

European Communities (Marketing Standards for Poultry meat) Regulations 2002

I, Joe Walsh, Minister for Agriculture and Food, 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 Regulation (EEC) No 1906/90 of 26 June 1990¹ (as amended by the Regulations listed in the definition of ‘Council Regulation’ in Regulation 2) and Commission Regulation (EEC) No. 1538/91 of 5 June 1991² (as amended by the Regulations listed in the definition of ‘Commission Regulation’ in Regulation 2) hereby make the following regulations:

Citation and commencement

1. (1) These Regulations may be cited as the European Communities (Marketing Standards for Poultry meat) Regulations 2002.
- (2) These Regulations shall come into operation on the 1st day of October 2002.

Definitions

2. (1) In these Regulations –

‘authorised officer’ means a person who for the time being stands appointed under Regulation 7;

‘Commission Regulation’ means Commission Regulation (EEC) No 1538/91 of 5 June 1991 as amended by

- Commission Regulation (EEC) No 2988/91 of 11 October 1991³,
- Commission Regulation (EEC) No 315/92 of 10 February 1992⁴,
- Commission Regulation (EEC) No 1980/92 of 16 July 1992⁵,
- Commission Regulation (EEC) No 2891/93 of 21 October 1993⁶,
- Commission Regulation (EC) No 1026/94 of 2 May 1994⁷,
- Commission Regulation (EC) No 3239/94 of 21 December 1994⁸,
- Commission Regulation (EC) No 2390/95 of 11 October 1995⁹,
- Commission Regulation (EC) No 205/96 of 2 February 1996¹⁰,
- Commission Regulation (EC) No 1000/96 of 4 June 1996¹¹,
- Commission Regulation (EC) No 1072/2000 of 19 May 2000¹² and

¹ O.J. No. L 173 of 6.7.90, p. 1.

² O.J. No. L 143 of 7.6.91, p.11.

³ O.J. No. L 284 of 12.10.91, p. 26.

⁴ O.J. No. L 34 of 11.2.92, p.23.

⁵ O.J. No. L 198 of 17.7.92, p. 31.

⁶ O.J. No. L 263 of 22.10.93, p. 12.

⁷ O.J. No. L 112 of 3.5.94, p. 32.

⁸ O.J. No. L 338 of 28.12.94, p. 48. ⁸

⁹ O.J. No. L 244 of 12.10.95, p. 60.

¹⁰ O.J. No. L 27 of 3.2.96, p. 6.

¹¹ O.J. No. L 134 of 5.6.96, p. 9.

- Commission Regulation (EC) No 1321/2002 of 22 July 2002¹³;

‘Council Regulation’ means Council Regulation (EEC) No 1906/90 of 26 June 1990 as amended by

- Council Regulation (EEC) No 317/93 of 9 February 1993¹⁴,
- Council Regulation (EC) No 3204/93 of 16 November 1993¹⁵ and
- Council Regulation (EC) No 1101/98 of 25 May 1998¹⁶;

‘E.C. Regulations’ means the Commission Regulation and the Council Regulation as defined in this paragraph;

‘Minister’ means Minister for Agriculture and Food.

- (2) A word or expression that is used in these Regulations and is also used in the E.C. Regulations has, unless the contrary intention appears, the same meaning in these Regulations as it has in the E.C. Regulations.
- (3) 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 appears that reference to some other provision is intended.

Compliance with E.C. Regulations

3. (1) A person shall not market poultry meat to which the E.C. Regulations apply unless it complies with all the requirements of the E.C. Regulations applicable to it and it is marketed in compliance with the E.C. Regulations.
- (2) A person shall not market a product, other than poultry meat to which the E.C. Regulations apply, unless it complies with Article 4 of the Commission Regulation.
- (3) The owner or person in charge of a slaughterhouse or cutting plant shall ensure that all measures necessary to comply with Articles 14a and 14b of the Commission Regulation concerning the water content of poultry meat are in place in the slaughterhouse or cutting plant.

Use of special terms

4. Poultry meat bearing the special terms set out in Article 10 of the Commission Regulation shall not be marketed unless it has been slaughtered in a slaughterhouse, and produced by a producer, registered under Regulation 5 of these Regulations.

Registration of slaughterhouses and producers using special terms

5. (1) The Minister may, on application to him or her, register a slaughterhouse for the purposes of use of the terms set out in Article 10 of the Commission Regulation if the Minister is satisfied that the applicable requirements of the E.C. Regulations are met.

¹² O.J. No. L 119 of 20.5.00, p. 21.

¹³ O.J. No. L 194 of 23.7.02, p. 17.

¹⁴ O.J. No. L 37 of 13.2.93, p. 8.

¹⁵ O.J. No. L 289 of 24.11.93, p. 3.

¹⁶ O.J. No. L 157 of 30.5.98, p. 12.

- (2) The Minister may, on application to him or her, register a producer for the purposes of use of the special terms set out in Article 10 of the Commission Regulation if the Minister is satisfied that the applicable requirements of the E.C. Regulations are met.
- (3) The Minister may specify the format of the applications referred to in paragraph (1) and (2) and, where the Minister does so, it shall be a requirement of this Regulation to furnish the application in the format so specified.
- (4) A person who applies for registration under this Regulation shall furnish the Minister with such information as the Minister may reasonably require for the purposes of his or her functions under these Regulations.
- (5) The owner or person in charge of a slaughterhouse, or a producer, registered under this Regulation shall keep the records relevant to him or her as set out in Article 11 of the Commission Regulation.
- (6) When the Minister registers a slaughterhouse or a producer under this Regulation the Minister shall allocate a registration number to it and shall notify the applicant of –
 - (a) the registration and the registration number and
 - (b) any terms and conditions attached to the registration and, if the Minister amends any terms or conditions of the registration, of the amendments.

Refusal to register or revocation of registrations

- 6. (1) The Minister may either refuse to register a slaughterhouse or a producer under Regulation 5 or revoke a registration under that Regulation if the Minister is satisfied that-
 - (a) a provision of these Regulations or the E.C. Regulations applicable to the slaughterhouse or producer has not been complied with, or
 - (b) a term or condition referred to in paragraph (6) of Regulation 5 has not been complied with.
- (2) Where the Minister proposes to refuse to register a slaughterhouse or a producer or to revoke a registration, or to attach a term or condition to a registration or to amend such a term or condition the Minister shall-
 - (a) notify in writing the owner or person in charge or applicant or producer concerned of the proposal and of the reasons therefor,
 - (b) notify in writing that person that he or she or a person acting on his or her behalf may make representations to the Minister in relation to the proposal within 14 days of the receipt by him or her of the notification and
 - (c) consider any such representations duly made before deciding whether or not to proceed with the proposal.

- (3) Where a registration is revoked the Minister may issue a notice in writing requiring the owner or person in charge or producer to cease to use the terms referred to in Article 10 of the Commission Regulation on any poultry meat being marketed by him or her and the person concerned shall comply with that notice.
- (4) The Minister may restore a registration that has been revoked where the Minister is satisfied that –
 - (a) the shortcomings notified by the Minister to the owner or person in charge or producer have been rectified and
 - (b) the requirements of these Regulations and the E.C. Regulations are being complied with.
- (5) The Minister may decline to restore a registration that has been revoked where the Minister has reasonable grounds for believing that the requirements of these Regulations or the E.C. Regulations will not be complied with in the future.

Appointment and powers of authorised officers

- 7.
- (1) The Minister may appoint such and so many persons as the Minister thinks fit to be authorised officers for the purposes of these Regulations.
 - (2) An authorised officer shall be furnished with a warrant of appointment by the Minister as an authorised officer and when exercising any power conferred on him or her by these Regulations such officer shall, if requested by any person affected, produce the warrant to that person.
 - (3) An authorised officer may
 - (a) at any time enter any slaughterhouse, cutting plant, wholesale or retail warehouse or shop or any premises, vehicle, wagon, vessel, aircraft or other place where he or she has reasonable grounds for believing that poultry meat is being produced, cut, marketed or transported or, in the case of poultry meat being imported from third countries, held at the time of customs clearance,
 - (b) there or at any other place examine, test and inspect any poultry meat found there,
 - (c) inspect, take or take copies of or extracts from any books, documents or other records found there,
 - (d) take, without payment of compensation, such samples of any poultry meat as he or she may reasonably require for the purposes of his or her functions under these Regulations or the E.C. Regulations,
 - (e) seize and detain anything found there which he or she reasonably believes to be evidence of an offence under these Regulations,
 - (f) require any person there or the owner or person in charge of the poultry meat and any person employed in connection therewith to give to him or her such information and to produce to him or her such books,

certificates, documents or other records within the power of procurement of the person as the officer may reasonably require for the purposes of such functions.

- (4) An authorised officer may
- (a) at any time enter any premises, land or other place in respect of which a producer is registered under Regulation 5 of these Regulations or has made an application for such registration,
 - (b) there carry out such inspections and tests as he or she may reasonably require for the purposes of his or her functions under these Regulations and the E.C. Regulations,
 - (c) inspect, take or take copies of or extracts from any books, documents or other records found there and
 - (d) require any person there or the owner or person in charge to give to him or her such information and to produce to him or her such books, certificates, documents or other records within the power of procurement of the person as the officer may reasonably require for the purposes of such functions.
- (5) A person shall not obstruct or otherwise interfere with an authorised officer in the performance of his or her functions or, in purported compliance with a requirement under paragraph (3) (f) or 4(d), give information to an authorised officer that he or she knows to be false or misleading in a material respect.

Issue of notice by authorised officers

8. (1) Where an authorised officer forms an opinion that any poultry meat does not comply with the E.C. Regulations, he may serve or cause to be served on the owner or importer or the person who appears to such officer to be in charge for the time being of the poultry meat a notice requiring that-
- (i) the poultry meat not be marketed,
 - (ii) such action be taken, in the manner if any specified in the notice, as is necessary to make the poultry meat comply with the E.C. Regulations and that proof of such compliance be provided to the officer,
 - (iii) the poultry meat be destroyed in such manner and at such place as the officer shall direct,
 - (iv) the poultry meat be used or disposed of in such manner as the officer shall direct, or
 - (v) the poultry meat be marked in the manner specified in Articles 14a or 14b of the Commission Regulation.
- (2) A requirement contained in a notice may specify a time limit within which it is to be complied with.

- (3) A requirement specified in a notice served under paragraph (1) (in this paragraph referred to as 'the earlier notice') may be modified or withdrawn in a further such notice and in that event the earlier notice shall have effect subject to such modification or withdrawal.
- (4) A notice may require the person on whom it is served to choose between two or more of the requirements specified in the notice.
- (5) A notice referred to in paragraph (1) may be served on the owner or importer or person in charge for the time being of the poultry meat by delivery of it by hand, or by sending it by prepaid registered post to, or by leaving it at, the last known place of abode or business of the owner, importer or person in charge, as the case may be.
- (6) The owner, importer or person in charge for the time being of the poultry meat may appeal within 7 days of the seizure of such poultry meat pursuant to paragraph (15) or service of the notice under paragraph (1) to the Judge of the District Court having jurisdiction in the District Court District where such poultry meat is situated or to the Judge of the District Court having jurisdiction where the person bringing the appeal ordinarily resides or carries on business on the grounds that the seizure or the notice or the terms thereof are not justified having regard to the provisions of these Regulations or the E.C. Regulations.
- (7) An appeal made pursuant to paragraph (6) may be heard at any sitting of the District Court within the appropriate District Court District.
- (8) Notice of an appeal made pursuant to paragraph (6) shall be served on the Minister and the said notice shall be served at least 48 hours prior to the hearing of the appeal by serving it on the Minister or by leaving it at the place and in the manner specified in the notice served under paragraph (1).
- (9) The notice of appeal shall contain a statement of the grounds upon which it is alleged that the seizure or the notice or any of the terms thereof are not justified.
- (10) A copy of the notice of appeal shall be lodged with the District Court Clerk in the manner specified in the notice served under paragraph (1) at least 48 hours prior to the hearing of the appeal.
- (11) The Minister shall, as well as the appellant, be entitled to be heard and to adduce evidence at the hearing of an appeal under this Regulation.
- (12) On the hearing of an appeal under this Regulation a Judge of the District Court may, at his or her discretion, confirm, modify or annul a notice served under paragraph (1).
- (13)
 - (a) No person, including a person on whom a notice has been served under paragraph (1), shall deal with the poultry meat concerned other than in accordance with the terms of the notice.
 - (b) In the event of an appeal against the terms of a notice pursuant to paragraph (6), no person, including the person appealing, shall deal with the poultry meat concerned pending the determination of the appeal other

than in accordance with such directions as shall be given in writing by an authorised officer.

- (c) Where the terms of a notice referred to in paragraph (1) are confirmed, with or without modification by the Judge of the District Court hearing an appeal made under paragraph (6), no person shall deal with the poultry meat concerned otherwise than in accordance with such notice as confirmed.

- (14) Any costs arising from compliance with a notice served under paragraph (1) shall be borne by the owner or importer or person in charge for the time being of the poultry meat concerned.

- (15) (a) Where -
 - (i) the requirements of a notice served under paragraph (1) have not been complied with within the time limit specified therein, or
 - (ii) an authorised officer has reasonable grounds for believing that the terms of a notice served under paragraph (1) will not be complied with, or
 - (iii) pending the determination of an appeal made pursuant to paragraph (6) an authorised officer has grounds for believing that the provisions of paragraph (13) have not been or will not be complied with,

an authorised officer may at any time seize the poultry meat concerned at such premises or place as the officer thinks fit in the circumstances of the case.

- (b) In relation to any seized poultry meat an authorised officer may destroy it, or cause it to be destroyed in such manner and at such place as the authorised officer shall direct or such poultry meat may be used or disposed of in such manner as the authorised officer shall direct.
- (c) Any profits arising from the disposal of the poultry meat referred to in subparagraph (b) shall be paid to its owner less any expenses incurred in connection with the said disposal.

- (16) The costs of disposal or destruction of the poultry meat under this Regulation shall, subject to the provisions of paragraph (15) be recoverable by the Minister as a simple contract debt in any court of competent jurisdiction from the person who was the owner of the poultry meat at the time the disposal or destruction was carried out.

Fees

- 9. (1) There shall be charged by the Minister in respect of a registration under Regulation 5 such fees as the Minister, with the consent of the Minister for Finance, may determine.

A fee charged under this Regulation shall be paid by the owner or the person in charge of the slaughterhouse or production establishment to which the registration relates.

- (2) 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.
- (3) A fee charged under this Regulation shall not exceed an amount equal to the costs, estimated by the Minister, incurred in the performance by authorised officers of functions under these Regulations and the E.C. Regulations in relation to the registered slaughterhouse or production establishment concerned.
- (4) The Minister may refuse to grant, or may revoke, a registration if the fee fixed under this Regulation is not paid.
- (5) The Public Offices Fees Act 1879 shall not apply in respect of fees under this Regulation.

Offences

- 10.
- (1) Any person who markets poultry meat that does not comply with the E.C. Regulations is guilty of an offence.
 - (2) Any person who contravenes a provision of these Regulations is guilty of an offence.
 - (3) Where an offence under these Regulations has been committed by a body corporate and is proved to be 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 and punished as if he or she were guilty of the first-mentioned offence.
 - (4) An offence under these Regulations may be prosecuted by the Minister.

Penalties

11. A person guilty of an offence under these Regulations is liable on summary conviction to a fine not exceeding €1900 or, at the discretion of the court, to imprisonment for a term not exceeding 6 months, or to both.

Repeal

12. The European Communities (Frozen and Deep Frozen Poultry) Regulations 1981 (S.I. No. 433 of 1981) are repealed.

L.S.

Given under my Official Seal,
this 30 day of August, 2002.

Joe Walsh

Minister for Agriculture and Food.

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation)

These Regulations require compliance with European Community legislation on the marketing standards for poultry meat. These standards concern such matters as water content, labelling, quality grading, free range production etc. The Regulations also create penalties for non-compliance and provide for the authorisation of officers to conduct inspections.

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