

2009 No.

ANIMALS, ENGLAND

The Horse Passport Regulations 2009

<i>Made</i>	- - - -	2009
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SCHEDULE — New Forest and Dartmoor Ponies

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

PART 1

Introduction

Citation, application and commencement

1. These Regulations may be cited as the Horse Passport Regulations 2009; they apply in England and come into force on [] 2009.

Interpretation

2. In these Regulations “horse” means wild or domesticated solipeds within the genus *Equus* of the family Equidae, and their crosses.

PART 2

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

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

3. The Secretary of State is the competent authority for the purposes of Commission Regulation (EC) No. 504/2008 (implementing Council Directives 90/426/EEC and 90/427/EEC as regards method of identification of equidae^(c)) and acts as the member State for the purposes of that Regulation.

Sale of horses

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

(a) S. I. 1972/1711.

(b) 1972 c. 68.

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

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

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

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

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

Identification documents

5.—(1) The owner of a horse and, if different, the keeper who has primary responsibility for it who does not comply with Article 3(1) of Commission Regulation (EC) No. 504/2008 are guilty of an offence.

(2) In accordance with Article 5(5) of that Regulation it is the responsibility of the owner of horse to apply for an identification documents within the time limits set out in Article 5, and failure to do so is an offence.

(3) If an application for an identification document is received outside the time limits, the passport issuing body must stamp the passport that the animal is not for human consumption.

Alteration of an identification document

6. Any person who alters an identification document in breach of Article 5(7) of Commission Regulation (EC) No. 504/2008 is guilty of an offence.

Application for duplicate and replacement identification documents

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

Importation

8. The owner of a horse who—

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

commits an offence.

Detecting previous active marking of horses

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

Minimum qualification

10. The minimum qualification for the purposes of Article 11 of Commission Regulation (EC) No. 504/2008 (implantation of a transponder) is membership of the Royal College of Veterinary Surgeons.

Accompanying documentation

11.—(1) The owner of a horse and, if different, the keeper who has primary responsibility for it who do not comply with—

- (a) Article 13(1) of Commission Regulation (EC) No. 504/2008 (movement and transport),
- (b) Article 14(1) of that Regulation (smart cards), or
- (c) Article 14(3) of that Regulation (temporary documents),

commit an offence.

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

Movement to slaughter

12. The owner of a horse and, if different, the keeper who has primary responsibility for it who do not comply with Article 15(1) of Commission Regulation (EC) No. 504/2008 (movement to slaughter) commit an offence.

Issue of duplicate and replacement identification documents

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

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

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

Procedure on death

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

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

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

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

Procedure by the passport issuing body on death

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

Permitted treatment for horses intended for human consumption

16. A veterinary surgeon who supplies for the treatment of a horse any product containing any active substance other than one listed in—

- (a) Annex I, II or III to Council Regulation (EEC) No 2377/90 (laying down a Community procedure for the establishment of maximum residue limits of veterinary medicinal products in foodstuffs of animal origin^(a)), or
- (b) Commission Regulation (EC) No. 1950/2006 (establishing, in accordance with Directive 2001/82/EC of the European Parliament and of the Council on the Community code relating to veterinary medicinal products, a list of substances essential for the treatment of equidae^(b)),

commits an offence unless—

- (c) the veterinary surgeon has previously seen the passport for that horse, and knows that the passport shows that the horse has been declared as not being intended for slaughter for human consumption, or
- (d) the passport is available at the time the veterinary surgeon supplies the product, and the veterinary surgeon or the keeper marks on the passport that the horse is not intended for human consumption.

The withdrawal period

17.—(1) This regulation only applies in relation to a horse that has not been declared as not intended for human consumption.

(2) When a veterinary surgeon records in the keeper's records the information required under the Veterinary Medicines Regulations 2008^(c) when a veterinary medicinal product is administered to a food-producing animal, the veterinary surgeon must also record the date of administration and the withdrawal period in the animal's passport; and if the veterinary surgeon, instead of recording the information personally, gives it to the keeper for entering into the records, the keeper must enter the date of administration and the withdrawal period in the passport as well as in the records.

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

Databases

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

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

New Forest and Dartmoor ponies

19. The Schedule makes provision for New Forest and Dartmoor ponies.

Prohibitions

20. It is an offence to—

- (a) destroy or deface a passport;
- (b) alter any entry made in Section I of the passport;
- (c) alter any of the details in Section II or III of the passport unless authorised in writing to do so by a passport issuing body;
- (d) make an entry in Section IV of the passport except in accordance with the rules and regulations of a passport issuing body, and no person may alter any entry;

(a) OJ No. L 224, 18.8.1990, p. 1.
(b) OJ No. L367, 22.12.2006, p. 33.
(c) S.I. 2008/2297.

- (e) alter any details in Section V, VI, VII, VIII or IX of the passport;
- (f) be in possession of a forged passport.

PART 3

Enforcement

Enforcement

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

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

Powers of entry

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

(2) An inspector may—

- (a) require the production of a passport and mark it as necessary;
- (b) carry out any inquiries;
- (c) have access to, and inspect and copy any 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 operation of, the computer, apparatus or material to afford him such assistance as he may reasonably require 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) take with him—
 - (i) such other persons as he 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) In this regulation “inspector” means a person appointed as such by a local authority or the Secretary of State for the enforcement of these Regulations or under the Animal Health Act 1981..

Obstruction

23. It is an offence to —

- (a) obstruct any person acting under these Regulations;
- (b) fail to give to any person acting under these Regulations any assistance or information that that person may reasonably require of him for the performance of his functions under these Regulations;
- (c) furnish to any person acting under these Regulations any information knowing it to be false or misleading; or
- (d) fail to produce a record or passport when required to do so to any person acting under these Regulations.

Penalties

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

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

Offences by bodies corporate

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

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

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

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

Offences by partnerships and unincorporated associations

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

(2) For the purposes of such proceedings—

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

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

(4) Where an offence under these Regulations committed by a partnership is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part

(a) 1925 c. 86. Subsections (1) and (2) of section 33 were repealed by the Magistrates’ Courts Act 1952 (c. 55), section 132 and Schedule 6; subsection (3) was amended by the Courts Act 1971 (c. 23), section 56(1) and Schedule 8, part II, paragraph 19; subsection (4) was amended by the Courts Act 2003 (c. 39), section 109(1) and (3), Schedule 8, paragraph 71 and Schedule 10, and by the Magistrates’ Courts Act 1980 (c. 43), section 154 and Schedule 7, paragraph 5; subsection (5) was repealed by the Magistrates’ Court Act 1952, section 132, Schedule 6.

(b) 1980 c. 43. Sub-paragraph 2(a) was amended by the Criminal Procedure and Investigations Act 1996 (c. 25), section 47, Schedule 1, paragraph 13, and was repealed by the Criminal Justice Act 2003 (c. 44), sections 41 and 332, Schedule 3, part 2, paragraph 51, sub-paragraphs (1), (13)(a), and Schedule 37, part 4 (with effect from a date to be appointed); paragraph 5 was repealed by the Criminal Justice Act 1991 (c. 53), sections 25(2) and 101(2) and Schedule 13; paragraph 6 was amended by the Criminal Justice Act 2003, section 41, Schedule 3, part 2, paragraph 51, sub-paragraphs (1) and (13)(b) (with effect from a date to be appointed).

of, a partner, that partner (as well as the partnership) is guilty of the offence and is liable to be proceeded against and punished accordingly.

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

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

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

Revocations

27. The Horse Passports (England) Regulations 2004(a) are revoked.

	<i>Name</i>
	Parliamentary Under Secretary of State
Date	Department for Environment, Food and Rural Affairs

SCHEDULE

Regulation 19

New Forest and Dartmoor Ponies

Application of this Schedule

1.—(1) This Schedule applies in relation to New Forest ponies and Dartmoor ponies registered as such with a passport issuing body approved for this purpose by the Secretary of State (in this Schedule referred to as an “approved passport issuing body”).

(2) For the purposes of this Schedule “the New Forest” and “Dartmoor” mean the areas designated in maps marked as such(b) and deposited at the offices of the Secretary of State for Environment, Food and Rural Affairs, Nobel House, 17 Smith Square, London SW1P 3JR.

Identification of ponies

2.—(1) In accordance with Article 7 of Commission Regulation (EC) No. 504/2008 a New Forest or Dartmoor pony may be identified by being entered on the verderer’s list (in the case of the New Forest) or with the Commoners’ Council (in the case of Dartmoor) provided it does not leave the New Forest or Dartmoor.

(2) If such a pony is treated with any veterinary medicinal product the owner must ensure that it is fully identified and microchipped in accordance with Commission Regulation (EC) No. 504/2008 within 30 days of treatment, and failure to do so is an offence.

(3) Unless the pony is removed in accordance with paragraphs 3 or 4 of this Schedule, it must be fully identified and microchipped in accordance with of Commission Regulation (EC) No. 504/2008 before it moved off the New Forest or Dartmoor, and it is an offence to move it off without it being so identified and microchipped.

(a) S.I. 2004/1397.

(b) These maps, for illustrative purposes only, can be accessed on [], but the version deposited at the offices of the Secretary of State is the definitive version.

Identification of ponies moved off the New Forest or Dartmoor for slaughter for human consumption

3.—(1) A pony aged twelve months or less (identified in accordance with Article 15(2)(a) of Commission Regulation (EC) No. 504/2008) may be moved off the New Forest or Dartmoor directly to slaughter for human consumption provided it is identified by an adhesive label, issued by an approved passport issuing body and dated with the date it was attached to the pony.

(2) Any pony aged over twelve months may be moved off the New Forest or Dartmoor directly to slaughter without being microchipped provided it is identified with such an adhesive label and accompanied by a passport marked with the number of the adhesive label and with the silhouette of the animal in the correct page of the passport.

(3) It is an offence to slaughter such a pony more than two days after the date on the adhesive label.

Identification of ponies moved off the New Forest or Dartmoor other than for slaughter for human consumption

4.—(1) This paragraph applies in relation to a pony sold at the Beaulieu Road Sales in the New Forest or the Tavistock and Chagford or Tavistock Sales on Dartmoor.

(2) A pony (other than one intended for slaughter for human consumption) to which this paragraph applies may be taken off the New Forest or Dartmoor without a valid passport provided that—

- (a) it is marked with an adhesive sticker and issued by an approved passport issuing body showing the date of the sale and the lot number;
- (b) the buyer has applied to that passport issuing body for a passport;
- (c) a photocopy of the passport application accompanies the animal, marked with the number on the adhesive label.

(3) The buyer must—

- (a) take the pony directly to the holding of destination outside the New Forest or Dartmoor,
- (b) within 30 days of arrival microchip it, complete Section 1 of the passport and send the completed Section 1 to an approved passport issuing body to enable that body to issue a passport, and
- (c) ensure that the animal is not moved from the holding of destination until the passport is received,

and failure to comply with this sub-paragraph is an offence.

EXPLANATORY NOTE

(This note is not part of the Regulations)

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

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

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

Breach of the Regulations is an offence punishable—

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

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