



STATUTORY INSTRUMENTS.

S.I. No. 705 of 2006

EUROPEAN COMMUNITIES (PROTECTION OF
ANIMALS KEPT FOR FARMING PURPOSES)
REGULATIONS 2006

(Prn. A6/2326

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EUROPEAN COMMUNITIES (PROTECTION OF
ANIMALS KEPT FOR FARMING PURPOSES)
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I, MARY COUGHLAN, 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 Directive 98/58/EC of 20 July 1998¹, hereby make the following regulations:

Citation

1. These Regulations may be cited as the European Communities (Protection of Animals Kept for Farming Purposes) Regulations 2006.

Interpretation

2. (1) In these Regulations—

“animal” means an animal (including fish, reptiles or amphibians) bred or kept for the production of food, wool, skin or fur or for other farming purposes;

“authorised officer” means—

- (a) an authorised officer within the meaning of section 17A (inserted by the Diseases of Animals (Amendment) Act 2001 (No. 3 of 2001)) of the Diseases of Animals Act 1966 (No. 6 of 1966),
- (b) an authorised person or authorised officer within the meaning of the Protection of Animals Kept for Farming Purposes Act 1984 (No. 13 of 1984),
- (c) a member of the Garda Síochána,
- (d) an officer of Customs and Excise, or
- (e) a person appointed under Regulation 5;

¹O.J. No. L 221 of 8.8.1998, p.23.

Notice of the making of this Statutory Instrument was published in “Iris Oifigiúil” of 12th January, 2007.

“Council Directive” means Council Directive No. 98/58/EC of 20 July 1998;

“Minister” means Minister for Agriculture and Food;

“premises” includes land (including land under water) with or without buildings, an establishment (within the meaning of the European Communities (Food and Feed Hygiene) Regulations 2005 (S.I. No. 910 of 2005)), a vehicle (including a boat, ship, hovercraft, aircraft or offshore installation (being an offshore installation within the meaning of the Safety, Health and Welfare (Offshore Installations) Act 1987 (No. 18 of 1987)), railway wagon, container or other thing used in connection with, or ancillary to, a thing aforesaid.

(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 same meaning in these Regulations as it has in the Council Directive.

Scope

3. These Regulations do not apply to—

- (a) an animal living in the wild,
- (b) an animal intended for use in competitions, shows, cultural or sporting events or activities,
- (c) experimental or laboratory animals, or
- (d) an invertebrate animal.

Obligation to ensure welfare of animals

4. (1) A person shall take all necessary steps to ensure the welfare of an animal in his or her possession or under his or her care and to ensure that the animal is not caused unnecessary pain, suffering or injury.

(2) A person shall ensure that the conditions under which an animal (other than fish, a reptile or an amphibian) is bred or kept, having regard to its species and degree of development, adaptation and domestication, and to its physiological and ethological needs in accordance with established experience and scientific knowledge, comply with the Schedule.

Appointment of authorised officer

5. (1) The Minister may, by instrument in writing, appoint such and so many persons as he or she thinks fit to be authorised officers for the purposes of some or all of these Regulations as may be specified in the instrument.

(2) The Minister may terminate the appointment of an authorised officer appointed by him or her, whether or not the appointment was for a fixed period.

(3) An appointment as an authorised officer ceases—

- (a) if it is terminated pursuant to paragraph (2),
- (b) if it is for a fixed period, on the expiry of that period, or
- (c) if the person appointed is an officer of the Minister, upon the person ceasing to be such an officer.

(4) Nothing in paragraph (3) is to be construed so as to prevent the Minister from reappointing as an authorised officer a person to whom that paragraph relates.

(5) An authorised officer shall be furnished with a warrant of his or her appointment as an authorised officer and, when exercising a power conferred on him or her, the officer, an officer of Customs and Excise or a member of the Garda Síochána shall, if requested by a person affected, produce the warrant or evidence that he or she is such an officer or member to the person.

Functions of authorised officer

6. (1) If an authorised officer has reasonable cause to suspect that—

- (a) an animal is present, has been present or may be present on a premises,
- (b) an animal is or has been slaughtered, processed, stored or otherwise dealt with on a premises,
- (c) a document relating to an animal is present, was present or may be present on a premises, and

- (d) an offence is being or has been committed under these Regulations,

the authorised officer may enter the premises and he or she may—

- (i) search the premises,
- (ii) stop a person, vehicle, vessel or container,
- (iii) board and search a vehicle, vessel, aircraft or container,
- (iv) search a person, where the authorised officer considers it necessary,
- (v) examine an animal, premises, vehicle, vessel, container or other thing that may be used in connection with an animal,
- (vi) take, without payment, samples from an animal, feed or other thing or an article, substance or liquid as he or she may reasonably require and carry out or cause to be carried out on a sample such tests, analyses, examinations or inspections as he or she considers necessary or expedient,
- (vii) seize and detain (for so long as is necessary) an animal, feed, vessel, vehicle, container or other thing,
- (viii) require the production of a document or thing relating to an animal, feed, vehicle, vessel, container or other thing,
- (ix) photograph or otherwise record an animal, premises, container, document or other thing and retain it (for so long as is necessary),
- (x) deal with or dispose of, or require the owner or person in charge of, or in possession of, an animal, feed, vessel, vehicle or container to deal with or dispose of it (or any equipment, machinery, plant or other thing used in connection with, or that may have been in contact with the animal or feed,) in a manner that the authorised officer sees fit,

- (xi) give a direction to, or request information of, a person regarding an animal, feed, vessel, vehicle, container, premises or other thing as he or she considers necessary,
- (xii) require the name and address of a person and the name and address of any other relevant person including the person to whom an animal or feed, is being delivered or who is causing it to be delivered,
- (xiii) require of a person the ownership, identity and origin of the animal or feed, or
- (xiv) mark or otherwise identify an animal, feed, or a sample taken under subparagraph (vi).

(2) An authorised officer shall not enter, except with the consent of the occupier, a private dwelling, unless he or she has obtained a search warrant under Regulation 7.

(3) An authorised officer may use reasonable force, if necessary, in exercise of his or her powers under this Regulation.

(4) An authorised officer, when exercising a power under this Regulation may be accompanied by other persons and may take with him or her, or those persons may take with them, any equipment or materials to assist the officer in the exercise of the power.

(5) An authorised officer is not liable in any proceedings for anything done in the purported exercise of his or her powers under these Regulations if the court is satisfied that the act was done in good faith and that there were reasonable grounds for doing it.

(6) Without prejudice to the generality of paragraph (1), a direction or requirement of an authorised officer may include conditions prohibiting, restricting or otherwise controlling the use, processing or movement of an animal as may be specified by the authorised officer.

(7) Nothing in this Regulation operates to prejudice any power to search, or to seize or detain property, which may, apart from these Regulations, be exercised by a member of the Garda Síochána or an officer of Customs and Excise.

(8) If a member of the Garda Síochána has reasonable grounds to suspect that a person has committed an offence under these Regulations, the member may without warrant arrest the person.

Search warrant

7. (1) If a judge of the District Court is satisfied by information on oath of an authorised officer that there are reasonable grounds for suspecting—

- (a) evidence of, or relating to, the commission or intended commission of an offence under these Regulations is to be found on a premises (including a private dwelling),
- (b) there is or was an animal, feed, equipment or other thing made used or adapted for use (including manufacture and transport) in connection with an animal or feed, on a premises (including a private dwelling),
- (c) a document or other record related to a thing to which subparagraph (a) or (b) refers is or may be on the premises (including a private dwelling),

the judge may issue a search warrant.

(2) A search warrant under this Regulation shall be expressed and operate to authorise a named authorised officer, accompanied by such authorised officers or other persons as the named authorised officer thinks necessary, at any time, within one month from the date of issue of the warrant, on production if so requested of the warrant, to enter (if necessary by use of reasonable force) the premises (including a private dwelling) named in the warrant.

(3) If a premises (including a private dwelling) is entered pursuant to a warrant issued under this Regulation, an authorised officer so entering may exercise all or any of the powers conferred on an authorised officer under these Regulations.

Welfare Notice

8. (1) If an authorised officer is of the opinion that—

- (a) an animal is being caused unnecessary pain, suffering or injury,
- (b) there is a serious risk to the welfare of an animal, or

- (c) the conditions under which an animal is being bred or kept contravene these Regulations,

he or she may serve or cause to be served on the owner or keeper of the animal a notice stating that opinion and directing that—

- (i) an ill or injured animal be cared for in an appropriate manner,
- (ii) veterinary advice be obtained in respect of an ill or injured animal,
- (iii) the animal be supplied with feed appropriate to its age and species and in such quantity as will maintain it in good health,
- (iv) the animal be given access to such a supply of suitable water as will enable it to fulfil its fluid intake needs,
- (v) the animal be moved to and kept in such place as the officer shall specify in the notice,
- (vi) the animal be sold, destroyed or otherwise disposed of in such manner and at such place (if any) as the officer may specify in the notice,
- (vii) such alterations or additions be made to the premises, land or place at which the animal is kept, or to the equipment and facilities found there, as the officer shall specify in the notice,
- (viii) such alterations be made to the manner in which the animal is kept as the officer shall specify in the notice, or
- (ix) such other measures be taken as are necessary to ensure that the animal is kept in a manner that complies with these Regulations.

(2) A welfare notice may specify one or more requirements or refer to one or more animals or species of animal.

(3) A requirement contained in a welfare notice may specify a time limit within which it is to be complied with.

(4) A welfare notice may require the owner or keeper of the animal to choose between two or more of the requirements specified in the welfare notice.

(5) A requirement specified in a welfare notice (in this Regulation referred to as “the earlier welfare notice”) may be modified or withdrawn in a further welfare notice and in that event the earlier welfare notice shall have effect subject to such modification or withdrawal.

(6) A person, including a person upon whom a welfare notice has been served, shall not deal with an animal to which the welfare notice relates other than in accordance with the terms of the welfare notice.

(7) In the event of an appeal made pursuant to Regulation 10 a person, including the person appealing, shall not deal with an animal to which a welfare notice relates pending the determination of the appeal other than in accordance with such directions as shall be given in writing to the appellant by an authorised officer.

(8) If the terms of a welfare notice are confirmed with or without modification by the Judge of the District Court hearing an appeal under Regulation 10, a person including the person who made the appeal shall not deal with an animal to which the welfare notice relates other than in accordance with the welfare notice as confirmed.

(9) Any costs pertaining to action required to comply with a welfare notice will be borne by the owner of the animal to which the welfare notice relates.

Service of Welfare Notice

9. (1) A welfare notice shall, subject to paragraph (2), be addressed to the person concerned by name and may be served on a person—

- (a) by giving it to the person,
- (b) by leaving it at the address at which the person ordinarily resides or, where an address for service has been furnished, at that address,
- (c) by sending it by post in a prepaid registered letter to the address at which the person ordinarily

resides or, where an address for service has been furnished, at that address, or

(d) if the address at which the person ordinarily resides cannot be ascertained by reasonable enquiry and the welfare notice relates to a premises, by delivering it to the premises or by affixing it in a conspicuous position on or near the premises.

(2) If a welfare notice is to be served on a person who is the owner or keeper of an animal and the name of the person cannot be ascertained by reasonable enquiry, it may be addressed to that person by using the words “the owner” or “the keeper”.

(3) A person shall not, at any time within 6 months after a welfare notice is affixed under paragraph (1)(d), remove, damage or deface the notification or compliance notice without lawful authority.

(4) For the purposes of this Regulation, a company within the meaning of the Companies Acts is considered to be ordinarily resident at its registered office and every other body corporate or unincorporated body is considered to be ordinarily resident at its principal office or place of business.

Appeal against welfare notice

10. (1) A person may appeal within 7 days of the service of a welfare notice to the Judge of the District Court having jurisdiction in the District Court District where the animal to which the welfare notice relates is situated or to the Judge of the District Court where the person bringing the appeal ordinarily resides or carries on business on the grounds that the notice or any terms thereof are not justified having regard to the provisions of these Regulations and the objectives of the Council Directive (hereafter referred to as “an appeal”).

(2) An appeal may be heard at any sitting of the District Court within the appropriate District Court District.

(3) Notice of an appeal shall be served on the Minister at least 2 days 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 welfare notice.

(4) A notice of appeal shall contain a statement of the grounds upon which it is alleged that the welfare notice or any of the terms thereof are not justified.

(5) A copy of the notice of appeal shall be lodged with the District Court Clerk in the manner specified in the welfare notice or paragraph (3) of Regulation 10 at least 2 days prior to the hearing of the appeal.

(6) On the hearing of an appeal under this Regulation a Judge of the District Court may confirm, modify or annul the welfare notice.

Power to seize and dispose of animals

11. (1) Without prejudice to Regulation 6(1) or 12, if—
- (a) the owner or keeper or an animal fails to comply with the terms of a welfare notice within the time limit specified therein,
 - (b) an authorised officer has reasonable grounds for believing that the terms of a welfare notice will not be complied with,
 - (c) a welfare notice has been confirmed with or without modification under Regulation 10 and the notice has not been complied with,
 - (d) an authorised officer has reasonable grounds for believing that the terms of a welfare notice which has been confirmed with or without modification under Regulation 10 will not be complied with, or
 - (e) pending the determination of an appeal made pursuant to Regulation 10, an authorised officer has reasonable grounds for believing that a welfare notice or a direction given pursuant to Regulation 6 have not been or will not be complied with,

and an authorised officer is of the opinion that there is a serious risk to the welfare of an animal and that measures should be taken to prevent the animal being caused unnecessary pain or suffering, an authorised officer may at any time seize the animal concerned at such premises, land or place as he or she thinks fit.

(2) An authorised officer may sell or dispose of a seized animal or cause it to be sold or be otherwise disposed of or destroyed in such manner and at such place as the authorised officer considers appropriate in the circumstances of the case.

(3) Any profits arising out of the sale or disposal of an animal under this Regulation shall be paid to the owner of the animal less any expenses incurred in connection with seizure, sale, disposal or destruction of the animal.

(4) The costs (including ancillary costs) of seizure, maintenance, sale, disposal or destruction of an animal under this Regulation, Regulation 8 or Regulation 12 are, subject to paragraph (3), recoverable—

- (a) by deducting the costs from any sum that is or becomes payable by the Minister to the owner of the animal, or
- (b) as a simple contract debt in any court of competent jurisdiction from the person who was the owner of the animal at the time of seizure, sale, disposal or destruction took place.

Emergency measures

12. Notwithstanding Regulation 10(1), if an authorised officer who is a veterinary practitioner (within the meaning of the Veterinary Practice Act 2005 (No. 22 of 2005)) is of the opinion that an animal is suffering such a degree of pain, suffering or injury that measures must be taken immediately to relieve its suffering, he or she may seize, sell, dispose of or destroy or may arrange for the sale, disposal or destruction of an animal, without affording the owner or keeper the opportunity of making an appeal under Regulation 10.

Obstruction etc.

13. A person shall not—

- (a) obstruct or impede an authorised officer in the exercise of his or her functions under these Regulations,
- (b) fail, without reasonable cause, to comply with a requirement or direction of an authorised officer under Regulation 6,

- (c) in purporting to give information to an authorised officer for the performance of the officer's functions under Regulation 6—
 - (i) make a statement that he or she knows to be false in a material particular or recklessly make a statement which is false in a material particular, or
 - (ii) fail to disclose a material particular,
- (d) tamper or otherwise interfere with a sample taken under Regulation 6, or
- (d) aid or abet a contravention of these Regulations.

Offences

14. (1) A person who—

- (a) contravenes Regulation 4, 8 (6), (7) or (8) or 13, or
- (b) fails to comply with the requirements of a welfare notice, or a welfare notice confirmed with or without modification,

commits an offence and is liable on conviction to a fine not exceeding €5,000 or to a term of imprisonment not exceeding 6 months or both.

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

(3) If an offence under these Regulations is committed by a body corporate or by a person purporting to act on behalf of a body corporate or on behalf of an unincorporated body of persons and it 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 any other person who, when the offence was committed, was, or purported to act as, a director, manager, secretary or other officer (including a member of any committee of management or other controlling authority) of the body, such other person as well as the body, or the person so purporting to act on behalf of the body, commits an offence and is liable to be proceeded against and punished as if he or she were guilty of the first-mentioned offence.

(4) If the affairs of a body corporate are managed by its members, paragraph (3) applies in relation to the acts and defaults of a member in connection with the functions of management as if the member were a director or manager of the body corporate.

Revocation and Savers

15. (1) The European Communities (Protection of Animals Kept for Farming Purposes Regulations 2000 (S.I. No. 127 of 2000) are, subject to paragraphs (2) and (3), revoked.

(2) A notice under Regulation 7 of the Regulations revoked by paragraph (1) remains in force and shall be dealt with as if it were a welfare notice.

(3) An appeal under Regulation 9 of the Regulations revoked by paragraph (1) shall be dealt with as if it were an appeal under Regulation 10 of these Regulations.

(4) These Regulations are in addition to and not in substitution for—

- (a) the Protection of Animals Kept for Farming Purposes Act 1984 (No. 13 of 1984),
- (b) the European Communities (Welfare of Laying Hens) Regulations 2002 (S.I. No. 98 of 2002), and
- (c) the European Communities (Welfare of Calves and Pigs) Regulations 2003 (S.I. No. 48 of 2003).

Regulation 4(2)

SCHEDULE

**CONDITIONS UNDER WHICH ANIMALS SHOULD
BE KEPT**

Staffing.

1. Animals shall be cared for by a sufficient number of staff who possess the appropriate ability, knowledge and professional competence.

Inspection.

2. All animals kept in husbandry systems in which their welfare depends on frequent human attention shall be inspected at least once a day. Animals in other systems shall be inspected at intervals sufficient to avoid any suffering.

3. Adequate lighting (fixed or portable) shall be available to enable the animals to be thoroughly inspected at any time.

4. Any animal which appears to be ill or injured must be cared for appropriately without delay and, where an animal does not respond to such care, veterinary advice must be obtained as soon as possible. Where necessary, sick or injured animals shall be isolated in suitable accommodation with, where appropriate, dry comfortable bedding.

Record keeping.

5. The owner or keeper of the animals shall maintain a record of any medicinal treatment given and of the number of mortalities found at each inspection. Where equivalent information is being kept for other purposes this shall also suffice for the purposes of these Regulations.

6. These records shall be retained for a period of at least 3 years and shall be made available to an authorised officer when carrying out an inspection or when otherwise requested by an authorised officer.

Freedom of movement.

7. The freedom of movement of an animal, having regard to its species and in accordance with established experience and scientific knowledge, must not be restricted in such a way as to cause it unnecessary suffering or injury. Where an animal is continuously or regularly tethered or confined, it must be given the space appropriate to its physiological and ethological needs in accordance with established experience and scientific knowledge.

Buildings and accommodation.

8. Materials to be used for the construction of accommodation, and in particular for the construction of pens and equipment with which the animals may come into contact, must not be harmful to the animals and must be capable of being thoroughly cleaned and disinfected.

9. Accommodation and fittings for securing animals shall be constructed and maintained so that there are no sharp edges or protrusions likely to cause injury to the animals.

10. Air circulation, dust levels, temperature, relative air humidity and gas concentrations must be kept within limits which are not harmful to the animals.

11. Animals kept in buildings must not be kept either in permanent darkness or without an appropriate period of rest from artificial lighting. Where the natural light available is insufficient to meet the physiological and ethological needs of the animals appropriate artificial lighting must be provided.

Animals not kept in buildings.

12. Animals not kept in buildings shall where necessary and possible be given protection from adverse weather conditions, predators and risks to their health.

Automatic or mechanical equipment.

13. All automated or mechanical equipment essential for the health and well-being of the animals must be inspected at least once daily. Where defects are discovered these must be rectified immediately or, if this is impossible, appropriate steps must be taken to safeguard the health and well-being of the animals. Where the health and well-being of the animals are dependent on an artificial ventilation system provision must be made for an appropriate backup system to guarantee sufficient air renewal to preserve the health and well-being of the animals in the event of failure of the system and an alarm system must be provided to give warning of breakdown. The alarm system must be tested regularly.

Feed, water and other substances.

14. Animals must be fed a wholesome diet which is appropriate to their age and species and which is fed to them in sufficient quantity to maintain them in good health and satisfy their nutritional needs. No animal shall be provided with food or liquid in a manner, nor shall such food or liquid contain any substance, which may cause unnecessary suffering or injury.

15. All animals must have access to feed at intervals appropriate to their physiological needs.

16. All animals must have access to a suitable water supply or be able to satisfy their fluid intake needs by other means.

17. Feeding and watering equipment must be designed, constructed and placed so that contamination of food and water and the harmful effects of competition between the animals are minimised.

18. No animal remedy may be administered to an animal other than an animal remedy authorised under and administered in accordance with the Animal Remedies Regulations, 2005 (S.I. No. 734 of 2005) and the Control of Animal Remedies and their Residues Regulations, 1998 (S.I. No. 507 of 1998) and no other substance may be given to an animal unless it has been demonstrated by scientific studies of animal welfare or established experience that the effect of that substance is not detrimental to the health or welfare of the animal.

Breeding procedures.

19. Natural or artificial breeding or breeding procedures that cause or are likely to cause suffering or injury to any of the animals concerned must not be practised. This provision shall not preclude the use of certain procedures likely to cause minimal or momentary suffering or injury or which might necessitate interventions which would not cause lasting injury.

20. An animal shall not be kept for farming purposes unless it can reasonably be expected, on the basis of its genotype or phenotype, that it can be kept without detrimental effect on its health or welfare.



GIVEN under my Official Seal,
20 December 2006

MARY COUGHLAN
Minister for Agriculture and Food

EXPLANATORY NOTE.

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

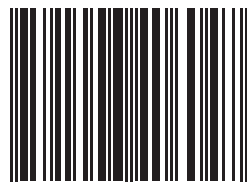
These Regulations give effect to Council Directive 98/58/EC concerning the protection of animals kept for farming purposes and require owners and keepers to ensure the welfare of their animals.

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
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€3.56

ISBN 1-4064-0604-X



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Wt. (B25004). 310. 1/07. Cahill. Gr. 30-15.