

**EUROPEAN COMMUNITIES (TRADE IN PORCINE SEMEN — ANIMAL HEALTH)  
REGULATIONS 1993**

I, JOE WALSH, 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. 90/429/EEC of 26 June 1990,<sup>1</sup> hereby make the following Regulations:  
10.J. No. L224, 18.8.1990, p. 62.

REG 1

1. Citation and Commencement

- (1) These Regulations may be cited as the European Communities (Trade in Porcine Semen — Animal Health) Regulations, 1993.  
(2) These Regulations shall come into operation on the 31st day of August, 1993.

REG 2

2. Interpretation

(1) In these Regulations—

"animal" means a domestic animal of the porcine species;

"an approval" means an approval granted by the Minister under Regulation 3;

"approved" means approved by or on behalf of the Minister for the purposes of these Regulations;

"application for approval" means an application to the Minister in respect of an approval for a semen collection centre for the purposes of these Regulations and the Council Directive;

"approved semen collection centre" means in relation to—

( a ) imports from another Member State, a centre, approved by the competent authority of the Member State for the purposes of the Council Directive, or

( b ) exports, a centre which is approved of under Regulation 3 by the Minister for the purposes of these Regulations and the Council Directive;

"authorised officer" means a person authorised in writing by the Minister to exercise for the purposes of these Regulations and the Council Directive the powers conferred on an authorised officer by these Regulations;

"the Council Directive" means Council Directive No. 90/429/EEC of 26 June 1990;<sup>1</sup>

10.J. No. L224, 18.8.1990, p. 62.

"export" means to send to another Member State and cognate words shall be construed accordingly;

"import" means to bring into the State and cognate words shall be construed accordingly;

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

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

"official veterinarian" means in relation to actions or the exercise of powers—

( a ) under these Regulations and the Council Directive in the

State an authorised officer who is a veterinary surgeon, or  
( b ) under the Council Directive in another Member State a  
veterinary surgeon designated by the competent authority in that  
Member State;

"semen" means the ejaculate of a domestic animal of the porcine  
species, whether prepared, diluted or in the unaltered state;

"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) ( a ) In these Regulations a reference to a Regulation is to  
a Regulation of these Regulations, unless it is indicated that  
reference to some other Regulations is intended.

( b ) In these Regulations 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 3

#### 3. Approval of semen collection centres

(1) The Minister may grant an approval to a semen collection centre  
for the purposes of these Regulations and the Council Directive if  
he is satisfied that the Council Directive will be complied with.

(2) An application for approval shall be—

( a ) submitted in writing by the applicant to the Minister,

( b ) legible and shall state the name and address of the  
applicant and where the applicant is a body corporate its principal  
place of business,

( c ) accompanied by the fee determined in accordance with  
Regulation 6, and

( d ) addressed to—

The Officer in Charge,  
Livestock Breeding Division (Pigs),  
Department of Agriculture, Food and  
Forestry,  
Farnham Street,  
Cavan,

or to such other person or address as the Minister may direct and  
as published in at least 2 daily newspapers published and  
circulating in the State.

(3) The Minister may, upon receipt of an application for approval,  
require such information from the applicant as he considers necessary  
for him to ensure that the Council Directive will be complied with  
and to decide whether or not to grant the approval.

(4) A person who in making an application for approval wilfully  
makes a false or misleading statement shall be guilty of an  
offence.

(5) Where the Minister grants an approval to a semen collection  
centre he shall allocate a serial number to the centre and shall  
notify the owner or person in charge of the centre concerned in  
writing of that approval.

(6) An approval shall be valid for 5 years.

(7) The Minister may attach conditions to an approval at the time it is granted or subsequently and he may amend or revoke a condition attached to the approval and shall notify the owner or person in charge of the centre concerned in writing of the conditions, amendment or revocation in relation to that approval.

(8) The Minister may, if he is not satisfied that the relevant provisions of the Council Directive are being or will be complied with in relation to a semen collection centre, refuse an approval applied for or revoke an approval granted and shall notify the owner or person in charge of the centre in writing of the refusal or revocation.

(9) The Minister shall not—

( a ) revoke an approval, or

( b ) refuse an application for approval, or

( c ) attach a condition to an approval or amend such a condition,  
without—

( d ) notifying the holder of, or applicant for, the approval of his intention to revoke the approval or refuse the application, or attach or amend the condition, as the case may be,

( e ) specifying his reasons for the intended revocation or refusal of the approval, or the attaching or amendment of the condition, and

( f ) affording the holder of, or applicant for, the approval the opportunity of making representations or having representations made on his behalf to the Minister in relation to the proposed revocation or refusal or to the attachment or amendment of the condition, as the case may be, within 14 days of the receipt by that person of the notification referred to in subparagraph (d) and having had regard to any such representations.

(10) A person who contravenes an approval or a condition of an approval shall be guilty of an offence.

#### REG 4

##### 4. Trade in semen

(1) A person who—

( a ) imports or attempts to import semen from, or exports or attempts to export, semen to another Member State, or

( b ) imports or attempts to import semen from a third country, save in accordance with this Regulation, shall be guilty of an offence.

(2) The consignee, in the State, of imported semen shall report at least 48 hours in advance of the entry of the semen into the State to the officer of the Minister being—

The Officer in Charge,  
Livestock Breeding Division (Pigs),  
Department of Agriculture,  
Food and Forestry,  
Farnham Street,  
Cavan,

or to such other person or address as the Minister may direct and as published in at least 2 daily newspapers published and circulating in the State, stating—

- ( a ) the nature of the consignment,
- ( b ) the country and place of origin of the consignment,
- ( c ) the name and address of the consignee,
- ( d ) the anticipated arrival date, and
- ( e ) in the case of imports from third countries, the point of entry.

(3) Semen shall not be imported from a third country unless it—

- ( a ) comes from a third country or part of a third country listed for the time being in accordance with Article 7 of the Council Directive,
- ( b ) has been collected at a semen collection centre listed for the time being in accordance with Article 8 of the Council Directive,
- ( c ) has been collected from an animal which immediately prior to collection has remained in a third country listed for the time being in accordance with Article 7 of the Council Directive for a period of at least three months,
- ( d ) complies with the animal health requirements appropriate to the third country defined in accordance with the provisions of Article 9 of the Council Directive,
- ( e ) is accompanied by an animal health certificate completed in accordance with the provisions of Article 10 of the Council Directive,
- ( f ) is accompanied by a valid licence issued in accordance with section 7 of the Livestock Breeding (Artificial Insemination) Act, 1947 (No. 32 of 1947), and
- ( g ) enters the State at an approved entry point.

(4) Semen shall not be imported into the State from another Member State or exported to a Member State from the State unless it—

- ( a ) has been collected and processed at an approved semen collection centre,
- ( b ) has been collected from animals whose health status complies with the criteria set out for the time being in Annex B to the Council Directive,
- ( c ) has been collected, processed, stored and transported in accordance with criteria set out for the time being in Annexes A and C of the Council Directive, and
- ( d ) is accompanied by an animal health certificate completed in accordance with Article 6 of the Council Directive.

(5) The Minister may prohibit the importation or exportation of semen where there has been an outbreak, in the country where the semen was collected, stored or processed, of—

- ( a ) any zoonoses,
- ( b ) diseases, or
- ( c ) anything likely to constitute a serious hazard to animals or to human health.

REG 5

5. Powers of authorised officers and officers of customs and excise

- (1) An authorised officer, on production of the officer's authorisation, if so required by any person affected, may, for the purposes of these Regulations and the Council Directive—
- ( a ) at all reasonable times enter any premises or place, including any land, vehicle, wagon, vessel, aircraft or other means of transport where he reasonably suspects that semen is being used, collected, stored, sold, packaged, transported, imported or exported or enter any approved semen collection centre or any centre in respect of which an application for an approval under Regulation 3 has been made to the Minister,
  - ( b ) there or at any other place, carry out such examinations, tests, checks and inspections of the premises or place and any equipment, machinery or plant thereat and any article, animal, substance or liquid found thereat as he reasonably considers necessary or expedient for the purposes of his functions under these Regulations and the Council Directive,
  - ( c ) if the authorised officer is an official veterinarian, take, without payment, such samples of any substance or from any animal at the premises or place as he may reasonably require for the purposes of such functions and carry out or have carried out on the samples such examinations, checks and inspections according with any relevant provisions of the Council Directive as he considers necessary or expedient for the purposes of such functions,
  - ( d ) require any person at the premises or place or the owner or person in charge thereof and any person employed in connection therewith to give him such information and to produce to him such books, documents and other records within the power or procurement of the person as he may reasonably require for the purposes of such functions,
  - ( e ) examine and take copies of, or extracts from, any such records as aforesaid,
  - ( f ) seize or detain anything which he reasonably believes to contain or consist of semen and to have been produced, imported or exported in contravention of these Regulations or the Council Directive,
  - ( g ) if accompanied by a member of the Garda Síochána, stop any vehicle which he reasonably suspects to contain semen.
- (2) A person who obstructs or otherwise interferes with an authorised officer in the performance of his functions under this Regulation or who, in purported compliance with such a requirement under subparagraph (1) (d), gives information to an authorised officer that he knows to be false or misleading in a material respect shall be guilty of an offence.
- (3) A person who, with intent to deceive—
- ( a ) so tampers with semen that a sample of it taken under these Regulations does not accurately represent the semen, or
  - ( b ) tampers or interferes with any sample taken under these Regulations,
- shall be guilty of an offence.
- (4) Where an authorised officer finds or comes into possession of

any article, substance or liquid which he reasonably believes to be evidence of the commission of an offence under these Regulations, he may seize it and detain it for use in evidence in a prosecution under these Regulations for such period from the date of the seizure as may be reasonable or, if proceedings are commenced in which the article, substance or liquid is required for use in evidence, until the conclusion of the proceedings.

(5) An authorised officer may by notice in writing given to the owner or the person who appears to be in charge or control of any article, animal, substance or liquid which has been seized and detained in accordance with these Regulations—

( a ) require anything specified in the notice to be done by the person to whom the notice is directed before the article, substance or liquid is released by an authorised officer, or

( b ) either, in the case of an article, substance or liquid—

(i) require the disposal of the article, substance or liquid by the person to whom the notice is directed, upon its release by the authorized officer, in the manner specified in the notice and at the expense of the owner, or

(ii) indicate the authorised officer's intention to dispose of the article, substance or liquid in a specified manner, the manner of disposal in either case being such as to prevent the article, substance or liquid from being exported, imported or used in contravention of these Regulations, and where a notice under this paragraph requires a specified thing to be done, an authorised officer may retain control of the article, substance of liquid to which the notice relates until the requirements of the notice have been complied with.

(6) Where a notice is given under paragraph (5) a person shall not, without the consent of the authorised officer by whom the notice was directed, move, dispose of, interfere with or otherwise deal with the article, animal, substance or liquid concerned pending compliance with the requirements of the notice.

(7) Any person who is aggrieved by a notice under this Regulation may, not later than 21 days after the date of the notice, or such further period (if any) as the District Court may allow, appeal against the notice to the District Court.

(8) Notice of an appeal under paragraph (7) shall be given to the Minister by the person bringing the appeal at least 7 days prior to the hearing of the appeal.

(9) ( a ) Where an appeal is brought under paragraph (7), the District Court shall make such order as it considers just (including an order directing that the article, substance or liquid concerned be disposed of, at the expense of the owner, in such manner as it may specify).

( b ) The cost of disposal by an authorised officer under this Regulation or pursuant to an order of the District Court under this Regulation shall be recoverable by the Minister by whom it is payable as a simple contract debt in any court of competent jurisdiction from the person who was the owner of the article, animal, substance or liquid concerned at the time of its seizure and detention under these Regulations.

(10) A notice under this Regulation shall not come into force until—

( a ) in the case where there is an appeal to the District Court

against the notice, the appeal and any appeal therefrom has been determined, or

( b ) in any other case, the period during which such an appeal may be taken has expired.

(11) ( a ) The jurisdiction conferred on the District Court by this Regulation shall be exercised by the judge of that court for the time being assigned to the district court district in which the article, animal, substance or liquid concerned was seized or in which the owner or person then in charge or control thereof ordinarily resides or carries on any profession, business or occupation.

( b ) For the purposes of subparagraph (a), an animal, substance, article or liquid shall be deemed to be situated in a district court district as if it is situated on a premises which is situated wholly or partly in such district.

(12) An officer of customs and excise may seize and detain semen being exported or imported as respects which he reasonably believes that there is a failure to comply with a provision of these Regulations and may for that purpose open any package containing or suspected by the officer of containing semen.

## REG 6

### 6. Fees

(1) There shall be charged by the Minister in respect of an approval such fee as the Minister, with the consent of the Minister for Finance, may determine.

(2) A fee charged under this Regulation shall be payable by the owner or person in charge of the centre to which the approval concerned relates and the Minister may refuse to grant an approval until the fee under this Regulation in respect thereof has been paid.

(3) Fees under this Regulation shall be collected and taken in such manner as the Minister for Finance directs and shall be paid into or disposed of for the benefit of the Exchequer in accordance with the directions of the Minister for Finance.

(4) A fee payable under this Regulation may be recovered by the Minister as a simple contract debt in any court of competent jurisdiction.

(5) A fee charged under this Regulation shall not exceed an amount equal to the costs, estimated by the Minister, incurred in relation to the approval concerned and the performance of functions under these Regulations in relation to the centre concerned by an authorised officer for the purposes of the approval.

## REG 7

### 7. Penalties and offences

(1) A person guilty of an offence under these Regulations shall be liable on summary conviction to a fine not exceeding £1,000.

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

(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 to be attributable to any wilful 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 and punished as if he were guilty of the first-mentioned offence.

(4) Where a person is convicted of contravening these Regulations, he shall be guilty of a further offence on every day on which the contravention continues and for each such offence he shall be liable on summary conviction to a fine not exceeding £200.

GIVEN under my Official Seal, this 23rd day of August, 1993.  
JOE WALSH,  
Minister for Agriculture, Food and Forestry.

#### EXPLANATORY NOTE.

These Regulations, which give legal effect to Council Directive 90/429/EEC (copies of which may be obtained from the Government Publications Sale Office, Molesworth Street, Dublin 2), provide for the approval of centres for the collection of pig semen destined for intra-Community trade, and set out the animal health criteria which must be satisfied if pig semen is to be lawfully imported into the State or exported to other Member States of the European Communities.

By virtue of the directly applicable rules of Community Law, these Regulations are now considered to be the only regulatory provisions applicable to the matters dealt with by the Regulations and any parallel provisions contained in the Livestock (Artificial Insemination) Act, 1947 and Regulations made thereunder are to be regarded as having been disappplied.