

EUROPEAN COMMUNITIES (FRESH POULTRY-MEAT) REGULATIONS 1997

I, IVAN YATES, Minister for Agriculture, Food and Forestry, in exercise of the powers conferred on me by section 3 of the European Communities Act, 1972 (No. 27 of 1972), and for the purpose of giving effect to Council Directive No. 91/494/EEC of 26 June 1991, as last amended by Council Directive No. 93/121/EEC of 22 December 1993 hereby make the following Regulations:—

10.J. No. L 268 of 24.9.1991, p. 35.

20.J. No. L 340 of 31.12.1993, p. 39.

REG 1

1. (1) These Regulations may be cited as the European Communities (Fresh Poultry-meat) Regulations, 1997.

(2) These Regulations shall come into operation on the 31st day of March, 1997.

REG 2

2. These Regulations shall not apply to fresh poultry-meat—

(a) contained in the personal luggage of travellers and intended for their personal consumption,

(b) in small consignments to private individuals, provided that the said consignments are not of a commercial nature, or

(c) for consumption by the crew and passengers on board means of transport operating internationally.

REG 3

3. (1) In these Regulations, except where the context otherwise requires—

"authorised officer" means a person who, for the time being, stands appointed under Regulation 9 of these Regulations;

"the Council Directive" means Council Directive No. 91/494/EEC of 26 June, 1991, as last amended by Council Directive No. 93/121/EEC of 22 December 1993;

"Council Directive No. 71/118/EEC" means Council Directive No. 71/118/EEC of 15 February 1973, as last amended by Council Directive No. 94/65/EEC of 14 December 1994;

30.J. No. L 55 of 8.3.1971, p. 23.

40.J. No. L 368 of 31.12.1994, p. 10.

"Council Directive No. 90/539/EEC" means Council Directive No. 90/539/EEC of 15 October 1990, as last amended by Council Directive No. 93/120/EEC of 22 December, 1993;

50.J. No. L 260 of 5.9.1992, p. 1.

60.J. No. L 340 of 31.12.1993, p. 35.

"export" means export to another Member State;

"inspector" means an inspector within the meaning of the Diseases of Animals Act, 1966 (No. 6 of 1966);

"Member State" means a Member State of the European Communities;

"the Minister" means the Minister for Agriculture, Food and Forestry;

"third country" means a country which is not a Member State.

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

(3) In these Regulations—

(a) a reference to a Regulation is to a Regulation of these Regulations, unless it appears that reference to some other enactment is intended;

(b) a reference to a paragraph or subparagraph is to the paragraph or subparagraph of the provision in which the reference occurs, unless it is indicated that reference to some other provision is intended.

REG 4

4. (1) A person shall not export fresh poultry-meat unless—

(a) it has been obtained from poultry which has been held in the territory of the European Communities since hatching or has been imported from a third country in accordance with the requirements of Chapter III of Council Directive No. 90/539/EEC;

(b) in the case of fresh poultry meat destined for a Member State or a region of Member State the status of which has been recognised in accordance with Article 12 (2) of Council Directive No. 90/539/EEC, it has been obtained from poultry which has not been vaccinated against Newcastle disease using a live vaccine during the 30 days preceding slaughter;

(c) it comes from a holding—

(i) which has not been placed under animal health restrictions in connection with a poultry disease, and

(ii) which is not located in an area which for animal health reasons is subject to restrictive measures involving controls on poultry meat in accordance with legislation of the European Communities as a result of an outbreak of disease to which poultry is susceptible;

(d) during transport to the slaughterhouse it did not come into contact with poultry suffering from avian influenza or Newcastle disease, or where such transport was through an area which has been declared an avian influenza or Newcastle disease infection area, it was by major road or rail link in accordance with Article 3 (A) (3) of the Council Directive;

(e) it comes from a slaughterhouse in which, at the time of slaughter, no case of avian influenza or Newcastle disease had been recorded;

(f) it is marked in accordance with Regulation 5;

(g) if it is destined for a Member State or a region of a Member State recognised as being free from Newcastle disease or a Member State after transit through a third country, it is

accompanied by a health certificate relating to the poultry meat concerned in the format specified in the Annex to the Council Directive which has been signed by an inspector.

REG 5

5. Fresh poultry meat shall be marked with the health mark specified in Article 3 (1) (A) (e) of Council Directive No. 71/118/EEC provided that—

- (a) it meets the requirements of Regulation 4, and
- (b) it comes from poultry slaughtered in accordance with the hygiene requirements laid down in Council Directive No. 71/118/EEC.

REG 6

6. (1) The Minister may, in the case of fresh poultry meat which does not satisfy the requirements of paragraph (1) (c), (d) or (e) of Regulation 4, and which is not intended for export, permit such poultry meat to be marked in accordance with Article 3 (1) (A) (e) of Council Directive No. 71/118, provided that this mark is immediately—

- (a) overstamped in such a way that the health mark defined in point 66 (a) and (b) of Chapter XII of Annex I to Council Directive No. 71/118/EEC is covered by a diagonal cross consisting of two straight line crossing at right angles, with the point of intersection in the centre of the stamp and the information thereon remaining legible; or
- (b) replaced by a single special mark consisting of the health mark defined in point 66 (a) and (b) of Chapter XII of Annex I to Council Directive No. 71/118/EEC, overstamped in accordance with the provisions of subparagraph (a) above.

(2) Marking instruments required for the purposes of this Regulation shall be kept and used in accordance with the requirements of Council Directive No. 71/118/EEC.

(3) Fresh poultry meat referred to in paragraph (1) shall be obtained, cut, transported and stored separately from, or not at the same time as, fresh poultry meat intended for export, and shall be used in such a way as to avoid it being introduced into products intended for export unless they have undergone the treatment specified in Article 4 (1) of Council Directive No. 80/215/EEC of 22 January 1980, as last amended by Council Directive No. 91/687/EEC of 11 December 1991.

70.J. No. L 47 of 21.2.1980, p. 4.

80.J. No. L 377 of 31.12.1991, p. 16.

REG 7

7. (1) Notwithstanding the provisions of Regulation 6, the Minister may, in the event of an epizootic of Newcastle disease, permit the marking of fresh poultry-meat in accordance with Article 3 (1) (A) (e) of Council Directive No. 71/118/EEC with the health mark defined in point 66 (a) and (b) of Chapter XII of Annex I to Council Directive No. 71/118/EEC provided that such poultry-meat comes from poultry which—

(a) comes from a holding situated within the surveillance zone as defined in Article 9 (1) of Council Directive No. 92/66/EEC of 14 July 1992, but not the protection zone defined in Article 9 (1) of that Directive, and with respect to which, following an epidemiological examination, no contact with an infected holding has been recorded;

90.J. No. L 260 of 5.12.1992, p. 1.

(b) comes from a flock where a virological examination giving a negative result is carried out on a representative sample of the flock five days before shipment of the poultry and where such sampling is carried out by, and to the satisfaction of, an inspector;

(c) comes from a holding where no signs or clinical symptoms have been found which could indicate the presence of Newcastle disease following a clinical examination which has been carried out by, and to the satisfaction of, an inspector, within 24 hours prior to consignment of the poultry;

(d) without prejudice to the provisions of paragraph (1) (d) of Regulation 4, is transported directly from the holding of origin to the slaughterhouse, and where the means of transport—

(i) is sealed by an inspector, and

(ii) is cleaned and disinfected before and after each consignment to the satisfaction of an inspector.

REG 8

8. (1) An inspector or authorised officer may, for the purposes of these Regulations—

(a) at all reasonable times, enter any premises or place, and any vehicle, wagon, vessel, aircraft or other means of transport (other than a premises, place or means of transport consisting of a dwelling or other than so much thereof as consists of a dwelling) where he reasonably suspects that there is or has been any poultry, poultry-meat, product or document which he considers should be examined or inspected for the purposes of his functions under these Regulations,

(b) there or at any other place, examine or inspect any poultry, poultry-meat, product or document and, in the case of poultry, an inspector may carry out a clinical inspection thereof,

(c) take, without payment of compensation, such samples of any poultry, poultry-meat or product at the premises or place or on or

in the means of transport as he may reasonably require for the purposes of his functions under these Regulations and carry out or have carried out on the samples such analyses, examinations, checks and inspections as he considers necessary or expedient for the purposes of such functions,

(d) there or at any other place, carry out or have carried out such examinations, checks and inspections of the premises, place or means of transport and any equipment, machinery or plant and any product found there as he reasonably considers necessary or expedient for the purposes of such functions,

(e) require any person at the premises or place or on or in the means of transport and the owner or person in charge thereof and any person employed in connection therewith to give to him such information and to produce to him such books, certificates, documents and other records within the power or procurement of the person as he may reasonably require for the purposes of his functions under these Regulations,

(f) examine and take copies of, or of extracts from, any such records as aforesaid,

(g) seize and detain anything found there which he reasonably believes to be evidence of an offence under these Regulations.

(2) A person shall not, in purported compliance with a requirement under paragraph (1) (e) above, give information to an inspector or authorised officer that he knows to be false or misleading in a material respect.

REG 9

9. (1) The Minister may appoint such and so many persons as he thinks fit to be authorised officers for the purposes of these Regulations.

(2) An inspector or authorised officer, when exercising any power conferred on him for the purposes of these Regulations, shall, if so requested by any person affected, produce evidence in writing of his appointment as an authorised officer or inspector.

REG 10

10. (1) A person who contravenes a provision of these Regulations shall be guilty of an offence.

(2) A person guilty of an offence under these Regulations shall be liable on summary conviction to a fine not exceeding £1,000 or to imprisonment for a term not exceeding 6 months or to both.

(3) Where an offence under these Regulations has been committed by a body corporate and is proved to have been so committed with the consent or connivance of or be attributable to any neglect on the part of a person, being a director, manager, secretary or other officer of the body corporate or a person who was purporting to act in any such capacity, that person, as well as the body corporate, shall be guilty of an offence and shall be liable to be

proceeded against as if he were guilty of the first-mentioned offence.

REG 11

11. An offence under these Regulations may be prosecuted by the Minister.

REG 12

12. The European Communities (Fresh Poultry-meat) Regulations, 1996 (S.I. No. 3 of 1996) are hereby amended by the substitution for paragraph (1) (d) of Regulation II of the following:

"(d) it comes from a third country in which avian influenza and Newcastle disease are legally noticeable diseases throughout the country in accordance with international standards;

(e) it comes from a third country which is free from avian influenza and Newcastle disease or, where it is not free from these diseases, measures to control them which are at least equivalent to those laid down in Council Directive No. 92/40/EEC and Council Directive No. 92/66/EEC are applied in the country concerned;

(f) it is accompanied by a health certificate relating to the poultry-meat concerned in accordance with Article 12 of Council Directive 91/494/EEC, as last amended by Council Directive No. 93/121/EEC of 22 December 1993, supplemented, if necessary, by a declaration drawn up in accordance with Article 21 of Annex B to the Council Directive."

GIVEN under my Official Seal, this 20th day of March, 1997.

IVAN YATES,

Minister for Agriculture, Food and Forestry.

EXPLANATORY NOTE.

These Regulations implement Council Directive No. 93/121/EEC of 21 December 1993 which amends Council Directive No. 91/494/EEC of 26 June 1991 on animal health conditions governing intra-Community trade in and imports from third countries of fresh poultry-meat.