

S.I. No. 397/2004 — European Communities (Marketing Standards For Olive Oil) Regulations 2004

STATUTORY INSTRUMENTS.

S.I. No. 397 of 2004 .

EUROPEAN COMMUNITIES (MARKETING STANDARDS FOR OLIVE OIL)
REGULATIONS 2004.

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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), for the purpose of giving effect to Commission Regulation (EC) No. 1019/2002 of 13 June 2002¹ as amended by Commission Regulation (EC) No. 1176/2003 of 1 July 2003² hereby make the following Regulations—

1. These Regulations may be cited as the European Communities (Marketing Standards for Olive Oil) Regulations 2004.

2. (1) In these Regulations—

“authorised officer” means—

(a) a person appointed in writing by the Minister to be an authorised officer under Regulation 5, or

(b) an authorised officer for the purposes of the Regulations of 2002;

“EC Regulations” means Commission Regulation (EC) No. 1019/2002 of 13 June 2002 as amended by Commission Regulation (EC) No. 1176/2003 of 1 July 2003;

“Minister” means the Minister for Agriculture and Food;

“premises” includes any place, vehicle, ship or other vessel, aircraft, railway wagon or other means of transport or any container used to transport olive oil products;

“Regulations of 2002” means the European Communities Regulations (Labelling, Presentation and Advertising of Foodstuffs) Regulations 2002 (S.I. No. 483 of 2002);

“vehicle” means any form of transport conveyance including a trailer.

(2) A word or expression which is used in these Regulations and which is also used in the EC Regulations has, unless the contrary intention appears, the same meaning in these Regulations as it has in the EC Regulation.

(3) In these Regulations, unless the contrary intention appears, a reference to a Regulation is to a Regulation of these Regulations and a reference to a paragraph or subparagraph is a reference to the paragraph in which the reference occurs.

3. A person shall not place olive oil products on the market unless the product complies with the provisions of the Regulations of 2002 and the EC Regulations.

4. (1) The Minister may appoint such and so many persons he or she thinks fit to be an authorised officer for the purposes of these Regulations.

(2) (a) An authorised officer appointed by the Minister shall be furnished with a warrant of his or her appointment, and

(b) when exercising any power conferred by these Regulations, shall, if requested by any person affected, produce the warrant, to that person for inspection.

(3) A person who obstructs or interferes with an authorised officer in the exercise of his or her powers under these Regulations or gives an authorised officer information which is false or misleading shall be guilty of an offence.

(4) A person who without reasonable excuse fails to comply with a request made by an authorised officer under these Regulations shall be guilty of an offence.

5. (1) An authorised officer may at all reasonable times, for the purposes of ensuring that these Regulations are being complied with—

(a) enter and inspect any premises in which he or she has reasonable grounds for believing that olive oil products are being manufactured, held or kept for importation, preparation or placement on the market or are placed on the market, or records pertaining to such activities are being retained,

(b) inspect and take copies of or extracts from any books, documents or other records which he or she finds in the course of the inspection,

(c) examine and copy any data or data material (within the meaning in each case

of the Data Protection Act 1988 (No. 25 of 1988)) he or she finds there, extract information from any such data and take extracts from any such material,

- (d) carry out such examinations, tests and inspections, as he or she may think fit and remove from there any product for further examination,
- (e) take, without payment, such samples, including samples of wrapping, packaging, labelling or advertising material as he or she may think fit,
- (f) seize and detain olive oil product,
- (g) in relation to any seized product, 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 product may be used or disposed of in such manner as the authorised officer directs,
- (h) the costs of disposal or destruction of the product under subparagraph (g) are recoverable by the Minister as a simple contract debt in any court of competent jurisdiction from the person who was the owner or person in charge of such product at the time the disposal or destruction was carried out,
- (i) secure for later inspection the premises or part of the premises.

(2) An authorised officer shall not, other than with the consent of the occupier, enter a private dwelling unless he or she has obtained a warrant from the District Court under paragraph (3).

(3) If a Judge of the District Court is satisfied on the sworn information of an authorised officer that there are reasonable grounds for suspecting that there are olive oil products on any premises or at any place, the judge may issue a warrant authorising an authorised officer, accompanied if appropriate, by other authorised officers or by a member or members of the Garda Síochána at any time or times within one month of the date of issue of the warrant, on production of the warrant requested, to enter those premises or part of those premises or that place, if need be by reasonable force, and exercise all or any of the powers conferred on an authorised officer under these Regulations.

6. (1) It is an offence to fail to comply with these Regulations.

(2) An offence under these Regulations may be prosecuted by the Minister, the Director of Consumer Affairs or by a Health Board in whose functional area the offence was committed.

(3) A person guilty of an offence under these Regulations is liable on summary conviction to a fine not exceeding €3,000.

7. (1) Where an authorised officer has reasonable grounds for believing that a person is committing or has committed an offence under these Regulations, 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 from the date of the notice make to the Minister a payment of €100 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 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.

GIVEN under my Official Seal, this 26th day of May, 2004.

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 give legal effect to Commission Regulation (EC) No. 1019/2002 of 13 June 2002 as amended by Commission Regulation (EC) No. 1176/2003 of 1 July 2003, which prescribe, within the European Union, standards for the marketing of olive oil.

¹ O.J. No. L 155, 14.6.2002, p. 27.

² O.J. No. L 164, 2.7.2003, p. 12.

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