

Statutory Instruments

S.I. No. 154 of 2004

**European Communities (Monitoring of Zoonoses) Regulations 2004**

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European Communities (Monitoring of Zoonoses) Regulations 2004

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 Directive 2003/99/EC of the European Parliament and of the Council of 17 November 2003<sup>1</sup> hereby make the following regulations:

**Citation and commencement**

1. These Regulations may be cited as the European Communities (Monitoring of Zoonoses) Regulations 2004 and come into operation on the 12 June 2004.

**Definitions**

2. (1) In these Regulations –

“authorised officer” means

- (a) a person who is appointed under Regulation 4,
- (b) an authorised officer appointed under section 17A of the Diseases of Animals Acts 1966 to 2001, or
- (c) an officer appointed under section 49 of the Food Safety Authority of Ireland Act 1998 (No. 29 of 1998).

“competent authority” means an organisation designated by the Minister under Article 3.2 of the directive;

“directive” means Directive 2003/99/EC of the European Parliament and of the Council of 17 November 2003<sup>1</sup>;

“food business operator” has the same meaning as in Regulation (EC) No. 178/2002 of the European Parliament and of the Council of 28 January 2002<sup>2</sup>;

“isolate” means a zoonotic agent;

“Minister” means the Minister for Agriculture and Food;

“premises” includes any land, place, vehicle, ship or other vessel, aircraft, railway wagon or other means of transport or any container used to transport food or where food is kept.

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<sup>1</sup> O.J. No. L325, 12.12.03, p.31.

<sup>2</sup> OJ No. L31, 1.2.2002, p.1.

- (2) A word or expression that is used in these Regulations and that is also used in the directive has, unless the contrary intention appears, the same meaning in these regulations as it has in the directive.
- (3) In these Regulations a reference to a paragraph is to the paragraph of the provision in which the reference occurs, unless it appears that reference to some other provision is intended.

**Preservation of results, foodstuffs and samples**

3. (1) When a food business operator carries out examinations for the presence of the zoonoses and zoonotic agents in accordance with Article 4(2) of the directive he or she shall –
  - (a) only use a laboratory approved under Regulation 6,
  - (b) keep the results for a period of 3 years and arrange for the preservation of any relevant isolate for a period of 6 months, and
  - (c) communicate results and provide isolates on request to an authorised officer of a competent authority.
- (2) When a food business operator provides information to a competent authority pursuant to Article 19 (3) of Regulation (EC) No. 178/2002 he or she shall -
  - (a) preserve the foodstuff, or a representative and adequate sample of it, and
  - (b) deliver the sample to a laboratory or other place designated by a competent authority or provide the sample to an authorised officer on request.
- (3) A competent authority may determine the format in which results referred to in paragraph (1) must be kept and communicated or the manner in which the isolates and samples referred to in paragraph (1) and (2) must be preserved, delivered or provided.

**Appointment and powers of authorised officers**

4. (1) The Minister may appoint such and so many persons as the Minister thinks fit to be authorised officers.
- (2) A competent authority may appoint such and so many persons as the competent authority thinks fit to be authorised officers.
- (3) An authorised officer appointed under this Regulation shall be furnished with a warrant of appointment as an authorised officer and when exercising any power conferred by these Regulations such officer shall, if requested by any person affected, produce the warrant to that person.

- (4) An authorised officer may, where he or she has reasonable grounds for believing that food or feed or animals or poultry kept for food production or records relating to any such thing are held -
  - (a) at any time enter any premises,
  - (b) there or at any other place examine, test and inspect any food, feed, poultry or animals 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 food, feed, poultry, animals or cadavers or of blood or other tissue as he or she may reasonably require,
  - (e) require any person there or the owner or person in charge of the food, feed, poultry or animals or 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.
- (5) The person referred to in paragraph (3) (e) shall carry out all reasonable directions issued by an authorised officer.
- (6) A person shall not obstruct or otherwise interfere with an authorised officer in the performance of his or her functions or give information to an authorised officer that he or she knows to be false or misleading in a material respect.

#### **National reference laboratories**

5. The Minister designates the Central Veterinary Research Laboratory and the Central Meat Control Laboratory of the Department of Agriculture and Food as national reference laboratories for the purposes of these regulations and the directive.

#### **Approval of laboratories**

6.
  - (1) The Minister may approve a laboratory for the purposes of these Regulations and attach such conditions as the Minister considers necessary at the time of the approval or at any time subsequently.
  - (2) An application for approval shall be made in such form as the Minister may specify.
  - (3) The owner or person in charge of an approved laboratory or a laboratory applying for approval shall furnish the Minister with such information as the Minister may reasonably require.

- (4) A person applying for an approval who wilfully makes a false or misleading statement is guilty of an offence.
- (5) The Minister may revoke or suspend an approval or refuse to approve a laboratory.
- (6) Where the Minister proposes to revoke or suspend an approval or to refuse to approve a laboratory the Minister shall –
  - (a) notify the person concerned in writing of the proposal and of the reasons therefor,
  - (b) notify that person in writing that representations may be made to the Minister in relation to the proposal within 14 days of the issue of the notification, and
  - (c) consider any such representations before deciding whether to proceed with the proposal.
- (7) When an approval is suspended or revoked, the Minister may issue a notice in writing requiring the owner or person in charge of the laboratory to cease the testing of samples for zoonoses or zoonotic agents for the purposes of these Regulations.
- (8) The Minister may, where the Minister is of the opinion that there is a serious and immediate risk to health, suspend an approval without affording the opportunity to make the representations referred to in paragraph (6).
- (9) The owner or person in charge of an approved laboratory shall ensure that, as soon as practicable, a sample submitted for testing for zoonoses or zoonotic agents is tested in accordance with a method approved by the Minister and the result of such test is reported in writing to the person who submitted the sample.
- (10) An authorised officer may at any reasonable time inspect an approved laboratory, or a laboratory in respect of which an application for approval has been made, for the purpose of evaluating its suitability for approval.
- (11) The Minister may set and publish fees in respect of approval of laboratories.
- (12) When the Minister approves a laboratory under paragraph (1) the Minister may specify a date on which that approval will expire.

**Information received in the course of an investigation**

7. Notwithstanding national legislation on the holding and passing of information, a competent authority involved in an investigation under Article

8(2) of the directive may pass information obtained in the course of the said investigation to any person mentioned in Article 8 of the directive and to another competent authority in the State.

### **Offences and penalties**

8. (1) Any person who contravenes a provision of these Regulations or the directive is guilty of an offence.
- (2) 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 found 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.
- (3) An offence under these Regulations may be prosecuted by a competent authority.
- (4) A person guilty of an offence under these Regulations is liable on summary conviction to a fine not exceeding €3000.

### **On the spot fines**

9. (1) Where an authorised officer has reasonable grounds for believing that a person is committing or has committed an offence under these Regulations or the directive, he or she may serve a notice in writing on that person stating that-
  - (a) the person is alleged to have committed the offence,
  - (b) the person may during the period of 28 days specified in the notice make to the Minister a payment of €250 accompanied by the notice, and
  - (c) a prosecution in respect of the alleged offence will not be instituted during the period specified in the notice and, if the payment specified in the notice is made during that period, no prosecution in respect of the alleged offence will be instituted.
- (2) Where notice is given under paragraph (1) —
  - (a) a person to whom the notice applies may, during the period specified in the notice, make to the Minister at the address specified in the notice the payment specified in the notice accompanied by the notice;
  - (b) the Minister shall receive the payment, issue a receipt for it and retain the money so paid, and any payment so received shall not be recoverable in any circumstances by the person who made it;

(c) a prosecution in respect of the alleged offence shall not be instituted in the period specified in the notice, and if the payment so specified is made during that period, no prosecution in respect of the alleged offence shall be instituted.

(3) In a prosecution for an offence under these Regulations the onus of proving that a payment pursuant to a notice under this Regulation has been made shall lie on the defendant.

### **Revocation**

10. Part III of the European Communities (Zoonoses) Regulations 1996 (S.I. No. 2 of 1996) is revoked.

### **Savers**

11. Any laboratory approved by the Minister under Regulation 7 of the European Communities (Zoonoses) Regulations 1996 shall continue to be approved as if approved under these Regulations.

Given under my Official Seal

this 7 day of April 2004

L.S.

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)*

The purpose of these Regulations is to implement Directive 2003/99/EC on the monitoring of zoonoses and zoonotic agents. The Regulations also provide for the authorisation of officers to investigate food-borne outbreaks of illness and for the approval of laboratories to conduct tests.

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