



STATUTORY INSTRUMENTS.

**S.I. No. 227 of 2021**

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EUROPEAN UNION (ANIMAL BREEDING) REGULATIONS 2021

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Arrangement of Regulations

**Part 1**

**Preliminary & General**

- 1. Citation**
- 2. Interpretation**
- 3. Application**

**Part 2**

**General Provisions**

- 4. General zootechnical and genealogical rules**
- 5. Recognition of breed society and breeding operation**
- 6. Refusal of recognition of breed society and breeding operation**
- 7. Submission of modified breeding programmes in cases of refusal**
- 8. Lists of recognised breed societies and breeding operations**
- 9. Approval of breeding programme**
- 10. Changes to approved breeding programme**
- 11. Derogations concerning approval of breeding programme**
- 12. Notification and approval of breeding programme carried out in other Member States**
- 13. Rights of breeders participating in approved breeding programme**
- 14. Rights and obligations of breed societies and breeding operations**
- 15. Entry of purebred breeding animals in breeding books and acceptance for breeding**
- 16. Registration of hybrid breeding pigs in breeding registers**
- 17. Performance testing and genetic evaluation**
- 18. Issuing, content and format of zootechnical certificates accompanying breeding animals and the germinal products thereof**
- 19. Derogations from Article 30**
- 20. Equivalence of measures applied to third countries**
- 21. Entry in breed books or registration of breeding animals produced from germinal product that have entered the Union**

- 22. Official Controls**
- 23. Serious disruption in the control system of a Member State**
- 24. Commission controls in third countries**
- 25. Transitional measures**

### **Part 3**

#### **Restrictions including Authorisations, Recognitions and Approvals**

- 26. Authorisations, recognitions and approvals**
- 27. Records**
- 28. Forgery**

### **Part 4**

#### **Enforcement**

- 29. Appointment of authorised officer**
- 30. Functions of authorised officer**
- 31. Search warrant**
- 32. Compliance notice**
- 33. Appeal against compliance notice**
- 34. Seizure and detention for non-compliance with a compliance notice**
- 35. Obstruction and false statements**
- 36. Fixed Payment Notice**

### **Part 5**

#### **Procedural**

- 37. Data Sharing**
- 38. Service**

### **Part 6**

#### **Penalties and Evidence**

- 39. Penalties and prosecutions**
- 40. Evidence on certificate etc**

**Part 7**  
**Revocations and Transitional Measures**

- 41. Revocations, savers etc**

S.I. No. 227 of 2021

## EUROPEAN UNION (ANIMAL BREEDING) REGULATIONS 2021

I, CHARLIE MCCONALOGUE, Minister for Agriculture, Food and the Marine, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972), for the purpose of giving effect to Regulation (EU) 2016/1012 of the European Parliament and of the Council of 8 June 2016<sup>1</sup>, Commission Implementing Regulation (EU) 2017/716 of 10 April 2017<sup>2</sup>, Commission Implementing Regulation (EU) 2017/717 of 10 April 2017<sup>3</sup>, Commission Delegated Regulation (EU) 2017/1940 of 13 July 2017<sup>4</sup>, Commission Implementing Regulation (EU) 2017/1422 of 4 August 2017<sup>5</sup> and Commission Implementing Regulation (EU) 2020/602 of 15 April 2020<sup>6</sup>, hereby make the following regulations:

### **Part 1**

#### **Preliminary & General**

#### **Citation**

1. These Regulations may be cited as the European Union (Animal Breeding) Regulations 2021.

#### **Interpretation**

2. (1) In these regulations—

“animal” has the meaning assigned to it by Article 2(1) of Regulation No 2016/1012;

“authorised officer” means—

- (a) an authorised officer appointed under section 37 of the Animal Health and Welfare Act 2013 (No. 15 of 2013),
- (b) a Member of the Garda Siochána,
- (c) an officer of the Revenue Commissioners,
- (d) a person appointed under Regulation 29, or
- (e) a person who immediately before the making of these Regulations was an authorised officer within the meaning of the Regulations revoked by Regulation 41;

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<sup>1</sup> OJ L 171, 29.6.2016, p. 66

<sup>2</sup> OJ L 109, 26.4.2017, p. 1

<sup>3</sup> OJ L 109, 26.4.2017, p. 9

<sup>4</sup> OJ L 275, 25.10.2017, p. 1

<sup>5</sup> OJ L 204, 5.8.2017, p. 78

<sup>6</sup> OJ L 139, 4.5.2020, p. 1

“EU Regulations” means Regulation No 2016/1012, Commission Implementing Regulation (EU) 2017/716 of 10 April 2017, Commission Implementing Regulation (EU) 2017/717 of 10 April 2017 (as amended by Commission Implementing Regulation (EU) 2020/602 of 15 April 2020), Commission Delegated Regulation (EU) 2017/1940 of 13 July 2017 and Commission Implementing Regulation (EU) 2017/1422 of 4 August 2017;

“delegated act” means a delegated act adopted in accordance with Article 61 of Regulation No 2016/1012;

“implementing act” means an implementing act adopted in accordance with Article 62(2) or (3) of Regulation No 2016/1012;

“Minister” means Minister for Agriculture, Food and the Marine;

“premises” includes land with or without buildings, a vehicle (including a boat, ship, hovercraft, aircraft or offshore installation (being an offshore installation within the meaning of the Safety, Health and Welfare (Offshore Installations) Act 1987 (No. 18 of 1987)), railway wagon, other means of transport, container or other thing used in connection with, or ancillary to such a thing;

“record” includes a memorandum, book, plan, map, drawing, diagram, pictorial or graphic work or other document, a photograph, film or recording (whether of sound or images or both), any form in which data are held, any other form (including machine-readable form) or thing in which information is held or stored manually, mechanically, electronically or optically and anything that is a part or a copy, in any form, of any of the foregoing or is a combination of 2 or more of the foregoing;

“Regulation No 2016/1012” means Regulation (EU) 2016/1012 of the European Parliament and of the Council of 8 June 2016.

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

## **Application**

3. (1) Subject to paragraph (2) and (3), these Regulations apply to a breeding animal and their germinal products where those animals or the offspring resulting from those germinal products are intended to be entered as purebred breeding animals in a breeding book or registered as hybrid breeding pigs in a breeding register maintained or established by—

- (a) a breed society or a breeding operation recognised in accordance with Article 4(3) of Regulation No 2016/1012 and these Regulations, or
- (b) a breeding body within the meaning assigned to it by Article 2(7) of the Council Regulation.

(2) These Regulations do not apply to breeding animals and their germinal products where those animals are intended for technical or scientific experiments carried out under the supervision of the Minister.

(3) A provision specified in Article 1(4) of Regulation No 2016/1012 does not apply to these Regulations to the extent that these Regulations apply to private undertakings, recognised as breeding operations, which operate in closed production systems.

## **Part 2**

### **General Provisions**

#### **General zootechnical and genealogical rules**

4. (1) A person who contravenes Article 3(1) of Regulation No 2016/1012 in respect of prohibiting, restricting or impeding on zootechnical or genealogical grounds the trade in breeding animals, their germinal products or the entry into the Union of breeding animals or their germinal products commits an offence.

(2) A person who contravenes Article 3(2) of Regulation No 2016/1012 in respect of the discrimination against breeders of breeding animals, breed societies, breeding operations or breeding bodies on the basis of their country of origin or of the country of origin of their breeding animals or the germinal product thereof commits an offence.

#### **Recognition of breed society and breeding operation**

5. (1) An operator shall not purport to be, or hold themselves out as, a recognised breed society in respect of purebred breeding animals unless that operator holds a recognition granted by the Minister to breeders' associations, breeding organisations or public bodies, in accordance with Article 4 of Regulation No 2016/1012.

(2) An operator shall not purport to be, or hold themselves out as, a recognised breeding operation in respect of hybrid breeding pigs unless that operator holds a recognition granted by the Minister to breeders' associations, breeding organisations, private undertakings operating in a closed production system or public bodies, in accordance with Article 4 of Regulation No 2016/1012.

(3) An operator may apply to the Minister for recognition as a breed society or a breeding operation in accordance with Article 4 of Regulation No 2016/1012.

(4) An application for recognition referred to in paragraph (3) shall, in addition to the requirements set out in Regulation 26, provide evidence of the requirements referred to in Article 4(3) of Regulation No 2016/1012.

(5) A person who purports to be, or holds themselves out as, a recognised breed society or a breeding operation referred to in paragraphs (1) or (2) without holding a recognition under these Regulations commits an offence.

### **Refusal of recognition of breed society and breeding operation**

6. (1) Without prejudice to the generality of Regulation 26, where the Minister proposes to refuse an application for a recognised breed society or a recognised breeding operation referred to in Regulation 5, he or she shall notify the applicant of that intent.

(2) Where the Minister gives notification under paragraph (1) he or she shall—

- (a) provide a reasoned explanation for the proposed refusal in accordance with Article 5 of Regulation No 2016/1012, and
- (b) inform the applicant that he or she may make representations to the Minister in relation to the proposed refusal within 60 days from the notification.

(3) Where the Minister, having considered any representations made under paragraph (2), refuses the application, he or she shall provide a reasoned explanation for the refusal within 90 days of the decision.

### **Submission of modified breeding programmes in cases of refusal**

7. (1) Where the Minister refuses to approve a breeding programme referred to in Regulation 9 that is submitted by a recognised breed society or breeding operation, the Minister shall consider a modified version of that breeding programme submitted within 6 months of the refusal.

(2) Where a recognised breed society or breeding operation has been refused approval for a breeding programme, and that breed society or breeding operation fails to submit a modified version of the breeding programme as referred to in paragraph (1), the Minister may withdraw recognition from that breed society or breeding operation in accordance with Article 6(2) of Regulation No 2016/1012.

### **Lists of recognised breed societies and breeding operations**

8. (1) The Minister shall maintain and publish, in a manner that he or she considers appropriate, a list of recognitions granted under these Regulations and include such information as he or she considers appropriate on the list.

(2) If the Minister withdraws a recognition of a breed society or a breeding operation or if he or she withdraws or suspends approval of a breeding programme as set out in Article 8(2) of Regulation No 2016/1012, an entry on the list maintained under paragraph (1) relating to that recognition or approval ceases to have effect and the Minister shall, as soon as possible thereafter, indicate details of the withdrawal or suspension on the list.

(3) Where the conditions set out in the second subparagraph of Article 7(4) of Regulation No 2016/1012 are met, the Minister shall definitively remove that breed society, breeding operation or breeding programme from the list referred to in paragraph (1).

### **Approval of breeding programme**

9. (1) A recognised breed society or a recognised breeding operation may apply to the Minister for approval of a breeding programme in accordance with Article 8 of Regulation No 2016/1012.

(2) An application for approval referred to in paragraph (1) shall, in addition to the requirements of Regulation 26, provide evidence of the requirements referred to in Article 8(3) of Regulation No 2016/1012.

(3) Where a breed society or a breeding operation outsources to a third party specific technical activities related to the management of its breeding programme in accordance with Article 8(4) of Regulation No 2016/1012, the breed society or breeding operation commits an offence if it contravenes any of the provisions of Article 8(4) (or where applicable, the derogation referred to in Article 27(4)) of Regulation No 2016/1012 in respect of the outsourcing to that third party.

(4) A breed society or breeding operation referred to in paragraph (3) commits an offence if it fails to provide the Minister with a copy of each and every agreement (Service Level Agreement) signed by it and any relevant third party as evidence of meeting its requirements under Article 8(4) of Regulation No 2016/1012.

(5) A breed society or breeding operation shall, if instructed to do so by the Minister, adjust the geographical territory of its breeding programme in accordance with Article 8(5) of Regulation No 2016/1012.

### **Changes to approved breeding programme**

10. (1) A recognised breed society or a recognised breeding operation may apply to the Minister for approval of a change to an approved breeding programme in accordance with Article 9 of Regulation No 2016/1012.

(2) A breed society or a breeding operation commits an offence if it-

- (a) contravenes Article 9(1) of Regulation No 2016/1012 in respect of the notification to the Minister of significant changes to a breeding programme,

- (b) implements a change referred to in subparagraph (a) without first obtaining approval from the Minister for such a change in accordance with Article 9(3) of Regulation No 2016/1012, or
- (c) contravenes Article 9(4) of Regulation No 2016/1012 in respect of the notification to breeders participating in a breeding programme of approved changes to that breeding programme.

#### **Derogations concerning approval of breeding programme**

11. Where a breed society or a breeding operation applies for approval of a breeding programme referred to in Regulation 9, the Minister may, where he or she considers it appropriate, refuse an approval for the breeding programme in accordance with Article 10 of Regulation No 2016/1012.

#### **Notification and approval of breeding programme carried out in other Member States**

12. (1) A breed society or a breeding operation who contravenes Article 12 of Regulation No 2016/1012 in respect of the notification to the Minister of the intended extension of its breeding programme to the geographical territory of another member state commits an offence.

(2) The breed society or breeding operation that is to provide to the Minister the notification referred to in paragraph (1) shall—

- (a) allow sufficient time for the Minister to give 90 days notification of the intended commencement of the breeding programme to the competent authority of that other member state in accordance with Article 12(2), and
- (b) where requested—
  - (i) provide a translation of that notification in one of the official languages of the other member state, and
  - (ii) provide a copy of the breeding programme in accordance with Article 12(2)(b) of Regulation No 2016/1012.

(3) The competent authority of another member state is to, in accordance with Article 12 of Regulation No 2016/1012 and on behalf of a breed society or a breeding operation recognised by that competent authority in its own member state, notify the Minister of that breed society or breeding operation's intent to seek approval for the extension of a breeding programme to the geographical territory of the State.

(4) An application for approval referred to in paragraph (3) shall, in addition to the requirements of Regulation 26, provide evidence of the requirements referred to in Article 12(3) of Regulation No 2016/1012.

(5) Where the Minister refuses to approve the carrying out of a breeding programme within the State in accordance with Article 12(3) of Regulation No 2016/1012, a breed society or a breeding operation that is recognised by the competent authority of another member state and is the notifying party, who

extends the breeding programme to the geographical territory of the State commits an offence.

(6) A breed society or a breeding operation recognised by the competent authority of another member state and that is approved by the Minister to extend a breeding programme to the geographical territory of the State who contravenes Article 12(10) of Regulation No 2016/1012 in respect of the provision of up-to-date information to the Minister commits an offence.

### **Rights of breeders participating in approved breeding programme**

13. A breed society or a breeding operation who contravenes Article 13 of Regulation No 2016/1012 in respect of the rights of a breeder commits an offence.

### **Rights and obligations of breed societies and breeding operations**

14. (1) A person who contravenes Article 14 of Regulation No 2016/1012 in respect of the rights of a breed society or a breeding operation commits an offence.

(2) A breed society or a breeding operation shall satisfy the Minister that it has in place an acceptable dispute resolution process in respect of its responsibilities and obligations under Article 14(4) of Regulation No 2016/1012.

### **Entry of purebred breeding animals in breeding books and acceptance for breeding**

15. (1) A breed society or a breeding operation who contravenes Section 1 of Chapter IV of Regulation No 2016/1012 or an implementing act referred to in Article 22 of the Regulation in respect of the entry of purebred breeding animals in breeding books and acceptance for breeding commits an offence.

(2) A recognised breed society may apply to the Minister for approval to avail of the derogation in accordance with Article 19(2) of Regulation No 2016/1012 in respect of the reconstruction of a breed that has disappeared or that is in serious danger of disappearing.

(3) An application for approval referred to in paragraph (2) shall, in addition to the requirements of Regulation 26, provide evidence of the requirements referred to in Article 19(2) and (3) of Regulation No 2016/1012.

(4) A breed society who, without first being approved by the Minister to do so, avails of the derogation in Article 19(2) of Regulation No 2016/1012 in respect of the entry of animals, which are considered by that breed society to be the breed's reconstruction stock, in the main section of a breeding book commits an offence.

(5) A semen collection or storage centre, an embryo storage centre, an embryo collection or production team or specifically qualified staff may apply to the Minister for authorisation for the collection, production, processing and storage for use within the State of germinal products of purebred breeding

animals at a semen collection or storage centre in accordance with the derogation at Article 21(6) of Regulation No 2016/1012.

(6) An application for authorisation referred to in paragraph (5) shall, in addition to the requirements set out in Regulation 26, provide evidence of the requirements referred to in Article 21(6) of Regulation No 2016/1012 including evidence that the semen collection or storage centre, the embryo storage centre, the embryo collection or production team or specifically qualified staff are approved in accordance with the legislation referred to in the derogation.

### **Registration of hybrid breeding pigs in breeding registers**

16. (1) A breeding operation who contravenes Section 2 of Chapter IV of Regulation No 2016/1012 in respect of the registration of hybrid breeding pigs in breeding registers and acceptance for breeding, commits an offence.

(2) A semen collection or storage centre, an embryo storage centre, an embryo collection or production team or specifically qualified staff may apply to the Minister for authorisation for the collection, production, processing and storage for use within the State of germinal products of hybrid breeding pigs at a semen collection or storage centre in accordance with the derogation at Article 24(4) of Regulation No 2016/1012.

(3) An application for authorisation referred to in paragraph (2) shall, in addition to the requirements set out in Regulation 26, provide evidence of the requirements referred to in Article 24(4) of Regulation No 2016/1012 including evidence that the semen collection or storage centre, the embryo storage centre, the embryo collection or production team or specifically qualified staff are approved in accordance with the legislation referred to in the derogation.

### **Performance testing and genetic evaluation**

17. (1) A breed society, breeding operation or designated third party who contravenes the following Articles of Regulation No 2016/1012 or a delegated or implementing act referred to in Article 26 of the Regulation commits an offence:

- (a) Article 25 in respect of methods for performance testing and genetic evaluation;
- (b) Article 27 in respect of carrying out of performance testing and genetic evaluation;
- (c) Article 28 in respect of obligations of breed societies, breeding operations and third parties carrying out performance testing or genetic evaluations.

(2) A breed society or a breeding operation shall not designate a third party referred to in point (b) of Article 27(1) of Regulation No 2016/1012 unless that third party is, in accordance with Article 27(2) of the Regulation—

- (a) a public body subject to control by the Minister, or
- (b) authorised by the Minister to carry out performance testing or genetic evaluation of breeding animals.

(3) A third party referred to in Article 27(1)(b) of Regulation No 2016/1012 commits an offence if it carries out performance testing or genetic evaluation of breeding animals for the purposes of paragraph (1) unless that third party is—

- (a) a public body subject to control by the Minister, or
- (b) authorised to do so by the Minister.

(4) Where a third party is designated in accordance with point (b) of Article 27(1) of Regulation No 2016/1012 and is authorised by the Minister in accordance with paragraph (2) of that Article, the derogation referred to in Article 27(4) of Regulation No 2016/1012 shall apply in respect of a responsibility to the Minister for ensuring compliance with the requirements applicable to outsourced performance testing or genetic evaluation.

(5) A third party referred to in Article 27(2) of Regulation No 2016/1012 may apply to the Minister for authorisation to carry out performance testing or genetic evaluation of breeding animals in accordance with Article 27 of Regulation No 2016/1012.

(6) An application for authorisation referred to in paragraph (5) shall, in addition to the requirements set out in Regulation 26, provide evidence of the requirements referred to in Article 27(3) of Regulation No 2016/1012.

(7) Without prejudice to the generality of paragraph (1), a breed society or a breeding operation who fails to make publicly available the detailed information referred to in Article 27(6) of Regulation No 2016/1012 commits an offence.

#### **Issuing, content and format of zootechnical certificates accompanying breeding animals and the germinal products thereof**

18. (1) A breed society or breeding operation who contravenes Article 30(1) of Regulation No 2016/1012 or a delegated or implementing act referred to in that Article in respect of the issuing of zootechnical certificates accompanying breeding animals and the germinal products thereof commits an offence.

(2) Except as provided in Regulation 19, an operator who contravenes Article 30(2) of Regulation No 2016/1012 or a delegated or implementing act referred to in that Article in respect of the category of person that may issue a zootechnical certificate to accompany breeding animals, or the germinal products thereof, commits an offence.

(3) A breed society or breeding operation who contravenes Article 30(3) of Regulation No 2016/1012 in respect of the timely transmission of zootechnical certificates commits an offence.

(4) A person who contravenes the first subparagraph of Article 30(4) of Regulation No 2016/1012 or a delegated or implementing act referred to in that Article in respect of the requirement for traded breeding animals or germinal products referred to in that subparagraph to be accompanied by a zootechnical certificate commits an offence.

(5) A breed society or breeding operation located within the State and referred to in the second subparagraph of Article 30(4) of Regulation No 2016/1012 who contravenes that provision or a delegated or implementing act referred to in that Article in respect of the issuing of a zootechnical certificate commits an offence.

(6) Except as provided in Regulation 19, a person who contravenes Article 30(5) of Regulation No 2016/1012 or a delegated or implementing act referred to in that Article in respect of the requirement for breeding animals or germinal products referred to in Article 30(5), and that enter the Union, to be accompanied by a zootechnical certificate issued in accordance with the second subparagraph of that provision, commits an offence.

(7) Except as provided in Regulation 19, a breed society or a breeding body referred to in Article 30(7) of Regulation No 2016/1012 who contravenes that provision or a delegated or implementing act referred to in that Article in respect of the information to be indicated in a zootechnical certificate commits an offence.

(8) Except as provided in Regulation 19, a breeding operation or a breeding body referred to in Article 30(8) of Regulation No 2016/1012 who contravenes that provision or a delegated or implementing act referred to in that Article in respect of the information to be indicated in a zootechnical certificate commits an offence.

(9) For the purposes of paragraph (3), where an animal has met the requirements for entry into the breeding book, “timely transmission” means the issuing and dispatch of the zootechnical certificate not later than the maximum period of time set out in the breed society or breeding operation’s breeding programme.

### **Derogations from Article 30**

19. (1) A breed society or a breeding operation referred to in Regulation 18:

- (a) in case of Article 30(2)(a) of Regulation No 2016/1012, may avail of the derogation provided for in Article 31(1) of Regulation No 2016/1012 in respect of the issuing of a zootechnical certificate by a semen collection or storage centre, or by an embryo collection or production team, approved for intra-Union trade in those germinal products;
- (b) in case of Article 30(6)(b) of Regulation No 2016/1012, may avail of the derogation provided for in Article 31(2) of Regulation No 2016/1012 in respect of the non-use of the model forms referred to in that provision;
- (c) in case of Article 30(7)(a) and (b) and Article 30(8)(a) and (b) of Regulation No 2016/1012, may avail of the derogation provided for in Article 31(3) of Regulation No 2016/1012 in respect of the results of performance testing or genetic evaluation been made publicly available on a website.

(2) A breed society concerning purebred breeding animals of the equine species referred to in Regulation 18, in case of Article 30(6) of Regulation No 2016/1012-

- (a) shall avail of the derogation provided for in Article 32(1) of Regulation No 2016/1012 in respect of a single lifetime identification document for Equidae, and
- (b) may avail of the derogation provided for in Article 32(3) of Regulation No 2016/1012 in respect of the non-inclusion of the information set out in point (1)(m) of Chapter I of Part 2 of Annex V of Regulation No 2016/1012.

(3) A breeding body or other operator referred to in Article 33 of Regulation No 2016/1012:

- (a) in case of Article 30(2)(c) and (5) of Regulation No 2016/1012, may avail of the derogation provided for in Article 33(1) of Regulation No 2016/1012 in respect of the issuing of a zootechnical certificate by a semen collection or storage centre, or by an embryo collection or production team, approved for entry into the Union of those germinal products;
- (b) in case of Article 30(6)(b) of Regulation No 2016/1012, may avail of the derogation provided for in Article 33(2) of Regulation No 2016/1012 in respect of the non-use of the model forms referred to in that provision;
- (c) in case of Article 30(7)(a) and (b) and Article 30(8)(a) and (b) of Regulation No 2016/1012, may avail of the derogation provided for in Article 33(3) of Regulation No 2016/1012 in respect of the results of performance testing or genetic evaluation been made publicly available on a website.

(4) Where an operator avails of a derogation referred to in this Regulation, and the operator contravenes Regulation No 2016/1012 in respect of the derogation, the operator commits an offence.

(5) A breed society or a breeding operation referred to in Article 30(2)(a) of Regulation No 2016/1012 may apply to the Minister for authorisation for the issuing, by a semen collection or storage centre, or by an embryo collection or production team, of a zootechnical certificate in accordance with the derogation at Article 31(1) of Regulation No 2016/1012.

(6) A breed society or a breeding operation referred to in Article 30(6)(b) of Regulation No 2016/1012 may apply to the Minister for authorisation for the non-use of model forms in accordance with the derogation at Article 31(2) of Regulation No 2016/1012.

(7) A breed society concerning purebred breeding animals of the equine species referred to in Regulation 18, in case of Article 30(6) (and the derogation at Article 32(1)) of Regulation No 2016/1012 may apply to the Minister for authorisation for the information set out in points (1)(m) and (n) of Chapter I of Part 2 of Annex V of Regulation No 2016/1012 to be contained in other documents issued by the breed society in accordance with the derogation at Article 32(4) of Regulation No 2016/1012.

(8) An application for authorisation referred to in paragraphs (5), (6) or (7) shall, in addition to the requirements set out in Regulation 26, provide evidence of the requirements referred to in Article 31(1), 31(2) or 32(4), as the case may be, of Regulation No 2016/1012.

(9) In case of the derogation provided for in Article 32(1) of Regulation No 2016/1012, an equine breed society who contravenes the following provisions of Commission Delegated Regulation (EU) 2017/1940 of 13 July 2017 commits an offence:

- (a) Article (1) in respect of the content and format of the zootechnical certificate forming part of the single lifetime identification document for purebred breeding animals of the equine species;
- (b) Article (2) as regards Parts I and II of the zootechnical certificate;
- (c) Article (3) in respect of–
  - (i) Section V of the identification document issued for a purebred breeding animal of the equine species, and
  - (ii) Part II of the zootechnical certificate and the link to the certificate of origin.

#### **Equivalence of measures applied to third countries**

20. An operator who contravenes Article 35(3) of Regulation No 2016/1012 or an implementing act referred to in that Article in respect of the detailed arrangements governing the entry of breeding animals and the germinal products thereof into the State from a third country commits an offence.

#### **Entry in breed books or registration of breeding animals produced from germinal product that have entered the Union**

21. A breed society or a breeding operation who contravenes Article 36(1) of Regulation No 2016/1012 in respect of the entry in a breeding book or breeding register of a breeding animal, or the offspring produced from germinal products, that have entered the Union commits an offence.

#### **Official Controls**

22. An operator who contravenes Article 46 of Regulation No 2016/1012 in respect of the obligations of operators subject to official controls or other official activities commits an offence.

### **Serious disruption in the control system of a Member State**

23. An operator who contravenes Article 56 of Regulation No 2016/1012 or an implementing act referred to in that Article in respect of a serious disruption in the control system of a member state commits an offence.

### **Commission controls in third countries**

24. An operator who contravenes Article 60 of Regulation No 2016/1012 or an implementing act referred to in that Article in respect of special measures regarding the entry into the Union of breeding animals and their germinal products commits an offence.

### **Transitional measures**

25. An operator who contravenes Article 64(6) of Regulation No 2016/1012 in respect of informing the Minister of breeding programmes being carried out in a member state other than the State commits an offence.

## **Part 3**

### **Restrictions including Authorisations, Recognitions and Approvals**

#### **Authorisations, recognitions and approvals**

26. (1) Where the Minister is satisfied that the requirements of these Regulations and the EU Regulations will be complied with, he or she may, subject to these Regulations, authorise, recognise or approve a person for the purposes of these Regulations and the EU Regulations in relation to any of the matters specified in paragraph (2).

(2) An authorisation, recognition or approval may be granted by the Minister in respect of an application for any or all of the following:

- (a) a recognition referred to in Regulation 5(3) as a breed society or a breeding operation, in accordance with Article 4 of Regulation No 2016/1012;
- (b) an approval referred to in Regulation 9(1), of a breeding programme in accordance with Article 8 of Regulation No 2016/1012;
- (c) an approval referred to in Regulation 10(1), of a change to an approved breeding programme in accordance with Article 9 of Regulation No 2016/1012;
- (d) an approval referred to in Regulation 12(3) of the extension of a breeding programme to the geographical territory of the State in accordance with Article 12 of Regulation No 2016/1012;
- (e) an approval referred to in Regulation 15(2) to avail of the derogation in accordance with Article 19(2) of Regulation No

2016/1012 in respect of the reconstruction of a breed that has disappeared or that is in serious danger of disappearing;

- (f) an authorisation referred to in Regulation 15(5) to avail of the derogation in accordance with Article 21(6) of Regulation No 2016/1012 in respect of the collection, production, processing and storage for use within the State of germinal products of purebred breeding animals at a semen collection or storage centre;
  - (g) an authorisation referred to in Regulation 16(2) to avail of the derogation in accordance with Article 24(4) of Regulation No 2016/1012 in respect of the collection, production, processing and storage for use within the State of germinal products of hybrid breeding pigs at a semen collection or storage centre;
  - (h) an authorisation referred to in Regulation 17(5) to carry out performance testing or genetic evaluation of breeding animals in accordance with Article 27 of Regulation No 2016/1012;
  - (i) an authorisation referred to in Regulation 19(5) to avail of the derogation in accordance with Article 31(1) of Regulation No 2016/1012 in respect of the issuing, by a semen collection or storage centre, or by an embryo collection or production team, of a zootechnical certificate;
  - (j) an authorisation referred to in Regulation 19(6) to avail of the derogation in accordance with Article 31(2) or 33(2), as the case may be, of Regulation No 2016/1012 in respect of the non-use of model forms;
  - (k) an authorisation referred to in Regulation 19(7) to avail of the derogation in accordance with Article 32(4) of Regulation No 2016/1012 in respect of information being contained in other documents issued by the breed society;
  - (l) any other authorisation or approval referred to in a delegated or implementing act.
- (3) An application for authorisation, recognition or approval shall—
- (a) be submitted in writing by the applicant to the Minister,
  - (b) be in such form as the Minister may specify, and
  - (c) be legible and state the name and address of the applicant and where the applicant is a body corporate, its principle place of business.
- (4) A person applying for authorisation, recognition or approval shall furnish the Minister with such information as the Minister may reasonably require to ensure that the EU Regulations and these Regulations will be complied with and to decide whether or not to grant the authorisation, recognition or approval.

(5) A person who in making an application for authorisation, recognition or approval makes a false or misleading statement commits an offence.

(6) An authorisation, recognition or approval with any conditions attached to it shall be in writing and in such form as the Minister may decide and signed by an officer of the Minister.

(7) An authorisation, recognition or approval is valid for such period as the Minister may determine and the period (if any exact period is determined) shall be specified in the authorisation, recognition or approval.

(8) (a) The Minister may attach any condition (including a condition as to the keeping of appropriate records) to an authorisation, recognition or approval at the time it is granted or at any time subsequently,

- (b) the Minister may amend or revoke a condition attached to the authorisation, recognition or approval and shall notify the person who has applied for or holds an authorisation, recognition or approval in writing of the conditions, amendment or revocation, as the case may be, in relation to that authorisation, recognition or approval,
- (c) compliance with the relevant provisions of these Regulations and of the EU Regulations is a condition of any authorisation, recognition or approval under this Regulation.

(9) Where the Minister is not satisfied that the relevant provisions of these Regulations and the EU Regulations are being or will be complied with, the Minister may—

- (a) refuse an application for authorisation, recognition or approval, or
- (b) revoke an authorisation, recognition or approval,

and shall notify the owner or person in charge of the establishment concerned in writing of the refusal or revocation.

(10) The Minister shall not—

- (a) revoke an authorisation, recognition or approval,
- (b) refuse an application for authorisation, recognition or approval, or
- (c) amend, impose or revoke a condition to an authorisation, recognition or approval,

without—

- (i) notifying the holder of, or applicant for, the authorisation, recognition or approval of his intention to revoke the authorisation, recognition or approval or refuse the application, or amend or impose the condition, as the case may be,

- (ii) specifying his or her reasons for the intended revocation or refusals of the authorisation, recognition or approval, or amendment or imposition of the condition, and
- (iii) affording the holder of, or applicant for, the authorisation, recognition or approval an opportunity for making representations or having representations made on his or her behalf to the Minister in relation to the proposed revocation or refusal or amendment or imposition of the condition, as the case may be, within 14 days of the receipt by that person of the notification referred to in subparagraph (i) and having regard to any such representations.

(11) The holder of an authorisation, recognition or approval shall inform the Minister if significant changes are made in the operation or organisation of the activities to which the authorisation, recognition or approval relates.

(12) A person who contravenes an authorisation, recognition or approval or a condition of an authorisation, recognition or approval or fails to comply with paragraph (11) commits an offence.

## **Records**

27. (1) A person who is required to maintain a record pursuant to the EU Regulations or as a condition of an authorisation, recognition or approval under these Regulations shall maintain the record for a period of not less than 3 years (or where, in relation to a particular type or class of record, a longer period is specified in the EU Regulations, for that specified period) and make it available on request to an authorised officer.

(2) A person who contravenes paragraph (1) commits an offence.

## **Forgery**

28. (1) A person shall not forge or utter knowing it to be forged—

- (a) a document or record referred to in these Regulations,
- (b) a breeding book,
- (c) a breeding register,
- (d) a zootechnical certificate,
- (e) a single lifetime identification document for equidae,
- (f) a record purporting to be maintained under Regulation 27, a requirement or direction of an authorised officer under Regulation 30 (if the requirement or direction is in writing), a compliance notice or notice under Regulation 36, a certificate or other document purporting to be issued, granted or given under these Regulations,

(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) a document or record referred to in these Regulations,
- (b) a breeding book,
- (c) a breeding register,
- (d) a zootechnical certificate,
- (e) a single lifetime identification document for equidae,
- (f) a record purporting to be maintained under Regulation 27, a requirement or direction of an authorised officer under Regulation 30 (if the requirement or direction is in writing), a compliance notice or notice under Regulation 36, a certificate or other document purporting to be issued, granted or given under these Regulations,

(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.

(4) A person who contravenes this Regulation commits an offence.

## **Part 4**

### **Enforcement**

#### **Appointment of authorised officer**

29. (1) The Minister may appoint in writing such persons or classes of persons as he or she considers appropriate to be authorised officers for the exercise of all or any of the functions conferred on an authorised officer under these Regulations, as specified in the appointment.

(2) The Minister may terminate the appointment of an authorised officer appointed by him or her, whether or not the appointment was for a fixed period or specified purpose.

(3) An appointment as an authorised officer ceases—

- (a) if it is terminated pursuant to paragraph (2),
- (b) if it is for a fixed period, on the expiry of that period,
- (c) if it is for a specified purpose, on the completion of that purpose, or
- (d) if the person appointed is an officer of the Minister or member of a class of person, upon the person ceasing to be such an officer or member.

(4) Nothing in paragraph (3) is to be construed so as to prevent the Minister from reappointing as an authorised officer a person to whom that paragraph relates.

(5) An authorised officer appointed under this Regulation shall be furnished with a warrant of his or her appointment and, when exercising a power conferred on him or her, the officer, an officer of the Revenue Commissioners or a member of the Garda Síochána shall, if requested by a person affected, produce the warrant or evidence that he or she is such an officer or member to the person.

### **Functions of authorised officer**

30. (1) For the purposes of these Regulations or the EU Regulations an authorised officer may—

- (a) enter and inspect, at all reasonable times, any premises if he or she is carrying out an official control or other official activity for the purposes of these Regulations or the EU Regulations or where he or she has reasonable grounds for believing that—
  - (i) an animal, germinal product, breeding book, breeding register or other thing to which these Regulations or the EU Regulations relates is, may be or has been present,
  - (ii) a record relating to an animal, germinal product, breeding book, breeding register or other thing to which these Regulations or the EU Regulations relates is, may be or has been present,
  - (iii) equipment, machinery, a vehicle, a vessel or other thing used in connection with an animal, germinal product, breeding book, breeding register or other thing to which these Regulations or the EU Regulations relates is, may be or has been present,
- (b) examine an animal, germinal product, breeding book, breeding register, equipment, machinery or other thing used in connection with an animal, germinal product, breeding book, breeding register or other thing to which these Regulations or the EU Regulations relates,
- (c) require the name and address of the owner, or person in possession or control of an animal, germinal product, breeding book, breeding register, equipment, machinery, a document, a vehicle or a vessel used in connection with an animal, germinal product, breeding book, breeding register or other thing to which these Regulations or the EU Regulations relates, or require details of place of departure, journey or destination,
- (d) inspect a vehicle, a vessel, an aircraft, a railway wagon, a container, equipment, machinery, a computerised information management system or other thing used in connection with an animal, germinal product, breeding book, breeding register or

other thing to which these Regulations or the EU Regulations relates and require the person in charge or control of such to refrain from moving it,

- (e) require the owner, person in possession or control of any premises, equipment, machinery, a computerised information management system, a vehicle, a vessel or other thing used in connection with an animal, germinal product, breeding book, breeding register or other thing to which these Regulations or the EU Regulations relates, to produce to the officer such records (and in the case of a record stored in non-legible form, produce to him or her a copy in a legible form) that are in the person's possession or procurement, or under the person's control, as the officer may reasonably require,
- (f) inspect and take copies of any record (including a legible reproduction of one stored in non-legible form) or extracts from the record that the officer finds or is produced to him or her during an inspection,
- (g) make a record, including by means of writing, sound recording, photograph, video or other means, or
- (h) take, without making a payment, samples from an animal, germinal product, breeding book, breeding register or other thing to which these Regulations or the EU Regulations relates, or any article, substance or liquid as he or she may reasonably require and carry out or cause to be carried out on the samples such tests, analyses, examinations or inspections as he or she considers necessary or expedient and mark or otherwise identify it.

(2) An authorised officer may require a person to give information regarding the ownership and identity of an animal, germinal product, breeding book, breeding register, equipment, machinery, a vehicle, a vessel or other thing used in connection with an animal, germinal product, breeding book, breeding register or other thing to which these Regulations or the EU Regulations relates as is in the person's knowledge or procurement.

(3) Where an authorised officer has reasonable grounds for believing that—

- (a) an offence is being or has been committed under these Regulations, or
- (b) evidence of an offence to which subparagraph (a) relates may be, is or has been on any land or premises, or in a vehicle, a vessel, an aircraft, a railway wagon, a container, equipment or machinery,

the officer may, in addition to the powers exercisable by him or her under paragraph (1):

- (i) search the land or premises;

- (ii) search the vehicle, vessel, aircraft, railway wagon, container, equipment or machinery (including any computerised information management system);
- (iii) require a person in charge or control of the vehicle, vessel, aircraft, railway wagon, container, equipment or machinery to—
  - (I) refrain from moving it, or move it to a location where it may be searched,
  - (II) give information regarding its place of departure, journey or destination, and
  - (III) where the equipment or machinery is part of a computerised information management system, provide assistance (including passwords) to enable access to such devices or systems;
- (iv) seize and detain an animal, germinal product, breeding book, breeding register or other thing to which these Regulations or the EU Regulations relates and mark or otherwise identify it;
- (v) detain a vehicle, vessel, aircraft, railway wagon, equipment, machinery (including any computerised information management system) or container for such reasonable period necessary for the purposes of permitting an inspection or a search under this Regulation either at the place where it was first detained or require it to be moved to such other location as the authorised officer requires;
- (vi) remove any equipment, machinery (including any computerised information management system), books, documents or records and detain them for such reasonable period necessary for the purpose of his or her functions under these Regulations;
- (vii) give such direction to a person who has an animal, germinal product, breeding book, breeding register or other thing to which these Regulations or the EU Regulations relates, or who has equipment, machinery, vehicle or vessel or other thing used in connection with an animal, germinal product, breeding book, breeding register or other thing to which these Regulations or the EU Regulations relates in his or her possession or under his or her control or who has information relating to such, as the authorised officer may reasonably consider necessary for the purposes of these Regulations.

(4) An authorised officer shall not enter, except with the consent of the occupier, a private dwelling unless he or she has obtained a search warrant under Regulation 31 other than where he or she has reasonable grounds for believing that before a search warrant could be sought in relation to the

dwelling under Regulation 31, any evidence of an offence referred to in paragraph (3)(a) is being or is likely to be disposed of or destroyed.

(5) An authorised officer, when exercising a function under this Regulation, may be accompanied by other persons and may take with him or her, or those persons may take with them, any equipment or materials to assist the officer in the exercise of the function.

(6) An authorised officer may use reasonable force, if necessary, to exercise his or her functions under these Regulations.

(7) Where, in the course of exercising a function under these Regulations, an authorised officer finds or comes into possession of anything that the officer has reasonable grounds for believing to be evidence of an offence or suspected offence under these Regulations, the officer may seize and retain it for use in evidence in proceedings for an offence under these Regulations.

(8) An authorised officer is not liable in any proceedings for anything done in the purported exercise of his or her powers under these Regulations if the court is satisfied that the act was done in good faith and that there were reasonable grounds for doing it.

(9) A member of the Garda Síochána may stop a vehicle or vessel, for the purposes of these Regulations and may require it to be moved for inspection to such place as he or she directs.

(10) A person who has—

- (a) an animal, germinal product, breeding book, breeding register or other thing to which these Regulations or the EU Regulations relates, or

- (b) equipment, machinery, a vehicle, a vessel or other thing used in connection with an animal, germinal product, breeding book, breeding register or other thing to which these Regulations or the EU Regulations relates

in his or her possession or under his or her control, or information or a record relating to any of them, shall give such—

- (i) assistance to an authorised officer, or person who accompanies the officer, and

- (ii) information to an authorised officer on request being made, in that behalf by the officer, as the officer may reasonably require for the exercise of his or her functions under these Regulations.

(11) The owner or person in charge of any premises used in connection with an animal, germinal product, breeding book, breeding register or other thing to which these Regulations or the EU Regulations relates shall, if required by an authorised officer, where it is practicable and possible, provide suitable equipment or facilities or a suitable part of the plant or establishment for the officer to carry out his or her functions under these Regulations.

(12) An authorised officer may require a person to give to the officer such information as is in the person's power or procurement as regards any premises specified by the officer including—

- (a) whether or not the premises is used, either partly or wholly, for or in connection with an animal, germinal product, breeding book, breeding register or other thing to which these Regulations or the EU Regulations relates,
- (b) the name of the owner, occupier or person who is in charge of the premises, and
- (c) whether or not the premises is let and, if let, the name and address of the person to whom, and the period of time for which, it is let.

(13) Nothing in section 17 of the Industrial and Provident Societies Act 1893 prevents an authorised officer from exercising a function conferred on him or her by these Regulations.

### **Search warrant**

31. (1) If a judge of the District Court is satisfied by information on oath of an authorised officer that there are reasonable grounds for believing—

- (a) evidence of or relating to the commission or intended commission of an offence under these Regulations is to be found on a premises,
- (b) there is or was an animal, germinal product, breeding book, breeding register, equipment or other thing made, used or adapted for use (including manufacture and transport) in connection with an animal, germinal product, breeding book, breeding register or other thing to which these Regulations or the EU Regulations relates, or
- (c) a document or other record related to a thing to which subparagraph (a) or (b) refers is or may be on the premises,

the judge may issue a search warrant.

(2) A search warrant under this Regulation shall be expressed and operate to authorise a named authorised officer, accompanied by such authorised officers or other persons as the named authorised officer thinks necessary, at any time, within one month from the date of issue of the warrant, on production if so requested of the warrant, to enter (if necessary by use of reasonable force) the premises, vehicle, vessel or aircraft named in the warrant.

(3) If a premises is entered under a warrant issued under this Regulation, an authorised officer so entering may exercise all or any of the powers conferred on an authorised officer under these Regulations.

## Compliance notice

32. (1) Where an authorised officer is of the opinion that—
- (a) these Regulations or the EU Regulations is not being or has not been complied with, or there are reasons to believe that these Regulations or the EU Regulations will not be complied with,
  - (b) it is necessary for the protection of human health, animal health or the environment including the prevention, control or eradication of a disease, or
  - (c) it is necessary, ancillary or supplementary for the EU Regulations to have full effect,

the officer may serve a notice (“compliance notice”) stating that opinion to the person—

- (i) who appears to be the owner, occupier, or person in charge of the premises,
- (ii) who is an officer of, or represents, a breed society or breeding operation,
- (iii) who is an officer of, or represents, a third party designated by breed societies or breeding operations in accordance with Article 27(1)(b) of Regulation No 2016/1012, or
- (iv) in possession or control of an animal, germinal product, breeding book, breeding register or other thing

to which the notice relates.

- (2) A compliance notice shall—
- (a) require the person to whom it is served to take such action as specified in the notice,
  - (b) inform the person to whom it is served that he or she may appeal the notice in the District Court under Regulation 33, and
  - (c) state that if the person to whom it is served fails to comply with the notice, he or she commits an offence and is liable to a penalty set out in Regulation 39(1).
- (3) A compliance notice may require that—
- (a) an animal, germinal product, breeding book, breeding register or other thing to which these Regulations or the EU Regulations relates be dealt with in a manner specified in the notice,
  - (b) such alterations be made to a breeding book, breeding register, premises or operations at a premises as the officer specifies in the notice,
  - (c) an animal, germinal product, breeding book, breeding register or other thing to which these Regulations or the EU Regulations relates be detained, disposed of or destroyed in such manner and at a place (if any) as the officer specifies in the notice,

- (d) a specified operation or activity cease on a premises,
- (e) a specified operation or activity take place only in a manner specified in the notice,
- (f) a specified type or level of sampling and analysis be undertaken for a period specified in the notice,
- (g) prohibit the transport or further transport of an animal, germinal product, breeding book, breeding register or other thing to which these Regulations or the EU Regulations relates, either absolutely or unless such conditions as may be specified in the notice are complied with,
- (h) require a person to return an animal, germinal product, breeding book, breeding register or other thing to which these Regulations or the EU Regulations relates, to the place of departure by a route which in the opinion of the authorised officer is the most direct or prudent,
- (i) a measure within the meaning of Article 47(1) of Regulation No 2016/1012 be taken as specified in the notice,
- (j) a specified operation or activity may only be carried out under and in accordance with such terms and conditions as are specified in the notice, or
- (k) require a person to make such changes to a label, packaging or marketing material including re-labelling an object or other thing to which these Regulations or the EU Regulations relates as may be specified in the notice.

(4) A person to whom a compliance notice is served shall comply with the compliance notice until the notice expires, is withdrawn under paragraph (6) or is annulled under Regulation 33, and not cause or permit another person to contravene the terms of the notice.

(5) A compliance notice may specify a time limit within which it is to be complied with.

(6) A compliance notice may be modified or withdrawn in a further notice and the earlier notice has effect subject to the modification or withdrawal.

(7) A compliance notice may require the owner, occupier, operator or person in charge of any premises, an animal, germinal product, breeding book, breeding register, vehicle, vessel, machinery (including any computerised information management system), equipment or other thing to which the EU Regulations relates to choose between two or more of the requirements specified in the notice.

(8) A compliance notice shall include an address for service of an appeal under Regulation 33.

(9) A person on whom a compliance notice is served who fails to comply with, or causes or permits another person to contravene the notice commits an offence.

### **Appeal against compliance notice**

33. (1) A person to whom a compliance notice is served may, within 7 days from the date of service of the notice, appeal the notice to the Judge of the District Court having jurisdiction in the District Court district—

- (a) where the animal, germinal product, breeding book, breeding register, premises, vehicle, machinery (including any computerised information management system), equipment, vessel or other thing to which the EU Regulations relates which is the subject of the notice, is situated, or
- (b) where the person bringing the appeal ordinarily resides or carries on business,

on the grounds that the notice is unreasonable having regard to these Regulations or the EU Regulations.

(2) Notice of an appeal shall contain a statement of the grounds upon which it is alleged that the notice or any of the terms of the notice are unreasonable and shall be served on the authorised officer who served the compliance notice at the address included on the notice in accordance with Regulation 32 not later than 48 hours prior to the hearing of the appeal.

(3) A person bringing an appeal shall lodge a copy of the notice or appeal with the District Court Clerk concerned not later than 48 hours prior to the hearing of the appeal.

(4) On the hearing of an appeal a Judge of the District Court may confirm, modify or annul a notice.

(5) A person, including a person on whom a compliance notice has been served, who—

- (a) pending the determination of an appeal, deals with an animal, germinal product, breeding book, breeding register, premises, vehicle, vessel, machinery (including any computerised information management system), equipment or other thing to which the notice relates, other than in accordance with the terms of the compliance notice, or
- (b) if the notice is confirmed or modified on appeal, deals with an animal, germinal product, breeding book, breeding register, any premises, vehicle, vessel, equipment, machinery (including any computerised information management system) or other thing to which the notice relates other than in accordance with the terms of the compliance notice as confirmed or modified

commits an offence.

(6) In this Regulation “appeal” means an appeal under paragraph (1).

### **Seizure and detention for non-compliance with a compliance notice**

34. (1) Without prejudice to an appeal under Regulation 33, if—

- (a) a person in control of an animal, germinal product, breeding book, breeding register or other thing to which a compliance notice relates, or in control of a premises, vessel, vehicle, equipment, machinery (including any computerised information management system) or other thing used in connection with an animal, germinal product, breeding book, breeding register or other thing to which a compliance notice relates fails to comply with the terms of a compliance notice within the time specified,
- (b) an authorised officer has reasonable grounds for believing that the terms of a compliance notice, whether or not modified under Regulation 33(4), will not be complied with, or
- (c) a compliance notice has been confirmed with or without modification under Regulation 33(4) and the notice has not been complied with,

an authorised officer may at any time seize the animal, germinal product, breeding book, breeding register or other thing to which a compliance notice relates, or seize the vessel, vehicle, equipment, machinery (including any computerised information management system) or other thing used in connection with an animal, germinal product, breeding book, breeding register or other thing to which a compliance notice relates.

(2) If the animal, germinal product, breeding book, breeding register or other thing to which a compliance notice relates, a vessel, vehicle, equipment, machinery (including any computerised information management system) or other thing used in connection with an animal, germinal product, breeding book, breeding register or other thing to which a compliance notice relates is seized in accordance with paragraph (1), an authorised officer may—

- (a) sell, destroy or dispose of the animal, germinal product, breeding book, breeding register or other thing to which a compliance notice relates or cause it to be sold, destroyed or be disposed of, or
- (b) take such other measures in relation to the animal, germinal product, breeding book, breeding register or other thing to which a compliance notice relates, or in relation to the vessel, vehicle, equipment, machinery (including any computerised information management system) or other thing used in connection with an animal, germinal product, breeding book, breeding register or other thing to which a compliance notice relates as the authorised officer considers appropriate in the circumstances.

(3) Any profits arising out of the sale, destruction or disposal of an animal, germinal product, breeding book, breeding register or other thing to which a compliance notice relates in accordance with paragraph (2) shall be paid to the owner of the animal, germinal product, breeding book, breeding register or other thing to which a compliance notice relates less any expenses incurred in connection with the seizure, sale, destruction or disposal.

(4) The costs (including ancillary costs) of a measure taken under this Regulation are recoverable by the Minister—

- (a) as a simple contract debt in a court of competent jurisdiction from the person who was the owner of the animal, germinal product, breeding book, breeding register or other thing to which these Regulations or the EU Regulations relates or from the person who was the owner of the means of transport at the time the measure was carried out, or
- (b) by deducting the costs from any sum payable from the Minister to a person on whom a notice has been served.

(5) The costs of any action required by a compliance notice shall be borne by the owner of a premises, animal, germinal product, breeding book, breeding register or other thing to which the notice relates.

### **Obstruction and false statements**

35. (1) A person who —

- (a) obstructs, interferes with or impedes an authorised officer, or any person who accompanies an authorised officer, in the course of exercising a function conferred on the officer under these Regulations,
- (b) fails or refuses, without reasonable cause, to comply with a requirement of an authorised officer under Regulation 30,
- (c) fails, without reasonable cause, to give assistance or requested information to an authorised officer in accordance with Regulation 30,
- (d) in purporting to give information to an authorised officer for the exercise of the officer's functions under these Regulations—
  - (i) makes a statement that he or she knows to be false or misleading in a material particular or recklessly makes a statement which is false or misleading in a material particular, or
  - (ii) intentionally fails to disclose a material particular,
- (e) tampers or otherwise interferes with a sample taken under Regulation 30, or
- (f) aids or abets a contravention of these Regulations or the EU Regulations,

commits an offence.

(2) A statement or admission made by a person pursuant to a requirement under Regulation 30(10)(ii) is not admissible in evidence in proceedings brought against the person for an offence (other than an offence under this Regulation for failing to give information or giving false information) under these Regulations.

### **Fixed Payment Notice**

36. (1) If an officer of the Minister, authorised by the Minister in that behalf, has reasonable grounds for suspecting that a person is committing or has committed an offence under these Regulations , he or she may serve a notice in writing (“fixed payment notice”) 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 beginning on the date of the notice make to the Minister, at the address specified in the notice, a payment of €250 accompanied by the notice,
  - (c) the person is not obliged to make the payment, and
  - (d) 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) Where a fixed payment notice is served under paragraph (1)—
- (a) the 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 in any circumstances 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 proceedings 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 person on whom the fixed payment notice was served.

(4) In proceedings for an offence referred to in paragraph (1) it is a defence for the accused to show that he or she has made a payment in accordance with this Regulation pursuant to a fixed payment notice issued in respect of that offence.

## **Part 5**

### **Procedural**

#### **Data Sharing**

37. (1) Information, including personal data (within the meaning of Article 4 of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 and section 69 of the Data Protection Act 2018) held by—

- (a) the Minister,
- (b) a body or individual to whom a function under these Regulations or the EU Regulations has been delegated, or
- (c) the operator of a laboratory for the analysis of samples,

for the purposes of these Regulations or an act of the institutions of the European Union, may be exchanged by them with each other for the performance by them of their functions under these Regulations.

(2) Paragraph (1) is without prejudice to any other power of the Minister to disclose information by or under an act of the institutions of the European Union.

### **Service**

38. (1) A compliance notice shall, subject to paragraph (2), be addressed to the person concerned by name and may be served on or given to the person—

- (a) by giving it to the person, his or her employee, servant or agent,
- (b) by leaving it at the address at which the person ordinarily resides, normally carries out business, or, if an address for service has been furnished, at that address,
- (c) by sending it by post in a prepaid registered letter to the address at which the person ordinarily resides or, if an address for service has been furnished, at that address,
- (d) if the address at which the person ordinarily resides cannot be ascertained by reasonable enquiry and the compliance notice relates to a premises, by delivering it to the premises or by affixing it in a conspicuous position on or near the premises,
- (e) by sending it by means of electronic mail to a device or facility for the reception of electronic mail where such an electronic mail address has been furnished by the person, but only if the sender's facility for the reception of electronic mail generates a message confirming a receipt of the electronic mail confirming successful transmission of the notification, notice or document.

(2) If a compliance notice is to be served on or given to a person who is the owner or occupier of a premises and the name of the person cannot be ascertained by reasonable enquiry, it may be addressed to the person by using the words “the owner” or “the occupier”.

(3) A person shall not, at any time within 6 months after a compliance notice is affixed under paragraph (1)(d), remove, damage or deface the notification or compliance notice without lawful authority.

(4) For the purposes of this Regulation, a company within the meaning of the Companies Act 2014 is considered to be ordinarily resident at its registered office and every other body corporate or unincorporated body is considered to be ordinarily resident at its principal office or place of business.

## Part 6

### Penalties and Evidence

#### **Penalties and prosecutions**

39. (1) A person who commits an offence under these Regulations (other than an offence under Regulation 12(1) or Regulation 25) is liable—

- (a) on summary conviction, to a class A fine, or
- (b) on conviction on indictment to a fine not exceeding €500,000, or to imprisonment for a term not exceeding 3 years, or to both.

(2) A person who commits an offence under Regulation 12(1) or Regulation 25 is liable on summary conviction, to a class E fine.

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

(4) If an offence under these Regulations is committed by a body corporate and is proven to have been so committed with the consent, connivance or approval of or to have been attributable to the wilful neglect on the part of any person, being a director, manager, secretary or other officer of the body corporate or a person who was purported 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 was guilty of the 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 the member were a director or manager of the body corporate.

(6) In proceedings alleging a contravention of these Regulations, it is a defence for the defendant to show he or she acted in accordance with a derogation or transitional measure laid down by an act of an institution of the European Union relevant to the subject of the offence it is alleged that he or she committed.

#### **Evidence on certificate etc**

40. (1) In proceedings for an offence under these Regulations, a certificate purported to be signed by a person employed at a laboratory where a sample taken under these Regulations is analysed stating the capacity in which the person is employed and stating—

- (a) that the person received a sample,
- (b) that, for the period specified in the certificate, the person had the sample in his or her possession,
- (c) that the person gave the sample to another person named in the certificate, or

- (d) the person carried out a procedure for the purpose of detecting in the sample, a substance or contamination or that the sample contained a substance as is, or was contaminated in a manner, specified in the certificate,

is (without proof of the signature of the person or that he or she is employed at the laboratory), unless the contrary is proved, evidence of the matters stated in the certificate.

(2) A certificate purporting to be signed by an officer of the Minister and to certify that on a specific day or days or during the whole of a specified period—

- (a) a person was or was not the holder of an approval granted under Regulation 26,
- (b) a person or establishment was or was not authorised or recognised under Regulation 26, or
- (c) that a particular authorisation, recognition or approval, referred to in this paragraph, was subject to a particular condition or conditions,

is, without proof of the signature of the person purporting to sign the certificate or that he or she is an officer of the Minister, evidence, unless the contrary is shown, of the matters stated in the certificate.

(3) In proceedings for an offence under these Regulations the court may, if it considers that the interests of justice so require, direct that oral evidence of any matter stated in a certificate under paragraph (1) or (2) be given, and the court may for the purpose of receiving oral evidence adjourn the matter.

## Part 7

### Revocations and Transitional Measures

#### **Revocations, savers etc**

41. (1) The following are revoked:

- (a) Regulations 5 and 8 and, in respect of any matter to which these Regulations apply, Regulations 4, 6, 7, 9, 14, 15 and 21 of the European Communities (Bovine Breeding) Regulations 2009 (S.I. No. 19 of 2009);
- (b) the European Communities (Bovine Breeding) (Amendment) Regulations 2010 (S.I. No. 77 of 2010);
- (c) the European Communities (Breeding Pig Herd-Book and Register) Regulations, 1994 (S.I. No. 151 of 1994);
- (d) the European Communities (Registration of Pedigree Animals) Regulations, 1994 (S.I. No. 150 of 1994);
- (e) the European Communities (Pure-Bred Sheep and Goat Flock-Book) Regulations, 1994 (S.I. No. 16 of 1994);

(f) Regulations 3, 4 and 5 of the European Union (Animal Health) (Adaptation and Miscellaneous Amendments) Regulations 2019 (S.I. No. 337 of 2019).

(2) An application for an authorisation, recognition or approval (within the meaning of the Regulations revoked by paragraph (1)) that remains to be determined on commencement of these Regulations is, after the commencement of these Regulations, considered to be an application for an authorisation, recognition or approval under the equivalent provision of these Regulations and may be determined as if made under these Regulations.

(3) An authorisation, recognition or approval granted under the Regulations revoked by paragraph (1) and in force immediately before the making of these Regulations continues in force after such making as if granted under these Regulations.

(4) An authorised officer appointed under the Regulations revoked by paragraph (1) and holding office immediately before the commencement of these Regulations continues in office after such commencement as if appointed under these Regulations.

(5) Any reference made in an instrument to Regulations revoked by paragraph (1) shall be construed as a reference to these Regulations.



GIVEN under my Official Seal,  
29 April, 2021.

CHARLIE MCCONALOGUE,  
Minister for Agriculture, Food and the Marine.

## EXPLANATORY NOTE

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

These Regulations transpose into national law Commission Regulation (EU) 2016/1012, which lays down rules for the zootechnical and genealogical conditions for the breeding, trade in and entry into the Union of breeding animals of the bovine, equine, porcine, ovine and caprine species and their germinal products.

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