



STATUTORY INSTRUMENTS.

S.I. No. 374 of 2012



EUROPEAN COMMUNITIES (IMPORT OF PERSONAL
CONSIGNMENTS OF PRODUCTS OF ANIMAL ORIGIN)
REGULATIONS 2012

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I, SIMON COVENEY, Minister for Agriculture, Food and the Marine, 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 Commission Regulation (EC) No 206/2009 of 5 March 2009¹ hereby make the following regulations:

1. These Regulations may be cited as the European Communities (Import of Personal Consignments of Products of Animal Origin) Regulations 2012.

Interpretation.

2. (1) In these Regulations—

“animal product” means personal consignments of products of animal origin referred to in Article 2 of the Commission Regulation;

“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) a person appointed under Regulation 4,
- (c) a member of the Garda Síochána, or
- (d) an authorised officer within the meaning of section 858 of the Taxes Consolidation Act 1997 (No. 39 of 1997) (hereinafter referred to as a Customs and Excise officer);

“Minister” means Minister for Agriculture, Food and the Marine;

“Commission Regulation” means Commission Regulation (EC) No 206/2009 of 5 March 2009;

“premises” includes land (including land under water) with or without buildings, an establishment, a vehicle used in connection with, or ancillary to such a thing.

“vehicle” includes a railway wagon or trailer, designed for use or used with a vehicle, or container designed or used for carriage on a vehicle, whether either is attached to or detached from a vehicle;

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 5th October, 2012.*

“vessel” includes a boat, ship, hovercraft or aircraft.

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

Contravention of the Commission Regulation

3. A person shall not contravene Article 2 of the Commission Regulation.

Appointment of Authorised Officer

4. (1) The Minister may, appoint in writing, such persons or a class of persons as he or she considers appropriate to be authorised officers for the exercise of all or any of the functions conferred on an authorised officer under these Regulations, specified in the appointment.

(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 or specified purpose.

(3) An appointment as an authorised officer ceases-

- (a) if it is terminated in accordance with paragraph (2),
- (b) if it is for a fixed period, on the expiration of that period,
- (c) if it is for a specified purpose, on the completion of that purpose, or
- (d) if the person appointed is an officer of the Minister upon the person ceasing to be such an officer or class of person.

(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 paragraph (3) relates.

(5) An authorised officer appointed under this Regulation shall be furnished with a warrant of his or her appointment and, when exercising a function conferred on him or her as an authorised officer, the officer shall, if requested by a person affected, produce the warrant, or other evidence (including an identity document relating to the officer under section 17 of the Animal Remedies Act 1993) that he or she is such an officer, for inspection.

Functions of authorised officer

5. (1) For the purposes of these Regulations an authorised officer may—

- (a) enter and inspect, at all reasonable times, any premises, vessel or vehicle, if he or she is carrying out an official control in accordance with these Regulations or where he or she has reasonable grounds for believing that—
 - (i) animal product or other thing to which the Commission Regulations relate is, may be or has been present,

- (ii) a record relating to a animal product or other thing to which the Commission Regulation relate is, may be or has been present, equipment, machinery, a vehicle, a vessel or other thing used in connection with an animal product or other thing to which the Commission Regulation relate is, may be or has been present,

or,

- (b) examine traveller's luggage, equipment, machinery, a vehicle, a vessel or other thing used in connection with an animal product or other thing to which the Commission Regulation relates,
- (c) require the name and address of the owner or person in possession or control of traveller's luggage, equipment, machinery, a vehicle, a vessel or other thing used in connection with an animal product or other thing to which the Commission Regulation relates,
- (d) inspect traveller's luggage, equipment, machinery, a vehicle, a vessel or other thing used in connection with an animal product or other thing to which the Commission Regulation relates and require the person in charge or control of such to refrain from moving it,
- (e) require the owner, person in charge of any premises, traveller's luggage, equipment, machinery, a vehicle, a vessel or other thing used in connection with an animal product or other thing to which the Commission Regulation relate to produce to the officer such records (and in the case of a record stored in non-legible form, produce to him or her a copy in a legible form) that are in the person's possession or procurement, or under the person's control, as the officer may reasonably require,
- (f) inspect and take copies of any record (including a legible reproduction of one stored in non-legible form), document or extracts from the record or document that the officer finds or is produced to him or her during an inspection,
- (g) take photographs

(2) An authorised officer may require a person to give information regarding the ownership and identity of traveller's luggage, equipment, machinery, a vehicle, a vessel or other thing used in connection with an animal product or other thing to which the Commission Regulation relate as is in the person's knowledge or procurement.

(3) Where an authorised officer has reasonable grounds for believing that—

- (a) there is a risk of disease to public or animal health,
- (b) a disease or disease agent is or may be present on a premises, traveller's luggage, machinery, equipment, vehicle or vessel,

- (c) there is or has been a contravention of these Regulations or the Commission Regulations,

or

- (d) evidence of a disease or a disease agent, contamination or an offence to which paragraph (c) relates may be, is or has been on any premises, or in any equipment, machinery, vehicle.

the officer may, in addition to the powers exercisable by him or her under paragraph (1)

- (i) search the premises;
- (ii) search the equipment, machinery, vehicle, vessel or other thing used in connection with an animal product or other thing to which the Commission Regulation relate;
- (iii) require a person in charge or control of the equipment, machinery, a vehicle, a vessel or other thing used in connection with an animal product or other thing to which the Commission Regulation relate—
 - (I) refrain from moving it, or move it to a location where it may be searched, and
 - (II) give information regarding its ownership, place of departure, journey or destination;
- (iv) take, without making a payment, samples any article, substance or liquid as he or she may reasonably require and carry out or cause to be carried out on the samples such tests, analyses, examinations or inspections as he or she considers necessary or expedient; and mark or otherwise identify it,
- (v) seize and detain an animal product or other thing to which the Commission Regulation relate and mark or otherwise identify it,
- (vi) detain any traveller's luggage, equipment, machinery, vehicle for such reasonable period necessary for the purposes of permitting an inspection or a search under this Regulation either at the place where it was first detained or require it to be moved to such other location as the authorised officer requires,
- (vii) remove any equipment, machinery, vehicle, vessel or other thing used in connection with an animal product or other thing to which the Commission Regulation relate or books, documents or records and detain them for such reasonable period necessary for the purpose of his or her functions under these Regulations.

(4) 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 where he or she has reasonable grounds for believing that before a search warrant could be sought in relation to the dwelling under Regulation 6, any evidence of an offence referred to in paragraph (3)(c) is being or is likely to be disposed of or destroyed.

(5) An authorised officer, when exercising a function 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 function.

(6) An authorised officer may use reasonable force, if necessary, to exercise his or her functions under these Regulations.

(7) Where, in the course of exercising a function under these Regulations, an authorised officer finds or comes into possession of anything that the officer has reasonable grounds for believing to be evidence of an offence or suspected offence under these Regulations, the officer may seize and retain it for use in evidence in proceedings for an offence under these Regulations.

(8) Nothing in section 17 of the Industrial and Provident Societies Act 1893 prevents an authorised officer from exercising a function conferred on him or her by these Regulations.

(9) Where a person is seen or found committing, or is reasonably suspected of being engaged in committing or having committed, an offence under these Regulations a member of the Garda Síochána may, arrest the person without warrant.

(10) Section 4 of the Criminal Justice Act 1984 applies to a person arrested under this Regulation as if he or she were detained under that provision.

(11) Where a member of the Garda Síochána or an officer of Customs and Excise has reasonable grounds for believing that there is evidence on a person of an offence committed under these Regulations the member or officer may without warrant—

- (a) search or cause to be searched the person and, if the member or officer considers it necessary, detain the person for such time as is reasonably necessary to carry out the search,
- (b) search or cause to be searched a vehicle in which the member or officer suspects that evidence in relation to an offence committed under these Regulations may be found and for the purpose of carrying out the search, if the member or officer thinks fit, require the person who is, in charge or control of the vehicle to bring it to a stop and when stopped to refrain from moving it or, in case the vehicle is already stationary, to refrain from moving it, or

- (c) seize and detain under paragraph (3) or cause to be seized and detained anything found in the course of a search under this Regulation which any such member or officer reasonably suspects to be something which might be required as evidence in proceedings for such an offence.

(12) Where a member of the Garda Síochána or an officer of Customs and Excise decides to search or cause to be searched a person under paragraph (11) the member or officer may require the person to accompany that member or officer to either a Garda Síochána station or a customs office for the purpose of being so searched at that station or office.

(13) A member of the Garda Síochána may stop a vehicle, for the purposes of these Regulations and may require it to be moved for inspection to such place as he or she directs.

(14) Nothing in these Regulations operates to prejudice any power to search or to stop, 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.

(15) A person who has—

- (a) an animal product or other thing to which the Commission Regulation relates, or
- (b) traveller's luggage, equipment, machinery, a vehicle, a vessel or other thing used in connection with an animal product or other thing to which the Commission Regulation relate in his or her possession or under his or her control, or information or a record relating to any of them, shall give such—
 - (i) assistance to an authorised officer, or person who accompanies the officer, and
 - (ii) information to an authorised officer on request being made in that behalf by the officer, as the officer may reasonably require for the exercise of his or her functions under these Regulations.

(16) The owner, operator or person in charge of any premises used in connection an animal product or other thing to which the Commission Regulation relate shall, if required by an authorised officer, where it is practicable and possible, provide suitable equipment or facilities or a suitable part of the plant or establishment for the officer to carry out his or her functions under these Regulations.

(17) An authorised officer may require a person to give to the officer such information as is in the person's power or procurement or as regards any premises specified by the officer including—

- (a) whether or not the premises is used, either partly or wholly, for or in connection with an animal product or other thing to which the Commission Regulation relate,
- (b) the name of the person who is in occupation of the premises, and
- (b) whether or not the premises is let and, if let, the name and address of the person to whom, and the period of time for which, it is let.

(18)(a) Where an animal product or other thing is seized and detained under paragraph (3), an authorised officer may—

- (i) destroy or dispose of the animal product or other thing or cause it to be destroyed or disposed of, or
- (ii) take such other measures in relation to the animal product or other thing as the authorised officer considers appropriate, in the circumstances of the case.
- (b) The costs (including ancillary costs) of a measure taken under this Regulation may be recovered by the Minister—
 - (i) as a simple contract debt in a court of competent jurisdiction from the person who was the owner or person in charge of the animal product or other thing at the time the measure was carried out, or
 - (ii) by deducting the costs from any moneys due, or becoming due, and payable by the Minister to the owner or person in charge of the animal product.

Search warrant

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

- (a) evidence of or relating to the commission or intended commission of an offence under the Commission Regulation or these Regulations relating to an animal product or other thing to which the Commission Regulation relates on any premises,
- (b) there is or was an animal product or other thing to which the Commission Regulation relates or equipment or other thing made, used or adapted for use (including manufacture or transport) in connection with an animal product on a premises, or
- (c) a record related to a thing to which subparagraph (a) or (b) relates is or may be on the premises,

then 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 the premises named in the warrant and to exercise all or any of the functions conferred on an authorised officer under these Regulations.

Obstruction and false statements

7. (1) A person who—

- (a) obstructs, interferes with or impedes an authorised officer, or any person who accompanies an authorised officer, in the course of exercising a function conferred on the officer under these Regulations,
- (b) fails or refuses, without reasonable cause, to comply with a requirement, direction or prohibition of an authorised officer under Regulation 5,
- (c) fails, without reasonable cause, to give assistance or requested information to an authorised officer in accordance with these Regulations or the Commission Regulation, or
- (d) in purporting to give information to an authorised officer for the exercise of the officer's functions under Regulation 5—
 - (i) makes a statement that he or she knows to be false in a material particular or recklessly makes a statement which is false, in a material particular, or
 - (ii) intentionally fails to disclose a material particular,

commits an offence.

Fixed payment notice

8. (1) If the Minister has reasonable grounds for believing that a person has committed an offence under these Regulations and is liable to summary prosecution in respect thereof, the Minister may give to the person a notice in writing (in this Regulation referred to as a “fixed payment notice”) stating that—

- (a) the person is alleged to have committed that offence,
- (b) the person may during the period of 28 days beginning on the date of the notice make to the Minister concerned at the address specified in the notice a payment of €200 accompanied by the notice or a copy thereof,
- (c) the person is not obliged to make the payment specified in the notice, and

- (d) a prosecution of the person to whom the notice is given in respect of the alleged offence will not be instituted during the period of 28 days beginning on the date of 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 a fixed payment notice is given under paragraph (1)—

- (a) the person to whom it applies may, during the period of 28 days beginning on the date of the notice, make to the Minister concerned at the address specified in the notice the payment of €200 accompanied by the notice, or a copy thereof,
- (b) the Minister shall, upon receipt of the payment, issue a receipt for it and any payment so received shall not be recoverable by the person who made it, and
- (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 summary proceedings for an offence under these Regulations it shall be a defence for the defendant to prove that he or she has made a payment, in accordance with this Regulation, pursuant to a fixed payment notice issued in respect of that offence.

(4) Moneys received pursuant to the giving of a fixed payment notice shall be disposed of in a manner determined by the Minister, with the prior consent of the Minister for Finance.

Offences and penalties

9. (1) A person who contravenes Regulation 3 or 7 commits an offence.

(2) A person who commits an offence under paragraph (1) is liable on summary conviction, to a class A fine.

(3) Proceedings for an offence under these Regulations may be brought summarily by the Minister.

(4) If an offence under these Regulations is committed by a body corporate and it is proved to have been so committed with the consent or connivance of or to be attributable to any neglect on the part of any person who, when the offence is committed, is a director, manager, secretary or other officer of the body corporate, or a person purporting to act in any such capacity, that person, as well as the body corporate, is guilty of an offence and liable to be proceeded against and punished as if guilty of the first-mentioned offence.

(5) If the affairs of a body corporate or unincorporated body are managed by its members, paragraph (4) applies in relation to the acts and defaults of a

member in connection with functions of management as if the member is a director or manager of the body corporate.

Revocations.

10. The European Communities (Control on Imports of Animal Products for Personal Consumption) Regulations 2004 (S.I. 267 of 2004) are revoked.



Given under my Official Seal,
19 September 2012.

SIMON COVENEY,
Minister for Agriculture, Food and the Marine.

EXPLANATORY NOTE

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

This SI transposes Commission Regulation (EC) No 206/2009 of 5th March 2009 which introduces changes for personal imports of products of animal origin from countries outside the EU (both in baggage and in post).

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ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
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