

ANIMAL WELFARE TRANSPORT LEGISLATION

– does it affect you ?

From 5th January, 2008, transporters or attendants using road vehicles for transporting farm animals, poultry or horses in connection with an economic activity must have received appropriate training. They must also hold a certificate of competence issued by an independent body nominated by DEFRA.

This new legislation will affect everyone who transports horses with the potential for "economic gain". This can include prize money, any form of sponsorship or making profit on the sale of horses. Please read the DEFRA Guidance Notes below to find out where you stand – the examples given are helpful.

If you find that you do fall into this category then any vehicles used to transport the horses may also have to be inspected and approved (vehicle legislation came into force on 5th January 2007).

Road Vehicle (and Container) Certification in the UK – Vehicle inspection and approval scheme

From 5 January 2007 vehicles used for transporting farm livestock and horses on long journeys (those in excess of 8 hours) must be inspected and approved by the competent authority of a Member State or a body designated by a Member State.

As a rough summary – DEFRA expect an owner or transporter carrying his or another person's animals for profit or as part of a business, to be covered by the Regulation. They do not expect the transport of pet animals by their owners to and from events, even where they win minor cash or other prizes, to be covered. Further guidance on scope can be found on the DEFRA website.

As the competent authority in England DEFRA have designated certifying bodies to carry out vehicle inspections and provide certification in accordance with the scheme – please contact DEFRA for current list.

Attendant & Attendant/Driver Qualifications

Certificate in Equine Transport (CET)

This is designed for those transporting horses on journeys over 65 km but not exceeding eight hours (short journeys). There are two options - Attendant and Attendant/Driver.

Advanced Certificate in Equine Transport (ACET)

This is designed for those transporting horses on short and long journeys (journeys exceeding eight hours). There are three options - Attendant, Driver and Attendant/Driver.

To take either of these qualifications you must register through a British Horseracing Education & Standards Trust (BHEST) approved centre. For more information, please visit www.bhest.co.uk.

DEFRA Guidance Notes -

Welfare of Animals During Transport Regulations - Equine related case studies
Background notes – PLEASE READ FIRST

To be read in conjunction with Council Regulation (EC) No 1/2005 and the Welfare of Animals During Transport Guidance notes.

These are hypothetical examples, to be used as a guide, for the purpose of Welfare of Animals During Transport Regulations only (subsequently referenced to below as ‘these Regulations’). They are without prejudice to any other requirements to comply with other pieces of legislation. Whilst these case studies are intended to be as helpful as possible, they merely reflect our interpretation of these Regulations and the opinions provided should not be considered as definitive as only the Courts can provide this.

They are not intended to give definitive answers, as there are often other factors to be taken into account. If you are still unsure how the Regulations apply to you, please contact your Animal Health and Welfare Inspector at your local trading standards office.

Even if a journey is not covered by these Regulations, it will still be covered by general animal welfare provisions, which will apply to ALL journeys.

This guidance is for journeys within this country. If the journey is to another EU Country it is important you check with that country as their interpretations of the legislation may be slightly different.

The guidance and these case studies gives some assistance in defining whether a journey is connected with an economic activity or not, however, It is the transporter who must be satisfied whether their journey is economic or not and be able to explain this if questioned.

In those examples deemed to be an ‘economic activity’ and therefore covered by the Regulation, all drivers and attendants in charge of horses will need to undergo independent assessment and certified as competent by 5 January 2008. Full details can be found on the Defra website at:
<http://www.defra.gov.uk/animalh/welfare/farmed/transport/eu-transportreg.htm>

Other basic requirements of the Regulation:

Journeys more than 65 km and less than 8 hours : Type 1 Authorisation

Journeys more than 8 hours: Type 2 Authorisation and Vehicle(s) to be inspected and approved.

EXAMPLES :

EG 1:- I have two horses which I regularly compete in competitions for pleasure, as my hobby. I occasionally win a small amount of prize money. I sometimes travel to shows over 8 hours away.

It would appear that this journey is not an economic activity as it is for leisure purposes, so this journey would not be covered by these Regulations. General Animal Welfare provisions still apply, however. The journey time in this situation is therefore irrelevant as this journey is outside the scope of these Regulations.

EG 2:- I have two horses which I regularly compete in competitions for pleasure, as my hobby. I occasionally win a small amount of prize money. I never travel to shows over 8 hours away.

See **EG1**

EG 3:- I am travelling to a show which is over 8 hours away, for pleasure purposes. I will be the only person responsible for my two horses for the duration of the journey.

It would appear that this journey is not an economic activity as it is for leisure purposes, so this journey would not be covered by these Regulations. General Animal Welfare provisions still apply however (The journey time in this situation is therefore irrelevant as this journey is outside the scope of these Regulations.)

EG 4:- I have my own horse which I regularly take to shows as my hobby. Sometimes I take a friend's horse and we share the petrol money.

For the purposes of these Regulations, it would appear that this journey is not an economic activity, so this journey would not be covered by these Regulations. General Animal Welfare provisions still apply however.

EG 5:- I own a livery yard and often give my clients' horses lifts to shows in exchange for payment. The length of journey is never over 8 hours in total.

It would appear that this journey is an economic activity so this journey would be covered by these Regulations. As the journey in this case is under 8 hours in total, a transporter authorisation (Type 1 – short journey) would be needed

EG 6:- I own a livery yard and often give my clients' horses lifts to shows in exchange for payment. The length of journey is over 8 hours in total.

It would appear that this journey is an economic activity so this journey would be covered by these Regulations. As the journey in this case is over 8 hours in total, a transporter authorisation (Type 2 – long journey) would be needed, as well as vehicle inspection and approval.

EG 7:- I am a racehorse transporter who regularly transports other people's racehorses around the country as my business. I want to take 5 horses to a race meeting and the journey will take me 3.5 hours there and 3.5 hours back, and I will spend around 3 hours at the meeting. I will have two members of staff with me.

It would appear that this journey is an economic activity so this journey would be covered by these Regulations. As the total journey time in this case is under 8 hours in total, (3.5 + 3.5 = 7 hours. Time spent at meeting is counted as neutral time) a transporter authorisation (Type 1 – short journey) would be needed.

EG 8:- I am a racehorse trainer and I want to transport two horses to a race meeting which is 5 hours away, returning the same day. I will have one member of my staff with me in the horse box.

It would appear that this journey is an economic activity so this journey would in principle be covered by these Regulations. In this case, however, the single animal exemption could apply. This allows a single horse to travel accompanied by one person with responsibility for that horse (this does not have to be the horse's owner). In this case, there are two horses accompanied by two people, (this exemption can cover up to 4 horses – with 4 people) therefore, the Regulations do not apply. General Animal Welfare provisions still apply however.

EG 9:- I am a racehorse transporter and I want to take 4 horses to a meeting which is 6.5 hours away. I will stay over night and travel home the next day.

It would appear that this journey is an economic activity so this journey would be covered by these Regulations. As the total journey time in this case is over 8 hours in total, (total journey time is 6.5 + 6.5 = 13 hours) a transporter authorisation (Type 2 – long journey) would be needed, as well as vehicle inspection and approval. As the overnight stay is less than 48 hours the journey is counted as a continuous journey (a round trip).

EG 10:- I am a horse transporter and I want to take 4 horses to a show which is 6 hours away. I will stay for over 48 hours and then travel home.

It would appear that this journey is an economic activity so this journey would be covered by these Regulations. As the journey is broken up by a 48 hour rest period the journey times are taken as two separate 6 hour journeys and not combined. Therefore, the journey time in this case is under 8 hours in total and a transporter authorisation (Type 1 – short journey) would be needed.

EG 11:- I am a racehorse trainer and all the horses I train are owned by me so I don't charge for transport. I want to transport three of my horses to a race meeting which is 6.5 hours away. I will stay over night and return the day after the race.

It would appear that this journey is an economic activity as the journey is directly or indirectly associated with the transporters business of training racehorses. See EG 9 answer.

EG 12:- I am a horse transporter and want to take 4 horses to a sale. The journey will take me 7 hours and I hope to sell all the horses at the sale. I may buy some other horses and bring those back.

There are two issues here, but in both cases it would appear that this journey is an economic activity so this journey would be covered by these Regulations (unless covered by the single animal exemption).

The first is the unsold horses. These are considered to be on a round trip with the time at the sale considered neutral time. As the total journey time in this case is 14 hours a transporters authorisation (Type 2 – long journey) is required for this journey, along with a vehicle approval (and the 8-12 hour exemption for temperature monitoring ventilation and satellite tracking requirements will not apply). However if the horses rest at the sale premises for 48 hours before returning, then the round trip may be considered two 7 hour journeys and only short journey (Type 1) Authorisation will be required and there is no need for the vehicle to have a Vehicle Approval.

The second issue is the horses bought at the sale. Again the time at the sale can be treated as neutral time and the journeys to and from the sale should be treated as one journey unless the horses have been rested 48 hours at the sale premises. The difference here is that there is a problem in determining the length of time travelling to the sale. If the single animal exemption does not apply then the Regulation applies. The journey into and out of the sale may only be considered a short journey if the time into the market and the time out to destination is under 8 hours and this can be demonstrated to an Inspector from travel documentation (Animal Transport Certificates or Journey Logs). If this cannot be established it must be assumed that a Type 2 authorisation will be required and a vehicle approval with the 8-12 hour exemptions if the destination is within the UK.

EG 13:- I am a horse transporter and want to take 6 horses to France for a competition. I will be paid by the horses' owners. The journey will take me 7 hours each way. I will stay one night in France.

Our interpretation is that this is a single journey and an economic activity thus requiring Type 2 authorisation and vehicle approval. However, our interpretations cannot be held to apply for journeys outside the UK as we cannot guarantee that other Member States will interpret the Regulations as we do. Derogations granted, requirements for transporters authorisations, vehicle approval and training/competence may all differ from ours. Therefore, when taking animals overseas in connection with an economic activity we strongly recommend that transporters check with the competent authority/ Agent/appropriate contact in the relevant Member State(s) for details of their requirements.

EG 14:- I am a professional horse transporter and started out on a journey which should have taken me 3 hours each way. I got stuck in a large traffic jam and the total journey eventually took me 9 hours.

It would appear that this journey is an economic activity so this journey would be covered by these Regulations. As the total journey time in this case was expected to be under 8 hours in total, a transporter authorisation (Type 1 – short journey) would be needed. As the delay was unexpected and caused by a traffic jam you would not be expected to have Type 2 authorisation and vehicle approval on this occasion.

However, if such delays happened on a regular basis for this route, it would be advisable to hold a Type 2 authorisation and vehicle approval

EG 15:- I do not own a box but sometimes use self drive companies and hire a box for a day. Who is responsible for obtaining the correct vehicle authorisations or transporter licenses for this – if they are needed?

The transporter or vehicle owner is responsible for obtaining the appropriate documentation for their vehicle/s. It is, however, the driver's responsibility to check that appropriate documentation is in place, and a copy is present in the vehicle, before undertaking the journey. The driver must also be fully compliant with the Regulation in terms of authorisation and competence certification (if the animals are being transported as part of an economic activity – and conversant with general welfare provisions if not).

EG 16:- I have two ponies registered with a breed society. I regularly transport them all over the country for professional competition, often over 8 hours in total.

It would appear that this is an economic activity so this journey would be covered by these Regulations. If the total journey time is over 8 hours in total, a transporter authorisation (Type 2 – long journey) would be needed, as well as the vehicle being inspected and approved. The fact the pony is registered only exempts it from certain parts of the Regulations, such as a navigation system, journey log and resting times/watering intervals. (See guidance for more details on these exemptions) The transporter still needs a transporter authorisation (either Type 1 or Type 2 if long journey) and the vehicle(s) need to be inspected and approved if journey is over 8 hours.

However, the single animal exemption could possibly apply in this case, if there was one person responsible for each horse (up to 4) see EG 8.

EG 17:- I have sold my horse through a private sale, for a profit. I am transporting that horse to its new owners.

If the horse is a pet and selling horses is not your business, then this would not appear to be an economic activity, for the purpose of these Regulations. General Animal Welfare provisions still apply to this journey, however.

EG 18:- I am the keeper of a horse which is owned by a horse rescue organisation; the horse rescue organisation's name appears as the owner on the Horse Passport. I regularly transport the horse to shows for pleasure purposes.

For the purposes of these Regulations, it would appear that this journey is not an economic activity, so this journey would not be covered by these Regulations. The fact you are not the horse's owner makes no difference. You are the person with responsibility for its welfare for that journey for which general Animal Welfare provisions still apply.

EG 19:- We are a registered charity and a horse rescue organisation. We regularly seize horses which are suffering from neglect, starvation or ill-treatment. We have paid employees who drive horseboxes belonging to our organisation. Are charities considered an economic activity or are they exempt?

The status of charities in terms of the Regulation is unclear. Opinions previously offered by EU Council lawyers on the status of charities as businesses suggest that a charity cannot be excused from these Regulations merely on the grounds of its charitable status.

Whether a particular journey made by a charity is considered to be an economic activity for the purposes of these Regulations would depend on the reason for transporting the animal and if in connection with an economic activity. However, a charity recovering the cost of looking after an animal it has delivered to its new home could be regarded as not having transported the animal in connection with an economic activity. If all the charity is doing is recovering its costs with no element of financial gain at the time or in the future then it seems reasonable to view the particular activity as not having taken place in connection with an economic activity. As mentioned in the preamble, ultimately it would be for a court to make the final decision on an issue such as this.

EG 20:- I am a breeder, who regularly transports my stallion, mare and progeny to shows. Showing the horses increases the stud value of my stallion and I sell the progeny of the mare. Sometimes, I make a profit; sometimes I break even or am out of pocket.

It would appear that these journeys are part of an economic activity as the journey is directly or indirectly associated with the transporters business of breeding horses. The authorisations needed would obviously depend on the length of the journey.

However, the single animal exemption could possibly apply in this case, if there was one person responsible for each horse (up to 4) see EG 8.

EG 21:- I am a qualified equine riding/carriage driving instructor, and regularly give lessons for which I am paid. I frequently transport my own horses for use as teaching aids. I am paid to teach, but incorporate the costs of transport within the tuition fees.

It would appear that these journeys are part of an economic activity as the journey is directly or indirectly associated with the transporters business of instructing. The authorisations needed would obviously depend on the length of the journey as would the possible need for vehicle approval.

However, the single animal exemption could possibly apply in this case, if there was one person responsible for each horse (up to 4) see EG 8.

EG 22:- I am a volunteer for Riding/Driving for the Disabled Association (RDA). I freely lend my horse each week for RDA activities, and I transport my horse to the venue, which is usually under 8 hours in total but can be over 8 hours on occasions. The RDA sometimes contributes to my travelling expenses, or gives me a box of chocolates as a 'thank you' for my efforts.

For the purposes of these Regulations, it would appear that this journey is not an economic activity, so this journey would not be covered by these Regulations. Therefore, the length of the journey is not relevant. General Animal Welfare provisions still apply.

However, if the RDA transport your horse, their journey may in some circumstances, be considered an economic activity if it could be indirectly or directly connected to their business. The fact the RDA is a charity does not necessarily exempt it from these Regulations. (See EG 19).

