withdrawal periods. This latter point is not a new requirement – currently slaughterers obtain a declaration from owners. In future they would have access to a document completed by the person who administered the veterinary medicine at the time the medicines were administered.

29. Compliance costs for a typical business are difficult to quantify because of a wide variety in types of businesses that issue passports and the widespread use of unpaid volunteers to undertake this task. This RIA concentrates on the cost of obtaining a passport in assessing the compliance cost of this measure.

Policy Costs.

30. There are no new burdens on Exchequer funds as a direct result of this legislation. There has been an increase in the number of organisations seeking recognition to issue horse passports but the associated costs have been absorbed within existing Defra resources.

Implementation Costs

Costs of Option 1

31. For horses of known breeding, this would involve:
- updating some 80,000 existing passports. Average cost about £5 per passport, making a total cost of £400,000. However, many breed societies, who are staffed by volunteers, may not charge their members for this service. Any cost will be met by the horse owner.
 - Issue of up to 200,000 new passports. The owner needs to provide a diagram of the horse. Depending on their circumstances and the rules of the breed society with whom they register their horse, there may be no cost where a valid diagram has already been obtained for other purposes or up to an estimated cost of £60 where a veterinarian completes and signs the diagram. Alternatively the owner might complete the diagram himself and call a vet in to microchip the horse. Microchipping is a prerequisite of some breed society rules. Individual average costs of passports for horses of known breeding are about £24. Total passport costs could, therefore, be about £4.8m. This does not include the cost of registering the horse in the studbook of the society, which is generally charged in addition to the passport for registered horses, nor does it include the cost of obtaining a silhouette.

For horses of no known breeding:

- For horses of no known breeding we estimate that up to 620,000 additional passports will be needed. Estimates of how many horses there are in England vary – the UK estimate is between 600,000 and one million. The average cost of the passport document will be £20, costing some £12.4m. The costs are normally less for these types of horses because this represents just the cost of a basic passport.
 - From 30 November 2003 there will be annual costs for passports for foals and horses imported into England that do not already have a passport. Some of these foals would have been caught by the 1997 passport legislation, i.e. their owner would anyway have wanted to register them with a breed society. The estimated costs for other foals and imported horses could be between £1m and £2m.
32. The above costs are based on the current price of passports. Since the passport requirements were announced on 14 February 2002, the average costs of passports, particularly for unregistered horses, has gradually reduced as economies of scale have come into play, and competition increased due to the approval of more Passport-Issuing Organisations. Some breed societies have opened a separate section in their studbook for horses of a particular type but which do not meet the criteria for their main studbooks and, therefore, would not attract their normal registration and membership fees.

National Equine Database (NED)

33. Following proposals made by the British Equestrian Federation, on behalf of the equine industry, the Government announced on 14 February 2002 that a National Equine Database should be established. This would be based on some basic 'core' information that the Passport-Issuing Organisations would pass to the National Equine Database. The information would be used by Defra to both help to monitor the horse passport requirements and for disease control and veterinary surveillance measures. The industry would use this information as the basis of a system designed to help improve the breeding and performance of horses but this aspect of the database would be entirely voluntary and designed to be self-funding after the initial start up period.
34. This RIA is only concerned with the statutory requirement for Passport-Issuing Organisations to pass the basic 'core' data onto the NED. It is estimated, based on initial enquiries, that it may cost PIOs about £625 as a one off cost to upgrade their computer systems to cope with this requirement. Based on the current 74 PIOs the total cost is, therefore, likely to be £46,250. Some additional administrative effort may be required for this, and for answering queries, but this is not thought to be significant.

Cost of Option II

35. Costs for adding the additional section to new passports for registered horses would not be significant once the additional page has been added to computer systems. Most passport-issuing organisations are doing this already and not charging an additional cost for this.
36. For other horses it is estimated that between 6,000 – 10,000 horses are slaughtered each year to go into the human food chain and the average cost of purchasing a passports for them would be about £20 - £30 per horse. Total costs would be between £120,000 - £300,000. Some of these horses may already have passports under existing legislation. The cost of the passport would be the responsibility of the individual horse owner. However this needs to be set against the average payment - £350 that a horse owner receives if the horse is sold for meat. However, the payment received for feral or semi feral ponies is likely to be considerably less than this average figure – and the figures are, anyway, likely to fluctuate inline with the international demand for horse meat.

Small Firms Impact test

37. All recognised breed societies and other societies or organisations that issue horse passports were consulted about this measure and their estimated cost have been included in the compliance costs above. A wide selection of horse industry organisations were also consulted.

Competition Assessment

38. We do not expect that the favoured option, option I, would have a significant effect on competition. This view is based on the fact that the costs from the proposals for horse owning businesses, such as riding schools, would not be sufficiently high to deter new entry or alter existing levels of competition. Competition between Passport- Issuing Organisations is increasing and as stated previously, this is having the effect of reducing passport prices. The market is not a concentrated one and the proposals would not create any additional barriers to entry for equine passport authorisation.

Other Costs

39. This measure is not expected to have any significant resource implications for Defra. Because all horses are now required to have passports, a number of new applications to become Passport Issuing Organisations have been received. The cost of this additional work has been met from within existing resources. There is also the cost of publicity campaign to inform horse owners, and other interested parties, of the requirement for all horses to have a passport and how to get one. As explained above, the cost of obtaining a horse passport will fall to individual horse owners.

Results of consultations

40. A consultation exercise which set out various options for implementation for both registered horses and all other horses known as 'horses for breeding and production' was issued in July 2000. 120 Letters were sent out and 47 responses received. Reaction was split – individual horse owners considered that only horses being slaughtered for human consumption (currently between 6 – 10,000 per year) should have to have a passport. The Small Businesses Service has been consulted and has expressed a preference for option II because this would limit the impact on small businesses such as horse riding schools. However the proposal that all horses should have to have passports received strong support from the major players in the equine industry, including the British Horse Industry Confederation which was set up to represent all sections of the equine industry to government.
41. A further consultation exercise was carried out in March 2003 asking for comments on the draft Horse Passports Legislation. The letter, and draft Regulatory Impact Assessment, was sent to 176 organisations and 88 responses were received. Comments made during this consultation exercise have been taken into account in finalising the legislation.
42. A letter was sent to all Passport Organisations in April 2003 explaining the proposals for a National Equine Database and asking for details of the computer systems held by the Passport Issuing Organisations.

Summary

43. Cost of horse passports will be borne by individual horse owners and will depend on their individual circumstances and how many horses are owned. For example, if a riding school had 20 horses and passports cost £20 each the cost to the riding school would be £400. In addition there would be costs associated with obtaining a silhouette for the horse if one did not already exist, and notional costs of the person completing the application forms. The cost to the industry for buying passports are estimated to be:

Option I – Initial costs – about £17.6m

Annual costs (depends on number of foals) - £1-2m.

Option II - £120,000 - £300,000 per year

44. The benefits of the measure to protect the human food chain and to ensure the availability of veterinary medicines – cannot be quantified but the value of the trade in slaughtering horses for human consumption is estimated to be about £2.5 million.

Sanctions and enforcement

45. Enforcement of the legislation rests with local authorities' Trading Standards Departments. The Meat Hygiene Service will continue to use existing powers to undertake documentary checks as part of their ante-mortem checks to satisfy themselves the horse can be slaughtered for human consumption. In addition, the Agriculture Departments have authority to withdraw recognition from any studbook organisations that they have authorised to issue passports if they consistently fail to abide by the prohibitions of the legislation.

Guidance for business

46. Guidance notes on the legislation will be issued to interested parties as soon as possible.

Recommendations

47. This RIA summarises the two main options for implementing the measure, which were considered by the initial consultation, which took place in the summer of 2000. The first (option I) would fully implement the Commission Decision, and would reduce the risk that commonly used horse medicines for which no Maximum Residue Levels have been approved or which are not intended for food producing animals would have to be withdrawn from the market. It provides for the flexibility sought by welfare organisations and others about how and when owners should sign the declaration as to whether or not the horse is intended for human consumption. It also provides for equivalence measures at the request of the managers of Dartmoor and the New Forest. The second (option II) would meet the objectives of the legislation by targeting just those horses

entering the human food chain but would not meet the European legal requirements and so be open to legal challenge. Neither option (apart from the National Equine Database which is not yet a requirement of the EU legislation) proposes any measures that are additional to those required by the Commission Decision.

48. On balance option I is recommended, for the following reasons –

- It is the only option that fully implements the Commission Decision, but yet does not include any gold plating or add any requirements that are additional to those contained in the Commission Decision,
- It has the support of the horse industry as represented by the British Horse Industry Confederation,
- It may well result in additional benefits to improve horse welfare and breeding although these are not objectives of the legislation. However, this is consistent with the aim of the Department to aid rural industries of which the horse industry is an important part.

Conclusion

49. After considering the results of the consultation, the Minister for State (Rural Affairs and Urban Quality of Life) decided to implement Commission Decision 2000/68/EC by requiring all equines to have a passport that meets the EU requirements and for a National Equine Database to be established. This was introduced through The Horse Passports (England) Regulations 2003, which required passports for older horses to be obtained by 30 June 2004. The Horse Passports (England) Regulations 2004 confirm the requirement for passports but with some changes both to the policy and in how the legislation was set out to try and make it clearer what is required. The main changes are that-

- The declaration that the horse is ultimately intended for human consumption does not now have to be signed until the horse is exported or sent for slaughter.
- Horse owners have to apply for a passport by the end of June 2004 – instead of the previous requirement which was that they had to obtain a passport by that date.
- The date from which restrictions on the use of horses without passports will apply has been deferred to 28 February 2005. This is in order to achieve a common enforcement date across the UK, and provide for a period for the new regime to bed in.

Declaration

50. I have read the Regulatory Impact Assessment and I am satisfied that the benefits justify the costs.

Signed by the responsible Minister

Alun Michael

Date: 19th May 2004
Alun Michael
Minister of State (Rural Affairs and Urban Quality of Life)
Department for the Environment, Food & Rural Affairs

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