

S.I. No. 312/2011 — European Communities (Classical Swine Fever) (Restriction on imports from Germany) Regulations 2011.

Notice of the making of this Statutory Instrument was published in “Iris Oifigiúil” of 28th June, 2011.

I, SIMON COVENEY, Minister for Agriculture, Fisheries 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 full effect to Commission Decision 2008/855/EC of 3 November 2008¹ as amended by Commission Decision 2009/254/EC of 20 March 2009², Commission Decision 2009/423/EC of 26 May 2009³, Commission Decision 2009/952/EU of 14 December 2009⁴ and Commission Decision 2010/211/EU of 7 April 2010⁵, hereby make the following regulations:

1. These regulations may be cited as the European Communities (Classical Swine Fever) (Restriction on imports from Germany) Regulations 2011.

2. (1) In these Regulations—

“authorised officer” means—

(a) an officer authorised under section 17A (inserted by section 2 of the Diseases of Animals (Amendment) Act 2001 (No. 3 of 2001)) of the Diseases of Animals Act 1966 (No. 6 of 1966),

(b) a member of the Garda Síochána, or

(c) an officer of Customs and excise;

“Commission Decision” means Commission Decision 2008/855/EC of 3 November 2008 as amended by Commission Decision 2009/254/EC of 20 March 2009, Commission Decision 2009/423/EC of 26 May 2009, Commission Decision 2009/952/EU of 14 December 2009 and Commission Decision 2010/211/EU of 7 April 2010;

“Minister” means Minister for Agriculture, Fisheries and Food;

“restricted area” means that part of the Union described in the Annex to the Commission Decision.

(2) A word or expression that is used in the Commission Decision and is also used in these Regulations has, in these Regulations, the same meaning as in the Commission Decision.

3. (1) A person shall not import from the restricted area—

(a) a pig unless it complies with Articles 2, 6 and 7 of the Commission Decision,

(b) boar semen unless it complies with Article 5(a) of the Commission Decision, or

(c) the ovum or embryo of a pig unless it complies with Article 5(b) of the Commission Decision.

(2) A person shall not import a pig, semen, the ovum or embryo of a pig, fresh pig meat, a meat preparation or meat product derived from a pig from the restricted area.

(3) Paragraph (2) does not apply to a pig, meat preparation or meat product that complies with Article 7(2) of the Commission Decision.

4. (1) A person shall not have in his or her possession or control, a pig, semen or the ovum or embryo of a pig or fresh pigmeat, a meat preparation or meat product, derived from a pig, sell or supply a pig, porcine semen or the ovum or embryo of a pig, fresh pigmeat, a meat preparation or meat product derived from a pig that has been imported in contravention of Regulation 3.

Functions of authorised officer

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

(a) a pig, fresh pigmeat, a meat preparation or meat product derived from a pig or the semen, ova or embryo of a pig is present, has been present or may be present on a premises,

(b) a pig, fresh pigmeat, a meat preparation or meat product derived from a pig or the semen, ova or embryo of a pig is or has been kept, processed, stored or otherwise dealt with on a premises,

(c) equipment, plant or machinery used in connection with a pig, fresh pigmeat, a meat preparation or meat product derived from a pig or the semen, ova or embryo of a pig is or may be on a premises,

(d) a document relating to a thing referred to in paragraph (a), (b) or (c) is present, was present or may be present on a premises,

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 or container,

(iv) examine a pig, fresh pigmeat, a meat preparation or meat product derived from a pig or the semen, ova or embryo of a pig,

(v) take, without payment, samples of a pig, fresh pigmeat, a meat preparation or meat product derived from a pig or the semen, ova or embryo of a pig 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,

(vi) require the production of a document (including a document in non-legible form in a legible form) or thing relating to a pig, fresh pigmeat, a meat preparation or meat product derived from a pig or the semen, ova or embryo of a pig,

(vii) retain a document or thing (for so long as is necessary),

(viii) make a record using any means including writing, photography or video,

(ix) give a direction to, or request information of, a person regarding a pig, fresh pigmeat, a meat preparation or meat product derived from a pig or the semen, ova or embryo of a pig as he or she considers necessary,

(x) require the name and address of a person and the name and address of any other person including the owner of, or person to whom a pig, fresh pigmeat, a meat preparation or meat product derived from a pig or the semen, ova or embryo of a pig is being delivered or who is causing it to be delivered,

(xi) require of a person the ownership, identity and origin of a pig, fresh pigmeat, a meat preparation or meat product derived from a pig or the semen, ova or embryo of a pig,

(xii) require a person in charge or control of a vessel, vehicle or container to refrain from moving it, or

(xiii) mark or otherwise identify a pig, fresh pigmeat, a meat preparation or meat product derived from a pig or the semen, ova or embryo of a pig or a sample taken under subparagraph (v).

(2) If an authorised officer has reasonable cause to suspect that—

(a) an offence is being or has been committed under these Regulations or Regulations made under the European Communities Act 1972 relating to a pig, fresh pigmeat, a meat

preparation or meat product derived from a pig, or the semen, ova or embryo of a pig,

(b) a contravention of an act of the institutions of the European Communities is being or has been committed, or

(c) evidence of an offence or contravention may be, is or has been on a premises, the authorised officer may, in addition to the powers exercisable by him or her under paragraph (1)—

(i) search a person, where the authorised officer considers it necessary,

(ii) seize and detain a pig, fresh pigmeat, a meat preparation or meat product derived from a pig or the semen, ova or embryo of a pig,

(iii) dispose of, or require the owner or person in charge of or in possession of a pig, fresh pigmeat, a meat preparation or meat product derived from a pig or the semen, ova or embryo of a pig 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 pig, fresh pigmeat, a meat preparation or meat product derived from a pig or the semen, ova or embryo of a pig) in a manner that the authorised officer sees fit.

(3) 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 6* other than if he or she has reasonable cause to suspect that before a search warrant could be sought in relation to the dwelling anything to which paragraph (1) or (2) relates is being or is likely to be destroyed or disposed of.

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

(5) 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.

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

(7) 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.

(8) If in the course of exercising any powers under these Regulations an authorised officer or a member of the Garda Síochána finds or comes into possession of any thing that the officer or member believes to be evidence of an offence or suspected offence under these Regulations, it may be seized and retained for use in evidence in criminal proceedings.

(9) Nothing in these Regulations operates to prejudice a power conferred by another enactment to search, or to seize or detain property, which may be exercised by a member of an Garda Síochána or a person appointed under section 858 of the Taxes Consolidation Act 1997 (No. 39 of 1997).

Search warrant

6. (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) that there is on a premises, vehicle, vessel or aircraft a pig, fresh pigmeat, a meat preparation or meat product derived from a pig or the semen, ova or embryo of a pig,

(b) that there is on a premises, vehicle, vessel or aircraft a document, record or other thing relating to a pig, fresh pigmeat, a meat preparation or meat product derived from a

pig or the semen, ova or embryo of a pig, or

(c) that there is evidence of a contravention of these Regulations therein or thereon, 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 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, vehicle, vessel or aircraft named in the warrant.

(3) If a premises 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.

7. (1) A person who contravenes Regulation 3 or 4 commits an offence and is liable on conviction to a Class A fine or to a term of imprisonment not exceeding 6 months or to both.

8. The European Communities (Classical Swine Fever) (Restriction on Imports from Germany) Regulations 2010 (S.I. No. 210 of 2010) are revoked.



GIVEN under my Official Seal,

22 June 2011.

SIMON COVENEY,

Minister for Agriculture, Fisheries and Food.

EXPLANATORY NOTE

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

These regulations concern import restrictions of pigs and pig products due to the incidence of Classical Swine Fever in certain parts of Germany.

1 O.J. L302, 13.11.2008, p. 19

2 O.J. L75, 21.3.2009, p. 22

3 O.J. L138, 4.6.2009, p. 5

4 O.J. L328, 15.12.2009, p. 76

5 O.J. L089, 9.4.2010, p. 25

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