

## Business and Regulatory Impact Assessment

### Title of Proposal

**COMMISSION IMPLEMENTING REGULATION (EU) 2015/262 laying down rules pursuant to Council Directives 90/427/EEC and 2009/156/EC as regards the methods for the identification of equidae (Equine Passport Regulation)**

### Purpose and intended effect

- **Background**

The European Commission became aware in 2013 that horse meat was entering the human food chain which was either being fraudulently sold to consumers as beef or which had been treated with certain medications which would deem an animal not suitable for human consumption.

Following discussions with The European Commission, it was decided that current equine identification rules were not fit for purpose and that along with changes to equine identification documents, that each Member State should establish a Central Equine Database (CED).

- **Objective**

To change current policy to ensure that horses do not enter the human food chain if they have been treated with substances not suitable for food chain animals. Tighten up controls on the issue, use and quality of horse passports and establish a UK Central Equine Database that will contain records of all horses resident in the UK.

- **Rationale for Government intervention**

To comply with European legislation, the Scottish Government needs to change policy in order to protect public health and to contribute to the introduction of a mandatory Government-funded UK equine database. In addition, through consultation with Scottish Passport Issuing Organisations (PIO) and equine sector stakeholders, it is clear that the majority favour a Scottish database. This means a Scottish database would feed data into the UK database. There are a number of benefits to a Scottish database, for example, equine identification is a devolved policy area; it would assist with delivery of policy objectives in relation to animal health and welfare and it would help prepare for the EU Animal Health Regulation which is likely to require central recording of the normal place of residency of equines.

## Consultation

### Within Government

Within Government we have used the Equine Stakeholder Group (established in 2014) to discuss some of the issues that will have an impact on the equine sector as a result of the revised horse identification regulations. The Group comprises representatives from Scottish PIOs, the British Horse Society (Scotland), Scottish Equine Breeders Association (SEBA), SSPCA, Rare Breed Survival Trust (RBST), World Horse Welfare, Association of British Riding Schools, British Equine Veterinary Association (BEVA), British Equine Federation, Local Authorities and SG officials.

### Public Consultation

The public consultation on the implementation of revised EU rules on Equine Identification opened on August 22<sup>nd</sup> 2016 and closed on October 3<sup>rd</sup> 2016. In total there were 22 respondents to the consultation. 9 respondents were individuals, mostly horse owners, and 13 respondents were from organisations covering a range of roles within the Equine Industry. The questions asked in the consultation can be seen below with the responses received.

- 1. Should an equine be identified within 6 months of birth, by the end of the calendar year of its birth, or no later than 12 months following its birth?**

Within 6 months of birth	54%
End of calendar year of birth	14%
Not later than 12 months following its birth	32%

We do not expect there to be any additional cost to a keeper to identify an equine animal. We intend to go with the later of either 31<sup>st</sup> December in the year of the equine animal's birth or within 6 months following the date of its birth. This will follow other parts of the UK and maintains a consistent approach. This deadline is familiar to the industry.

- 2. Do you support the use of the derogation to allow owners or keepers the option to move or transport their animals within Scotland without their ID document, provided they are accompanied by a smart card?**

Yes	86%
No	14%

We do not expect there to be any additional cost to Passport Issuing Organisations (PIO's) to issue smart cards as these will be produced on behalf of PIO's by Scottish Agriculture Organisation Society Limited

(SAOS), the operator of the Scottish Equine Database (SED). This cost is not a burden on keepers or PIO's as the use of smart cards is entirely optional. Smart cards are inexpensive to produce and it is estimated that they could be sold for less than £10.

**3. Do you think that the time limit for submission of the application to the Scottish Passport Issuing Organisation (PIO) should be 20 days before the deadline for identification?**

Yes	68%
No	32%
Not Answered	0%

Article 11 of EU 2015/262 states that we must set a time limit for the submission of application documents for the purposes of identification. Regardless of how respondents answered, the comments from both those who answered 'Yes' or 'No', suggested that they were in favour of a deadline for submission of application forms for identification. Following feedback from consultees we propose that the date for the deadline for submission of the application documents should be no later than 30 days prior to the final date for issuing an identification document.

**4. Do you think that it is necessary that all equines born before 1 July 2009 should be identified by implantation of a transponder and what is the evidence for it being necessary for identity verification of these equidae?**

Yes	64%
No	32%
Not Answered	4%

We plan to make the microchipping of older horses i.e. those born prior to 1 July 2009 mandatory. Those who have been identified using alternative methods will also require to be microchipped. We aim to have all equine animals resident in Scotland implanted voluntarily with a transponder within 2 years from the date the domestic legislation comes into force after which it will become mandatory.

**5. Other than the costs listed in the Partial Business and Regulatory Impact Assessment (BRIA); do you envisage any further financial impact on yourself/your business or organisation as a result of the implementation of this Regulation?**

Yes	14%
No	63%
Not Answered	23%

We do not expect any further costs to the industry other than those detailed in the Partial BRIA. Two respondents to the public consultation cited concerns at the potential cost of producing smart cards. However, we do not envisage further costs to PIO's as the use of smart cards is entirely optional. Smart cards will be produced on behalf of PIO's by SAOS, the operator of the SED.

**6. Do you consider that Scottish Government should explore with the Scottish Passport Issuing Organisations a minimum rate for administering and issuing of passports?**

Yes	41%
No	45%
Not Answered	14%

We will not look to change the current arrangements; however, the issue of standardised fees amongst PIO's will continue to be monitored.

**7. Do you think that compliance with the Horse Identification Regulations could be improved through the use of Fixed Penalty Notices?**

Yes	77%
No	23%

We intend to introduce Fixed Penalty Notices (FPN's) for certain breaches of The Equine Animal (Identification) (Scotland) Regulations 2019. The use of Fixed Penalty Notices will provide Local Authorities with alternative enforcement powers for the regulations and we consider this should act as a suitable deterrent to provide motivation for owners/keepers to comply with the regulations.

## Options

- **Option 1 – Do nothing (ruled out)**

This is not a viable option since Scotland would be in breach of the EU Equine Passport Regulations, this could lead to substantial fines (“infraction”) from the EU. In addition Scottish Ministers have an obligation under the Scotland Act 1998 to implement EU legislation.

- **Option 2 – Use of no derogations**

It is unlikely that this would be the best course of action as some derogations currently in use are repeated in the new regulation and are necessary for enforcement purposes, to protect public health and make it easier to identify fraud.

- **Option 3 – Use of some derogations and options (preferred)**

This option would allow the use of only derogations that are of benefit to the equine sector, or are seen as necessary by veterinary staff or policy.

**Table 1 – Option 3**

<b>Article (EU Regulation 2015/262)</b>	<b>Details</b>	<b>Recommendation</b>
3.3	Who has responsibility for identifying a horse.	The obligation to identify an equine animal should rest with the keeper. In most cases it is likely that the keeper will also be the owner (however, where the keeper is not the owner, they should act in accordance with the Regulation on behalf of the owner). This is in-keeping with other livestock legislation where the keeper is responsible for compliance with the Regulations. It also serves to future proof for the implementation of the Animal Health Regulation 2020 where compliance will rest with the keeper.
11.2	Time limits for passport applications.	The time limit for submission of an application for an identification document is no later than 30 days prior to the final date an equine should be identified.
12.2	Deadline for identification. The Regulation states that an equine must be identified not later than 12 months following birth. However, it	More than half of the respondents to the Consultation were in favour of identifying the animal within 6 months of birth, followed by ‘not later than 12 months following its birth.

	provides the option to limit the maximum permitted period for identifying the equine animal to 6 months or the calendar year of birth.	For the purposes of flexibility and consistency the limit will be set at the later of either 31 December in the year of its birth, or the end of the month that is 6 months following the date of its birth.
18.5(a)	Option to make it mandatory to replace failed microchips.	Although microchip failure is rare, the requirement for it to be replaced would help to ensure identity verification. Outline diagrams are not always required for horses that may have been microchipped, so the replacement of a failed microchip is essential to link these horses to their passports.
18.5(c)	Option to make it mandatory for all equines born before 1 July 2009 to be implanted with a transponder so as to ensure identity verification.	This in effect, is the requirement for microchipping of older animals. It is often difficult to identify these horses which can cause difficulty with enforcement of identification, welfare and food safety legislation. 64% of consultation respondents from across the equine sector favoured the introduction of microchipping all equines to ensure identity verification. There are additional costs to owners associated with this measure (see Table 3).
18.3 & 19.1	Requirement to ensure uniqueness of microchip numbers.	Only a member of the Royal College of Veterinary Surgeons can insert a microchip; the chip must be implanted in the nuchal ligament in the neck of the animal. Microchips must comply with ISO standards 11784 and 11785 and In order to meet these standards they must be uniquely numbered. On insertion of the chip, the vet must ensure it displays a code unique to that transponder. This mirrors current practice and the intention is to maintain veterinary responsibility for insertion of the microchip and to ensure that they are ISO compliant.
25.1	Movement or transport of horses within the same Member State without their identification document provided they are accompanied by a smart card.	This derogation allows keepers the option to move or transport their animals within Scotland without their ID document, provided they are accompanied by a smart card. 86% of consultation respondents were in favour of the use of smart cards.

		Reasons cited were that they were a more practical option to carry than the paper identification document, were less likely to be damaged during movement and were more likely to be carried by horse keepers. The use of smart cards is optional; it will not impose an additional financial burden on keepers.
27(1) & (2)	Requirement to ensure identification details (including ownership and food chain status details) in an identification document are up to date and correct and lodged with the appropriate issuing body.	Obligation to ensure this requirement is met should rest with the keeper (see 3.3 above).
31.1	Suspension from slaughter for human consumption	This option allows a 6 month suspension from the food chain for late applications or loss of passports, if it can be proven that the animal's status as intended for slaughter for human consumption has not been compromised by medical treatment. Veterinary advice on this is that is impossible to verify. The status quo will therefore be retained i.e. if a late application for a passport is received, or a duplicate or replacement is issued, the equine will be automatically signed out of the food chain.
37.4	Notification about change to food chain status.	It is the responsibility of the keeper to provide information to the issuing body if an equine is deemed not intended for slaughter for human consumption.
N/A	PIO's to upload records to the SED within 24 hours of the record being created on their own internal database.	This is an administrative requirement and will ensure that the SED contains as near to 'real-time' data as possible. This will assist SG in the event of a disease outbreak by knowing where in Scotland equine animals are located.

## **Sectors and groups affected**

- Passport Issuing Organisations
- Horse owners/keepers
- Businesses
- Breed Associations
- Vets
- Enforcement bodies
- Consumers of horse meat
- Abattoirs (none in Scotland who process equines)

## **Benefits**

### **Option 1 – Do nothing**

- Potential risk of infraction
- No benefit to the equine sector

### **Option 2 – Use of no derogations**

- Risk to public health
- Lack of enforcement
- Risk of fraud
- Lack of identification and traceability

### **Option 3 – Use of some derogations (preferred)**

- Ensure protection of public health
- Improve quality, security and standard of horse passports
- Identify fraudulent activity
- Creation of Scottish Equine Database which will interface with the Central Equine Database
- Effective welfare regime
- Ensure identity verification by implantation of a microchip in all equines not previously implanted with a microchip including those identified prior to 1 July 2009.

**Costs.** Since 2005 it has been a requirement that all equine animals have a passport in order to comply with EU legislation. Since 1 July 2009, all foals and newly identified animals have been required to be identified by implantation of a microchip. Failure to transpose EU legislation into domestic legislation puts Government at risk of substantial fines.

**Passports.** The Scottish Government has provided Scottish PIO's with a 2 year supply of materials to enable them to produce identification documents which will comply with the new passport standards set out in the legislation. Thereafter PIO's will be required to provide their own materials.

The format of identification documents produced since 1 January 2016 will introduce security features such as rivet binding and specially watermarked paper which will help to prevent fraud.



**Database.** The Scottish Government has agreed in principle to contribute to the build cost and future maintenance of the UKCED for an initial period of 2 years. However, it is clear from stakeholder engagement with the Scottish equine sector, that they have a preference for the establishment of a stand-alone Scottish Equine Database (SED) which will interface with the UKCED. The cost of the SED will be met by the Scottish Government.

EU Regulation 2015/262 requires that PIO's are to notify the central database of changes to a horse's details within 15 days. The Scottish Government will require that the central database is to be notified of changes to a horse's details within 24 hours of the record being created by the PIO. This will enable the central database to hold as near to 'real time' data as possible which will be useful to enforcement bodies. This requirement will also be included in the Minimum Operating Standards (MOpS) guidance which all Scottish PIO's must adhere to.

**Smart cards.** In order to encourage compliance with the new Regulation, the Scottish Government can see the value of allowing the movement of equidae within

Scotland not accompanied by their identification document, provided they use a smart card. A smart card is not an alternative to a passport, but an additional means of identification. The use of a smart card is optional and does not necessarily impose an additional financial burden on keepers.

Smart cards are inexpensive to produce and it is estimated that they could be sold for less than £10.

**Microchipping of older animals.** All foals born after 1 July 2009, or horses not identified before that date, must be identified by implantation of a microchip. Horses identified before 1 July 2009 do not currently need to be microchipped. It is estimated that there are 152,000 non-racing equine animals within the UK that have not been identified by the use of a microchip. It is further estimated that between 8.45% (12,844) and 10% (15,200) of these animals reside in Scotland where there are an estimated 70,000 equine animals.

The benefits of microchipping older animals are considered to be significant. For example, it makes it much easier for enforcement bodies and vets to identify an animal that may have been abandoned, lost or stolen; it provides added security in terms of welfare as well as traceability in the event of a disease outbreak.

The table below shows the average cost\* of keeping a horse depending on the type of livery used, it does not take into account that a field may have no associated costs if it is privately owned, or for any shelter/construction that may be required to stable the animal.

**Table 2 – Livery costs**

Grass	DIY	Part	Working	Full
£3,900	£4,860	£7,440	£6,420	£9,300

\*These average costs are based on figures from The British Horse Society leaflet "The Cost of Keeping a Horse or Pony" and take into account the costs for feed, bedding, shoeing, trimming, worm control tests, wormer, vaccinations, dentistry and insurance. Other factors which will vary and could not be quantified and therefore not included in the figures shown above,

is how much keepers spend on their horses, the breed of the horse, the geographic location of the horse, varying veterinary fees and any transportation costs.

Based on the figures above, it costs on average, £6,384 per annum to keep a horse. This can, in monetary terms, prove to be a significant financial burden to their owners as the horse gets older. The prospect of abandonment could be seen as an easy option for owners who do not want the expense of end-of-life disposal costs which can cost on average between £400 and £600. The benefits for the animal and the owner are likely to outweigh the relatively small financial cost of microchipping and will also contribute to the future effectiveness of enforcement.

## **ADDITIONAL COSTS AND IMPACT**

The Business Regulatory Impact Assessment (BRIA) considers costs that may be borne by industry as well as individuals. In order to carry out this assessment, Scottish Government (SG) asked those who completed the Consultation about any additional costs which SG may not have considered and if they are an accurate reflection of the costs involved within the equine community. As the BRIA included within the Consultation was 'partial', SG sought help of people working within the equine business/community for their input into this final impact assessment.

### **Business**

Face to face meetings have been held with The Eriskay Pony Society Limited, The Shetland Pony Stud Book Society, South Lanarkshire Council, Langland's Livery, Tannoch Stables, Horse Haven Riding School, breeder Joan Alexander, Clyde Veterinary Group and Central Equine Vets, to discuss the impact of The Equine Animal (Identification) (Scotland) 2019 Regulations.

In most cases (over 70%), no further costs other than those outlined in the partial BRIA were envisaged. It is evident; however, that costs associated with keeping a horse varies greatly, particularly veterinary charges. A veterinary surgeon is entitled to charge a fee for the provision of services. The RCVS has no specific jurisdiction under the Veterinary Surgeons Act 1966 over the level of fees charged by veterinary practices. There are no statutory charges and fees are essentially a matter for negotiation between veterinary surgeon and client.

**Table 3 – associated costs for microchipping**

<b>GROUP</b>	<b>AFFECT</b>	<b>IMPACT</b>	<b>ESTIMATED COST</b>
Keepers	Benefit/Cost	Greater chance of being reunited with a lost or stolen horse.	To chip a horse and update a passport the average cost would be £39.45.
PIO's	Benefit/Cost	Improve accuracy of data held and provide additional work stream	To update a passport can cost between £10 - £21, costing on average £13.45. There may also be a "time" cost to PIOs.
Vets	Benefit/Cost	Implantation of microchips will provide additional income.	On average, it costs £26 for a vet to insert a microchip. Call-out charges for vets vary greatly, average estimate is £34. Mandatory microchipping will not take effect until 2 years after the coming into force date of the new Regulation. Therefore it is assumed that during this 2 year period the call-out charge will be absorbed by another scheduled routine visit by a vet.
Abattoirs	Benefit	Easier access to more accurate identification which will also boost consumer confidence.	N/A
Consumers	Benefit	More peace of mind that the horse meat they are consuming is safe to eat.	N/A
Enforcement Authorities	Benefit/Cost	Easier to identify not only the horse but keepers and potentially have higher success of any prosecution being brought.	Can potentially reduce costs as the time and costs associated with identifying and proving ownership should no longer prove to be an issue.

Sources of data on un-chipped equines are limited and use estimated values, for example, few official statistics on population size and age distribution are collected. Against this background the costs associated with microchipping older animals in Scotland are as follows:

**Table 4 – costs associated with microchipping older animals.**

	<b>No's of older animals</b>	<b>Total</b>
Passport Update	12,844 - 15,200 x £13.45	£172,752 - £204,440
Chipping Cost	12,844 - 15,200 x £26	£333,944 - £395,200
Total cost of Passport update and chip		£506,696 - £599,640

### **Scottish Firms Impact Test**

The proposed legislation does not impose any significant new or additional operating costs on industry. It was raised in the consultation that 'smart cards' could cause an additional cost to industry. However, as the use of smart cards is optional, they do not place an additional burden on industry other than the time it would take to produce them. As PIO's set their own costs it would be expected that the cost, both monetary and for time worked, might be reflected in the fee charged for the smart card so that all costs were fully recoverable.

### **Competition Assessment**

Using the Competition and Markets Authority Competition Filter questions we have concluded that the proposals will neither directly or indirectly limit the number or range of suppliers, limit the ability of suppliers to compete or reduce suppliers' incentives to compete vigorously.

### **Test run of business forms**

There will be no specific business forms involved with the implementation of the proposed legislation.

### **Legal Aid Impact Test**

The proposal is unlikely to have an impact on the legal aid fund.

### **Enforcement, sanctions and monitoring**

The Regulations will be enforced by Scottish local authorities, although Scottish Ministers may direct, in relation to cases of a particular nature that they are to enforce the Regulations instead. Any person who fails to comply with the Regulations, without reasonable excuse, or fails to comply with a specified requirement commits an offence and is liable on summary conviction to a fine not exceeding level 5 on the standard scale. For some breaches of the legislation, fixed-penalty notices will apply. It is likely that an audit of all Scottish PIOs will be

undertaken 2 years following the implementation of the new Regulation. Depending on the outcome of these audits we may conduct a review into whether the legislation is still fit for purpose.

### **Implementation and delivery plan**

The new equine passport regulation will be transposed into domestic regulation and replace The Horse Identification (Scotland) Regulations 2009. Equine identification is a devolved matter therefore; the new Equine Animal (Identification) (Scotland) Regulations 2019 extends to Scotland only.

### **Summary and recommendation**

Option 3 is preferred. This offers the best measures to ensure the safety and effectiveness of the horse passport regime. It provides improved protection to public health and enhanced regulation enforcement.

This would mean that:

- All equine animals are identified by the later of either 31<sup>st</sup> December in the year of the equine animal's birth or 6 months following the date of its birth.
- Allow all equine animals to move within Scotland without a passport, provided they are accompanied by a smart card.
- Introduce a time limit of 30 days prior to the deadline for identification to submit an application for identification documents.
- Identify all equine animals born prior to 1 July 2009 and all other equine animals not implanted with a microchip by means of the implantation of a microchip. There will be a 2 year lead in period from the date that the domestic legislation comes into force after which it will become mandatory.
- The introduction of Fixed Penalty Notices for certain offences surrounding movement and transport of equidae.

### **Summary costs and benefits table**

The proposed legislation does not impose any significant new or additional operating costs on industry. The introduction of mandatory microchipping will incur a one-off cost that will affect owners of an estimated 12,844 -15,200 older equines in Scotland.

The use of FPN's has not been used previously by Local Authorities for enforcement of the Scottish Equine Identification Regulations. Monies that could be generated by the use of FPN's under this Regulation cannot therefore be quantified.