



STATUTORY INSTRUMENTS.

S.I. No. 151 of 2007



EUROPEAN COMMUNITIES (APPROVAL AND REGISTRATION OF
DEALERS OF BOVINE ANIMALS AND SWINE) REGULATIONS 2007

(Prn. A7/0558)

EUROPEAN COMMUNITIES (APPROVAL AND REGISTRATION OF DEALERS OF BOVINE ANIMALS AND SWINE) REGULATIONS 2007

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S.I. No. 151 of 2007

EUROPEAN COMMUNITIES (APPROVAL AND REGISTRATION OF DEALERS OF BOVINE ANIMALS AND SWINE) REGULATIONS 2007

I, MARY COUGHLAN, Minister for Agriculture and Food, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972) and for the purpose of giving effect to Council Directive 97/12/EC of 17 March 1997¹ amending and updating Council Directive 64/432/EEC of 29 July 1964² relating to dealers hereby make the following Regulations—

Citation

1. These Regulations may be cited as the European Communities (Approval and Registration of Dealers of Bovine Animals and Swine) Regulations 2007.

Interpretation

2. (1) In these Regulations—

“animal” means an animal of the bovine or swine species;

“approval” means approval under Regulation 6 or Regulation 7;

“approval number” means a number issued under Regulation 6 or Regulation 7;

“approved dealer” means a dealer approved 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 (No. 6 of 1966),

(b) a person appointed under Regulation 9, or

(c) a member of the Garda Síochána or an officer of Customs and Excise;

“Community” means European Communities;

“Council Directive” means Council Directive 97/12/EC of 17 March 1997 amending and updating Council Directive 64/432/EEC of 29 July 1964;

“dealer” means any natural or legal person who buys and sells animals commercially either directly or indirectly, who has a regular turnover of these animals and who within a maximum of 30 days of buying animals resells them or relocates them from the first premises to other premises not within his or her ownership and who meets the conditions of Article 13 of the Council Directive;

¹OJ No. L109, 25.4.1997, p.1

²OJ No. L121, 29.7.1964, p.1977

Notice of the making of this Statutory Instrument was published in “Iris Oifigiúil” of 13th April, 2007.

“Diseases of Animals Act” means the Diseases of Animals Act 1966 (No. 6 of 1966) as amended by the Diseases of Animals (Amendment) Act 2001 (No. 3 of 2001);

“first premises” means the permitted premises where an animal is bought or, in the case of imported animals, the holding on which they are first registered within the State;

“holding number” means—

- (a) in the case of bovine animals, the herdnumber assigned to a herd, and
- (b) in the case of swine, the pig holding number allocated for the time being to a registered pig holding by the Minister under the Diseases of Animals Act 1966 (National Pig Identification and Tracing System) Order 2002 (S.I. No. 341 of 2002);

“mart” has the meaning assigned to it under Regulation 3 of the Livestock Marts Regulations 1968 (S.I. No.251 of 1968);

“Minister” means Minister for Agriculture and Food;

“permitted premises” means—

- (a) a premises, including a farm, registered as a food business in accordance with Regulation 3(1) of the European Communities (Food and Feed Hygiene) Regulations 2005 (S.I. No. 910 of 2005),
- (b) a mart which is licensed in accordance with Section 3 of the Livestock Marts Act 1967 (No. 20 of 1967),
- (c) an assembly centre approved in accordance with the European Communities (Assembly Centres) Regulations 2000 (S.I. No. 257 of 2000), or
- (d) a premises registered under Regulation 7 of these Regulations;

“premises” includes any establishment, construction and, in the case of an open-air farm, any place in which bovine animals or swine are kept, situated within the State;

“regular turnover” means the buying and reselling within 30 days of more than 100 bovine or more than 100 swine animals in any 12 month period;

“transporter” means any person transporting animals on his or her own account, or for the account of a third party;

“veterinary practitioner” means a person registered under Part 4 of the Veterinary Practice Act 2005 (No. 22 of 2005).

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

Dealers — buying and selling animals

3. (1) A person who acts as a dealer shall not buy and resell an animal commercially either directly or indirectly on his or her own behalf or on behalf of another person unless he or she is approved under Regulation 6.

(2) A dealer who buys an animal and has a registered dealer's premises must transport the animal directly from the first premises where he or she bought the animal directly to—

- (a) his or her registered dealer's premises, or
- (b) the permitted premises to where it is being resold or relocated.

(3) A dealer who buys an animal and does not have a registered dealer's premises must arrange to transport the animal directly from the first premises to the permitted premises to where it is being resold or relocated.

(4) A person shall not—

- (a) buy an animal from a dealer, or
- (b) sell an animal to a dealer,

unless the dealer is approved.

Limitations relating to dealers

4. (1) A dealer may only buy or sell a bovine animal that—

- (a) comes from a permitted premises that has an official identification number and is not subject to movement restrictions specified in Community or national legislation,
- (b) is correctly identified with ear tags as specified in Council Regulation (EC) No. 1760/2000 of 17 July 2000³, the Bovine Tuberculosis (Attestation of the State and General Provisions) Order 1996 (S.I. No. 103 of 1996), the Bovine Tuberculosis (Attestation of the State and General Provisions) Order 1999 (S.I. No. 277 of 1999) and the Bovine Tuberculosis (Attestation of the State and General Provisions) (Amendment) Order 2006 (S.I. No. 63 of 2006), and
- (c) is accompanied by properly completed identification documents as specified in Council Regulation (EC) No. 1760/2000 and the European Communities (Identification and Registration of Bovine Animals) Regulations 1999 (S.I. No. 276 of 1999).

³OJ L 204, 11.8.2000, p.1

(2) A dealer may only buy or sell swine from permitted premises that are properly identified and accompanied by identification and health documents as specified in the Diseases of Animals Act 1966 (National Pig Identification and Tracing System) Order 2002 (S.I. No. 341 of 2002).

(3) A dealer may deal only with—

(a) another approved dealer, or

(b) a person who has a permitted premises.

(4) Notwithstanding paragraph (1), the Minister may authorise the involvement of a dealer in the marketing of properly identified animals which do not comply with this Regulation where such animals—

(a) are brought direct to a specified permitted premises, without passing through the registered premises of the dealer or any other premises, for slaughter as soon as possible in order to prevent the outbreak or spread of disease, or

(b) where in the opinion of an authorised officer the movement of such animals is necessary for animal welfare or other reasons.

(5) Where the Minister authorises the movements of animals under paragraph (4), they must be accompanied by a movement permit issued by the Minister.

Obligations and responsibilities of dealers

5. (1) All keepers of animals are obliged to maintain a register of animals provided for—

(a) in the case of bovines—

(i) Article 7 of Council Regulation (EC) No. 1760/2000,

(ii) Regulation 4 of the European Communities (Registration of Bovine Animals) Regulations 1996 (S.I. No. 104 of 1996), and

(iii) Regulation 20 of the European Communities (Identification and Registration of Bovines Animals) Regulations 1999 (S.I. No. 276 of 1999), or

(b) in the case of swine—

Article 11 of the Diseases of Animals Act 1966 (National Pig Identification and Tracing System) Order 2002 (S.I. No. 341 of 2002).

(2) In addition to the obligations listed at (1) above, a dealer shall keep a record, in such form as the Minister decides, for at least 3 years following the date on which he or she bought or resold the animal concerned of—

- (i) the name and number of the permitted premises of the person from whom an animal was bought,
- (ii) the date the animal was bought,
- (iii) category, number, and tag number of such animal or in the case of swine being moved direct to slaughter, details of the pig herd registration number of the holding from which the pig is being moved,
- (iv) the number of the permitted premises of most recent origin of the animal bought, if different to subparagraph (i),
- (v) copies of notifications supplied to competent authorities with all information concerning the origin, identification and, where appropriate, destination of animals which he or she has owned, kept, transported, marketed or slaughtered,
- (vi) the registration number or name and address of the transporter and the licence number of the vehicle delivering or collecting an animal,
- (vii) the name and address or number of the permitted premises of the buyer of an animal, the date of sale, and tag number of each such bovine animal or in the case of swine being moved direct to slaughter, details of the pig herd registration number of the holding to which the pig is being moved,
- (viii) the number of the permitted premises of destination of each animal, if different to subparagraph (vii), and
- (ix) copies of journey logs or serial number of health certificates, as appropriate.

(3) A dealer shall give information to the Minister or to a person designated by the Minister in relation to each transaction completed in respect of animals as required under these Regulations and, where appropriate, the Council Directive and such information shall be provided in the format and within the timescale as the Minister decides.

(4) If a dealer keeps an animal on his or her registered dealer's premises, he or she shall ensure that—

- (a) he or she or any person having care of the animal has received the appropriate training as directed by the Minister in the care and welfare of animals to meet the requirements of the Council Directive and these Regulations, and
- (b) controls and tests on animals, as may be required by an authorised officer or a registered veterinary practitioner or otherwise to prevent the outbreak or spread of disease, are carried out on the premises.

(5) A dealer shall provide the Minister with full details of all premises within the State used by him or her in connection with the buying or reselling of animals.

(6) A dealer shall ensure that his or her registered dealer's premises—

- (a) are accessible to an authorised officer,
- (b) are used only for animals relating to the dealer's business and do not permit their inter-mixing with other animals,
- (c) have appropriate facilities of sufficient capacity and in particular inspection and isolation facilities so that all animals can be isolated in the event of an outbreak of a contagious disease,
- (d) have appropriate facilities, which must be easy to clean and disinfect, for loading and unloading animals and where necessary adequate housing of a suitable standard for the animals, for watering and feeding them and for giving them any necessary treatment,
- (e) have an appropriate reception area for litter and manure and an appropriate system for collecting waste water,
- (f) are cleaned and disinfected before and after use as may be required by an authorised officer, and
- (g) have adequate testing facilities with a suitable pen and crush that are protected from the elements.

Approval and registration of dealers

6. (1) The Minister may for the purposes of these Regulations and Article 13 of the Council Directive, on application to him or her in that behalf by a dealer, approve the dealer ("approved dealer") for the period of 3 years and following approval issue to the dealer an approval number.

(2) On or before the expiration of the period of approval, the dealer may apply to have the approval renewed.

(3) An application for approval shall be in such form as the Minister decides and the applicant shall furnish the Minister with such information as he or she reasonably requires for the purposes of the Council Directive and these Regulations including details of persons acting as agents on behalf of the dealer.

(4) If the Minister is satisfied that an applicant for approval or an approved dealer has failed to comply or will not comply with—

- (a) the Diseases of Animals Act,
- (b) the Animal Remedies Act 1993 (No. 23 of 1993), or
- (c) a Regulation of an institution of the Community or a Regulation made under the European Communities Act 1972 (No. 27 of 1972) or the

laws of another Member State giving effect to a directive of such an institution in relation to animal health status, identification, transport or welfare,

then he or she may refuse to grant approval or may remove the name of the dealer from the register or withdraw or suspend the registration.

(5) The Minister shall establish and maintain a register (“dealers’ register”) of approved dealers who have been issued with approval numbers.

(6) The dealers’ register may be maintained in a form that is not legible if it is capable of being converted into a legible form.

(7) A certificate purporting to be signed by a person authorised by the Minister to certify that on a specified day or days or during the whole of a specified period a particular dealer was not entered in the dealers’ register or that on a specified day the entry of a dealer has been removed from the register shall, without proof of either the signature of the person purporting to sign the certificate or that he or she was so authorised by the Minister, be evidence, unless the contrary is shown, of the matters stated in the certificate.

(8) A person who acts as a dealer shall not engage in the buying or reselling of animals to which these Regulations relate unless for the time being he or she is registered in the dealers’ register.

Registration of dealers’ premises

7. (1) A dealer proposing to use premises, which meet the standards specified in these Regulations and the Council Directive, in connection with his or her business as a dealer must apply for approval and registration of the premises in accordance with this Regulation.

(2) The Minister shall establish and maintain a register of premises used by dealers and entered in the register (“registered dealers’ premises”) in connection with the buying or reselling of animals under these Regulations.

(3) An application by a dealer for entry of a premises’ register shall be made in such form as the Minister may specify.

(4) A person applying for entry of any premises in the premises’ register shall furnish the Minister with such information as the Minister may reasonably require for the purposes of these Regulations and the Council Directive.

(5) The Minister may attach conditions or limitations in respect of the business that may be carried on in the premises and in respect of the structural and operational requirements of the premises.

(6) The premises’ register may be established and maintained in a form that is not legible if it is capable of being converted into legible form.

(7) The Minister shall, following approval and registration of a premises, cause to be issued a document containing an approval number in respect of the

premises which shall be used for the purposes of these Regulations and which shall be valid for a period of not more than 3 years after which period the dealer shall apply for renewal of approval and registration of the premises concerned.

(8) A certificate purporting to be signed by a person authorised by the Minister to certify that on a specified day or days or during the whole of a specified period a particular premises was not entered in the premises' register or that on a specified day the entry of a premises has been removed from the register shall, without proof of either the signature of the person purporting to sign the certificate or that he or she was so authorised by the Minister, be evidence, unless the contrary is shown, of the matters stated in the certificate.

(9) A dealer shall not use any premises in connection with the buying and reselling of animals unless that premises is for the time being entered in the premises' register.

(10) Any additional or materially modified premises shall not be used by a dealer for the buying or reselling of animals until they have been approved and entered in the premises' register.

(11) Where the Minister is satisfied that these Regulations, the Council Directive, or other legislation relating to animal or human health or animal identification, welfare or registration are not being complied with at a premises entered in the premises' register or will not be complied with by an applicant for such entry, then he or she may remove the premises from, or refuse to enter the premises in, the premises' register.

Revocation, suspension or refusal to approve dealers or register premises

8. (1) Where the Minister proposes to revoke or suspend an approval of a dealer or remove a premises from the premises' register or to refuse to grant approval to a dealer or to enter a premises in the premises' register, the Minister shall—

- (a) notify the person concerned in writing of the proposal and of the reasons therefor,
- (b) notify that person in writing that he or she, or a person acting on his or her behalf, may make representations to the Minister in relation to the proposal within 14 days of the issue of the notification, and
- (c) consider any such representations duly made before deciding whether or not to proceed with the proposal.

(2) Where an approval is suspended or revoked, the Minister shall remove the name of the dealer from the dealers' register and give notice in writing to the dealer requiring the dealer to cease dealing in animals.

(3) Where a premises is removed from the premises' register, the Minister shall give notice in writing to the dealer to cease using the premises in connection with the buying, selling or keeping of animals.

(4) A notice under paragraph (2) or (3) may be given directly to the dealer or left at the premises of the dealer or sent by post to the dealer.

(5) Where the Minister removes a premises from the premises' register, the premises concerned shall not be used for buying or reselling an animal and the business specified in any notice issued shall be discontinued from the date of removal.

(6) The Minister may restore an approval, re-enter the name of a dealer in the dealers' register and re-enter a premises in the premises' register in instances where the dealer demonstrates to the satisfaction of the Minister that he or she will comply with the requirements of, and that the premises concerned will be used in accordance with, these Regulations and the Council Directive.

(7) The Minister may where he or she is satisfied that there is a serious and immediate risk to public or animal health or welfare, suspend a registration granted, without affording to the person granted the registration an opportunity of making representations referred to in paragraph (1).

Appointment of Authorised Officers

9. (1) The Minister may appoint in writing such and so many persons as he or she thinks fit to be authorised officers for the purposes of these Regulations.

(2) An authorised officer appointed under paragraph (1), shall be furnished with a warrant of his or her appointment.

(3) When exercising a power conferred on him or her under these Regulations an authorised officer, who is not a member of the Garda Síochána, or an officer of Customs and Excise shall, if so requested by any person affected, produce the warrant to the person for inspection in writing of his or her appointment as an authorised officer or an inspector.

Powers of authorised officers

10. (1) An authorised officer may, for the purpose of enforcing these Regulations and the Council Directive, exercise all or any of the powers conferred on an authorised officer under section 17A of the Diseases of Animals Act 1966 and may—

- (a) at all reasonable times, enter any premises (other than a private dwelling), where he or she has reason to believe that an animal, ear-tags, documents or records relating to an animal was or were present and inspect the premises,
- (b) require any person in charge of the premises to produce to him or her any documents, records (and in the case of such information in a non-legible form to reproduce it in permanent legible form) or ear-tags relating to an animal and to give to him or her such information as he or she may reasonably require,
- (c) inspect and take copies of, or take extracts from, any such documents or records including in the case of information in a non-legible form

a copy of or extract from such information in permanent legible form in whatever form kept,

- (d) there or at any other place carry out such inspections as the officer considers appropriate and, if the officer so thinks fit, remove or have removed from there any documents, records or ear-tags and retain them for a reasonable period to facilitate such inspection.

(2) A member of the Garda Síochána or an officer of Customs and Excise may for the purposes of these Regulations exercise any of the powers conferred on an authorised officer under section 17A of the Diseases of Animals Act 1966 or these Regulations.

Fixed penalty notice

11. (1) If an authorised officer has reasonable grounds for suspecting that a person is committing or has committed an offence under these Regulations (other than contravening Regulation 12), 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 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.

Forgery

12. (1) A person shall not forge or utter knowing it to be a forged document issued under these Regulations (hereafter in this Regulation referred to as “a forged document”).

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

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

Offences and Penalties

13. (1) A person who contravenes or fails to comply with any of these Regulations commits an offence.

(2) A person guilty of an offence under these Regulations is liable on summary conviction to a fine not exceeding €5,000 or to imprisonment for a term not exceeding 3 months, or to both.

(3) An offence under these Regulations may be prosecuted by the Minister.

(4) Where an offence under these Regulations has been 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 was committed, was 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, commits an offence and is liable to be proceeded against and punished as if he or she committed the first-mentioned offence.

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

Saver

14. (1) The Diseases of Animals Acts, 1966 to 2001 (Approval and Registration of Dealers and Dealers’ Premises) Order, 2001 (S.I. No. 79 of 2001) do not apply to a dealer to whom these Regulations apply.

(2) A person to whom these Regulations apply who immediately before the making of these Regulations was registered under the Diseases of Animals Acts, 1966 to 2001 (Approval and Registration of Dealers and Dealers’ Premises) Order, 2001 (S.I. No. 79 of 2001) is considered to be registered under Regulation 6 and may be dealt with as if registered under Regulation 6.

(3) Premises to which these Regulations apply that immediately before the making of these Regulations were registered under the Diseases of Animals Acts, 1966 to 2001 (Approval and Registration of Dealers and Dealers’

Premises) Order, 2001 (S.I. No. 79 of 2001) are considered to be registered under Regulation 7 and may be dealt with as if registered under Regulation 7.

Revocations

15. The following are revoked—

- (a) Article 29 of the Bovine TB (Attestation of State and General Provisions) Order 1989 (S.I. No., 308 of 1989),
- (b) Article 25 of the Brucellosis in Cattle (General Provisions) Order 1991 (S.I. No. 114 of 1991), and
- (c) Regulation 13 of the European Communities (Trade in Bovine Animals) Regulations 1997 (S.I. No. 270 of 1997).



GIVEN under my Official Seal,
4 April 2007

MARY COUGHLAN
Minister for Agriculture and Food.

EXPLANATORY NOTE

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

These Regulations give effect to Council Directive 97/12/EC, amending and updating Directive 64/432/EEC on health problems affecting intra-community trade, in so far as it relates to dealers in bovine animals and swine. The Regulations regulate the operations of dealers and lays down their obligations and responsibilities in relation to their registration and approval of premises, the keeping of records and provision of information relating to their operations. A Dealer who buys and sells cattle or pigs commercially either directly or indirectly, who has a regular turnover of these animals and who within a maximum of 30 days of buying them resells them or relocates must be registered under these Regulations.

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
Le ceannach díreach ón
OIFIG DHÍOLTA FOILSEACHAN RIALTAIS,
TEACH SUN ALLIANCE, SRÁID THEACH LAIGHEAN, BAILE ÁTHA CLIATH 2
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