

Date: 19<sup>th</sup> October 2020

To whom it may concern,

**Re: Approval of Breed Societies under Article 34 of the Zootechnic Regulation (EU) 1012/2016.**

Following the departure of the UK from the EU, it is likely that there is to be a change in the position of UK-based breeding programmes with regards access across EU Member States. It is my opinion that Defra has inadvertently applied for approval of your Breed Society utilising an incorrect mechanism within the Zootechnics Regulation (EU) 1012/2016, and that there is scope for an alternative application to be made, which would offer an improved position for all stakeholders.

It is my opinion that the application by Defra to seek approval of your breed society under Article 34 of the Zootechnic Regulation may be mis-informed.

It has become clear that Article 34 approval was first tabled at the commencement of the Brexit negotiations, as an option whereby all Breed Societies which met with the criteria, could be formally recognised by the EU and have their breeding programmes accepted onto the approved list. This approval would see your society able to trade germinal products within the EU but allow for animals within your breeding programme to be accepted into equivalent breeding programmes across the EU, should the need ever arise.

It is understood that the Zootechnic Regulation was introduced in order to ensure standardisation of breed specifications across the whole of the EU, and I whole heartedly support such action. For example, a breeder in the Netherlands should be confident that any animal meeting the criteria laid down for the bovine Holstein breed by the Dutch Breed Society, would be equivalent to those being granted approval as Holsteins, registered within the breeding books maintained by the UK or German breed societies. Similarly, this guarantee should be present for equine, porcine and ovine species, and be the case for breeds originating in the EU, and for the many and varied breeds originating in the UK.

As I said, it is my opinion that the Zootechnic Regulation is a valued body of legislation, with clear intentions, to harmonise and unify specific breeds and breeding programmes across continental Europe.

My concern is that the application to seek approval of your breed society under Article 34 is a simplistic approach, which does not address the needs of your society correctly. For example, to gain approval of your society through this mechanism would not allow you to register an animal in an EU Member State where a breed society was not already established for your breed.

I propose that Defra apply to the EU for equivalency under Article 35 of the Zootechnic Regulation (1012/2016).

The difference in approach is considerable in my opinion.

Article 35 is very different to the mechanism currently being employed, and I believe it is due in part to the use of a single word: "equivalence".

Article 35 states that:

*The Commission may adopt implementing acts, recognising that measures applied in a third country are equivalent to those required by this Regulation in relation to the following:*

*(a) the recognition of breed societies and breeding operations provided for in Article 4;*

*(b) the approval of breeding programmes of breed societies and breeding operations provided for in Article 8;*

*[continues]*

*The implementing acts referred to in paragraph 1 shall be adopted on the basis of:*

*a thorough examination of the information and data provided by the third country which is seeking to have its measures recognised as equivalent to those required by this Regulation;*

Article 35 would seek to grant equivalence to the Competent Authority (CA), rather than individually approve each of the Breed Societies, but having been granted the CA equivalence, the trickle-down effect would then see all Breed Societies approved under Article 4, and their respective breeding programmes approved under Article 8. It should also follow that Article 12 could then be applied, with regards extension to breeding programmes. This equivalence would afford the same privileges to UK Breed Societies as were experienced when the UK was still an active Member State.

I would put it to you that as a Member State, the UK was influential in the creation of these Zootechnic Regulations, and our involvement as a participating nation at the time of their creation would suggest that the UK CA should be able to present a successful case showing their compliance with the requirements of Article 35.

The term “equivalence” has a very specific legal meaning, which is defined as being of the same value, worth or function as. To offer equivalence to the UK CA, and ultimately Breed Societies and their respective programmes would be to offer the same position as if the CA or Breed Society was based within a participating Member State.

This equivalence would ultimately allow for a Breed Society to approach another Member State under Article 12, and ultimately seek approval for the extension of a breeding programme into this Member State, where no breeding programme for the relevant breed existed.

Article 35 continues, and states that the EU reserves the right to impose restrictions with regards the entry of animals into the EU. This right is reserved and is not guaranteed within the Regulation, and nor does it state the criteria for any restrictions. Having enjoyed free movement of breeding animals previously, it would be a considered opinion that the EU may not look to include additional requirements on animals entering into the Union.

Consideration should also be given to Article 30 of the same Regulation, which details specifics with regards the issuance of Zootechnical certificates.

Provision within Article 30 references those animals which have gained entry into a studbook approved under Article 34. Under the approval currently being sought under Article 34, the Breed Societies would be granted specific privileges to issue these certificates, as part of Article 30 (2)(c).

Should Article 35 be invoked, no such specific approval for the issuance of Zootechnical certificates is detailed, as Article 35 would see the CA granted equivalence, and therefore the Breed Society approved under Article 4 would be able to issue the certificates under the provision of Article 30(2)(a).

And here I must state that my opinion would be that the close control of these breeding programme extensions can and would be seen as a positive step. It would be ill-advised to allow the Dutch Holstein breeding programme to register bovine progeny born within the UK, when a competent Breed Society is currently running a breeding programme within this territory. Similarly, where the equine Trakehner Breeders Fraternity (TBF) operates within the UK, it would also be ill-advised for this society to seek to register Trakehners within Germany, where a valid breeding programme has already been established. Consideration should however be afforded to those breeders based within Ireland, where no Trakehner breeding programme currently exists to my knowledge, and should the TBF consider it to be of value to their breeding programme, an extension could be sought to extend into the Irish territory, subject to the approval of the Irish CA.

There is also a wider concern with regards the approval of Breed Societies under Article 34, and that is the severing of relationships with breeding programmes within the Union. Under Article 34, it has been suggested by Defra that the UK based Breed Societies would not be able to enter any progeny born within the Union into their breeding book. For rare breeds, such as the Suffolk equine, it is essential that breeding programmes be included within the UK based mother studbook, regardless of the territory within which the progeny is conceived or born, as part of an effort to conserve the breed. It is my understanding that should Defra seek approval under Article 35, the registration of these progeny could be recorded, subject to the approval of the Member State in which the animals reside. The potential for a breeding programme to extend into another Member State would not be possible under approval gained through Article 34.

It is worth noting that Article 34 is cross-referenced within the same Regulation 10 times, as specific considerations have to be included to allow for those Breed Societies who have gained approval through the provisions of Article 34. In comparison, Article 35 is only referenced twice, with one of those references being to state that the EU must maintain a list of all Competent Authorities which have been approved under the mechanism. In my opinion, this lack of specific regulatory provision for those approved under Article 35 only moves to highlight the full extent of the “equivalence” afforded under the Article.

This approach has been put to Defra over the past year on a number of occasions, and I have repeatedly attempted to highlight the clear differences in the regulatory text between Article 34 and Article 35. I have unfortunately found these recommendations to be passed over and ignored, and feel that this approach should be highlighted to the wider community in an effort to galvanise societies within the UK. This, in turn, will help to strengthen your position with regards moving forwards and past the Transition Period.

In a recent communication with Defra, it was suggested by Defra that the provisions laid down within Article 35 would afford Breed Societies with no further advantage to those offered under the Article 34 approval. It is my understanding that this is not the case, and that for Defra to seek approval under Article 35 would afford Breed Societies wider access to continue their breeding programmes across the Union, as they have to date.

I am profoundly aware of the pending deadline of January 1st 2021, which signifies the end of the Transition Period, subject to any relevant extensions being granted, and I do understand that an application under Article 35 may not be granted in preparation for this deadline. However, it is worth noting that there is no requirement for the CA to have applied, or indeed the approval to have been granted, during any Transition Period.

My position is as Director of Equiventus Ltd, and I have put this case forward to Defra and yourselves in order to support the Breed Societies representing both native and non-native breeds within the UK. I stand to make no financial gain from the approval of Breed Societies or the Competent Authority by the EU. I feel that as individuals we have a responsibility to take action where we are able, and as a collective, Breed Societies of all species within the UK have a much stronger voice, if you are able to stand together as a unified collective.

If you have any questions with regards my position on the matters raised within this statement, please do not hesitate to contact me.

Kind regards,



Chris Eden  
Director  
Equiventus Limited

Read the proposal and add your support at:

<http://equiventus.com/uk-breed-societies-within-the-eu.htm>