

S.I. No. 325/2013 - European Union (African Swine Fever) (Non-EU Countries) Regulations 2013.

*Notice of the making of this Statutory Instrument was published in
"Iris Oifigiúil" of 30th August, 2013.*

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) and for the purpose of giving effect to Commission Decision 2013/426/EU of 5 August 2013¹, hereby make the following regulations:

1. These Regulations may be cited as the European Union (African Swine Fever) (Non-EU Countries) Regulations 2013.

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 Síochaná, or

(c) an officer of Customs and Excise;

“Commission Decision” means Commission Decision 2013/426/EU of 5 August 2013;

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

“livestock vehicle” means any vehicle being used or which has been used to transport live animals or animal feed;

“third country” means a country of part of a territory of a country that is not a member of the European Union.

(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. A person shall not bring a livestock vehicle into the State from a third country listed in Annex 1 to the Commission Decision unless—

(a) it has been cleansed and disinfected after the last unloading, and is accompanied by a certificate in the form set out in Annex II to the Commission Decision is signed by the driver or operator and presented to an

(b) authorised officer at the point of entry.

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

(a) a vehicle has been imported in contravention of these Regulations, or

(b) an offence is being or has been committed under these Regulations, the officer may—

- (i) stop and search a vehicle,
- (ii) examine a vehicle or container,
- (iii) take such specimens from a vehicle as the authorised officer considers appropriate,
- (iv) seize and detain (for so long as is necessary) a vehicle,
- (v) require the production of any relevant document or thing relating to a vehicle,
- (vi) retain any such document or thing (for so long as is necessary),
- (vii) require the owner or person in charge of or in possession of a vehicle to clean and disinfect the vehicle in such manner as the authorised officer directs or return the vehicle to the place from which it came, or
- (viii) give such directions to or request such information regarding the vehicle as he or she considers necessary.

(2) An authorised officer shall not enter, other than with the consent of the occupier, a private dwelling, unless he or she has obtained a search warrant under Regulation 5.

(3) An authorised officer when exercising any powers under this Regulation or Regulation 5 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 those powers.

(4) An authorised officer shall not be 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.

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

5. (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 any land or in any premises a livestock vehicle that has been, or that may have been brought into the State in contravention of these Regulations, or

(b) that there is evidence of an offence under these Regulations relating to such livestock vehicle therein or thereon,

the judge may issue a search warrant.

(2) A search warrant issued under this Regulation shall be expressed and operate to authorise a named authorised officer, accompanied by such authorised officers, members of the Garda Síochána, officers of Customs and Excise and other persons as the named 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 force) the land, premises or vehicle named in the warrant.

(3) If a premises, land or vehicle, vessel, aircraft or container 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.

6. A person shall not—

(a) obstruct or impede an authorised officer in the exercise of any of his or her powers under Regulation 4,

(b) fail, without reasonable excuse, to comply with a requirement or direction made by an authorised officer under Regulation 4, or

(c) in purporting to give information required by an authorised officer:

(i) make a statement which he or she knows to be false in a material particular, or

(ii) fail to disclose any material particular.

7. (1) A person who contravenes Regulations 3, 4 or 6 commits an offence and is liable on summary conviction to a class A fine or to a term of imprisonment not exceeding 6 months, or to 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 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 was committed, was 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, commits an offence and is liable to be proceeded against and punished as if 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.

8. The European Communities (African Swine Fever) (Russia) Regulations 2011 (S.I. No. 134 of 2011) are revoked.

L.S.

GIVEN under my Official Seal,

21 August 2013.

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.)

These Regulations give effect to Commission Decision 2013/426/EU to require that vehicles used to transport livestock or animal feed into or within certain non-EU countries are thoroughly cleansed and disinfected prior to entry or re-entry to the Union.

1 O.J. No L211 of 7.8.2013 p.15