

## INTERNATIONAL CARRIAGE OF PERISHABLE FOODSTUFFS ACT 1987

### LONG TITLE

An Act to enable effect to be given to an Agreement on the International Carriage of Perishable Foodstuffs and on the Special Equipment to be used for such Carriage (ATP) signed at Geneva on the 1st day of September, 1970, and to provide for matters related thereto. [17th November, 1987]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

### 1 Commencement.

SECT 1.—This Act shall come into operation on such day as the Minister by order appoints.

### 2 Interpretation.

SECT 2.— (1) In this Act, except where the context otherwise requires— "ATP" means the Agreement on the International Carriage of Perishable Foodstuffs and on the Special Equipment to be Used for such Carriage (ATP) signed at Geneva on the 1st day of September, 1970, as amended in accordance with Article 18 thereof; "certificate of compliance" means a certificate issued or recognised under section 7; "certification plate" means a plate issued or recognised under section 7; "container" means equipment having a prescribed minimum volume designed and constructed for repeated use for the carriage of goods by road, rail and water and for interchange between those means of carriage; "designated mark" means a mark designated under section 7; "inspector" means an inspector appointed under section 8 (2); "international carriage" has the meaning assigned to it by section 3 (2); "the Minister" means the Minister for Tourism and Transport; "perishable foodstuffs" means foodstuffs prescribed as such under section 4; "prescribed" means prescribed by regulations made by the Minister; "prescribed standards" means standards prescribed under section 4; "transport equipment" means containers, goods vehicles and railway wagons. (2) A reference in this Act to a section is to a section of this Act and a reference to a subsection is to the subsection of the section in which the reference occurs, unless it is indicated that reference to some other provision is intended.

### 3 International carriage to which Act applies.

SECT 3.—(1) This Act applies to the carriage of perishable foodstuffs into the State or from the State into another State which is a Contracting Party to ATP by road or by rail or by a sea journey of less than 150 kilometres without transloading of the foodstuffs or by any combination of those means of carriage, other than— ( a ) carriage by road or by rail within the State only, or within another State only, whether before or after a sea journey of 150 kilometres or more between those States, and ( b ) carriage in containers by road or by rail through the State or another State without transloading of the foodstuffs where such carriage is preceded or followed by a sea journey of 150 kilometres or more. (2) In this Act "international carriage" means carriage to which, by virtue of subsection (1), this Act applies.

### 4 Regulation of carriage.

SECT 4.— (1) The Minister may make regulations in relation to the international carriage of perishable foodstuffs and the standards for transport equipment to be used for such carriage. (2) Without prejudice to the generality of subsection (1), regulations under this section may— ( a ) prescribe foodstuffs or classes of foodstuffs as perishable foodstuffs for the purposes of this Act; ( b ) prescribe temperature limits for the international carriage of perishable foodstuffs; ( c ) make different provision for different classes of perishable foodstuffs or in respect of the same class in different circumstances; ( d ) prescribe classes of transport equipment to be used for the international carriage of prescribed classes of perishable foodstuffs; ( e ) prescribe different standards for different classes of transport equipment or as respects the same class in different circumstances; ( f ) exempt specified types of transport equipment or perishable foodstuffs from all or any of the provisions of the regulations either generally or in prescribed circumstances.

## 5 Examination and testing of equipment.

SECT 5.— (1) The Minister may make regulations to provide for the examination and testing of transport equipment for the purpose of ascertaining whether the prescribed standards are complied with. (2) The Minister may, for the purposes of regulations under this section— ( a ) appoint persons (in this section referred to as "qualified authorities") to examine and test transport equipment, and ( b ) designate premises (in this section referred to as "designated test stations") where the examination and testing of transport equipment may be carried out, and may revoke any such appointment or designation at any time. (3) Qualified authorities and designated test stations shall keep such records and furnish such information to the Minister as he may prescribe or require for the purposes of this Act. (4) The Minister may make regulations to provide for the recognition for the purposes of this Act, to such extent as may be specified, of examinations and tests of transport equipment carried out (whether before or after the commencement of this Act or inside or outside the State) by such persons as may be recognised by the Minister.

## 6 Approval of type equipment.

SECT 6.— (1) Where the Minister is satisfied that the prescribed standards are complied with in respect of transport equipment of a particular class, he may approve that equipment as type equipment of that class (in this section referred to as "type equipment"). (2) The Minister shall not approve equipment as type equipment unless he is satisfied that adequate arrangements have been made to secure that other equipment purporting to conform with the type equipment as respects the prescribed standards will so conform. (3) The Minister may at any time withdraw approval for stated reasons. ( 4 ) ( a ) The Minister may by order authorise a specified person to act on his behalf for the purposes of subsections (1) to (3) and may revoke the order. ( b ) References to the Minister in the said subsections include references to an authorised person so acting. ( 5 ) ( a ) Where a certifying authority appointed under section 7 is satisfied that any equipment conforms with the type equipment it may issue a certificate to that effect in the prescribed form. ( b ) If the certifying authority notifies the applicant for a certificate that it is not so satisfied, that person may appeal to the Minister. The decision of the Minister on the appeal shall be final. (6) The Minister may make regulations specifying the manner in which and the time within which appeals may be brought under subsection (5) (b).

## 7 Certificates of compliance, certification plates and designated marks.

SECT 7.— (1) The Minister may make regulations to provide for— ( a ) the issue, in respect of transport equipment examined and tested in accordance with regulations made under section 5 and found to comply with the prescribed standards, of a certificate of compliance or a plate corresponding to such a certificate (in this Act referred to as a "certification plate"); ( b ) the refusal of a certificate of compliance or certification plate where the transport equipment is found not to comply with the prescribed standards; ( c ) the period of validity, renewal or cancellation of the certificate of compliance or certification plate; ( d ) the designation of marks (in this Act referred to as "designated marks") to be affixed to transport equipment in respect of which a certificate of compliance or a certification plate has been issued; ( e ) the recognition for the purposes of this Act of certificates of compliance or certification plates issued, whether before or after the commencement of this Act, in conformity with ATP by any Contracting Party or, before such commencement, by any person recognised in that behalf by the Minister. (2) The Minister may, for the purposes of regulations under this section, appoint persons (in this Act referred to as "certifying authorities") to issue, renew, cancel or refuse to issue or renew a certificate of compliance or a certification plate and may revoke any such appointment at any time. (3) Where a certifying authority cancels or refuses to issue or renew any such certificate or plate the aggrieved person may appeal to the Minister. The decision of the Minister on any such appeal shall be final. (4) The Minister may make regulations specifying the manner in which and the time within which appeals may be brought under subsection (3). (5) Every certifying authority shall keep such records and furnish such information to the Minister as he may prescribe or require for the purposes of this Act.

## 8 Inspectors.

SECT 8.— (1) Each of the following shall be an appointing authority for the purposes of this section, namely, the Minister, the Minister for Agriculture and Food, the Minister for the Marine and, with the consent of the Minister for Health, a health board. (2) An appointing authority may, for the purpose of ascertaining whether regulations under this Act are being observed, appoint such inspectors as the appointing authority thinks proper and may revoke any such appointment. (3) A person appointed under subsection (2) shall be furnished with a warrant of appointment and, when exercising any power conferred by this section, shall produce the warrant if so required. (4) An inspector may— ( a ) enter and inspect any transport equipment which he reasonably believes is being used for the international carriage of perishable foodstuffs; ( b ) require the person who for the time being is in charge of transport equipment which he reasonably believes is being used for the international carriage of perishable foodstuffs to produce a certificate of compliance or certification plate in respect of that equipment; ( c ) enter at any reasonable time any premises in which he has reason to believe perishable foodstuffs are being kept for or after international carriage or transport equipment for international carriage is being kept and inspect such foodstuffs or enter and inspect such equipment; ( d ) detain any transport equipment during such time as is required for any such inspection. (5) A person who fails to comply with a requirement under subsection (4) (b) or who obstructs an inspector in the exercise of his functions under subsection (4) shall be guilty of an offence and liable on summary conviction to a fine not exceeding £1,000.

## 9 Power to prohibit driving of goods vehicles in contravention of Act.

SECT 9.— (1) An inspector may prohibit for the purpose of the international carriage of perishable foodstuffs the driving in any public place of a goods vehicle if— ( a ) the vehicle is required to comply with regulations under this Act, and (i) there is not produced to him a certificate of compliance, and (ii) no valid certification plate is affixed to it in accordance with regulations under this Act, or ( b ) the vehicle or any container carried by it is required by regulations under this Act to be marked with a designated mark and the vehicle or container is not so marked, or ( c ) it appears to the inspector that the vehicle is being used otherwise than in accordance with any conditions specified in the certificate of compliance, or ( d ) the vehicle or any container being carried by it is being used otherwise than in accordance with regulations under this Act. (2) Where an inspector prohibits the driving of a vehicle under this section, he may direct the driver of the vehicle to remove the vehicle and any trailer being drawn by means of it to such place and subject to such conditions as are specified in this direction; and the prohibition shall not apply to that removal. (3) Where an inspector prohibits the driving of a vehicle under subsection (1), he shall forthwith give notice in writing to the driver, specifying the circumstances as mentioned in subsection (1) (a), (b), (c) or (d) in consequence of which the prohibition is imposed and any direction given under subsection (2) may be given either in that notice or in a separate notice in writing given to the driver. (4) An inspector may remove a prohibition if he is satisfied that appropriate action has been taken to remove or remedy the circumstances in consequence of which the prohibition was imposed; and on doing so shall forthwith give notice in writing of the removal of the prohibition to the driver. (5) Any person who— ( a ) drives a vehicle in contravention of a prohibition imposed under subsection (1), or ( b ) causes or permits a vehicle to be driven in contravention of such a prohibition, or ( c ) refuses, neglects or otherwise fails to comply within a reasonable time with a direction given under subsection (2), shall be guilty of an offence and liable on summary conviction to a fine not exceeding £1,000. (6) A member of the Garda Síochána may arrest without warrant any person whom he has reasonable cause to suspect of having committed an offence under subsection (5). (7) In the exercise of his functions under this section an inspector shall act in accordance with regulations or general directions of the Minister. (8) In this section— "goods vehicle" means a mechanically propelled vehicle constructed or adapted for the carriage of goods of any description whether it is or is not registered in the State; "public place" means any street, road or other place, including the confines of a harbour, to which the public have access with vehicles whether as of right or by permission and whether subject to or free of charge.

## 10 Offences as to use of transport equipment.

SECT 10.—(1) If any person without reasonable excuse uses or causes or permits to be used transport equipment for the international carriage of perishable foodstuffs, being equipment required to comply with regulations under this Act— ( a ) without there being either a certificate of compliance in force for that equipment or a valid certification plate affixed to that equipment in accordance with regulations under this Act, or ( b ) without exhibiting the designated mark for that equipment, or ( c ) in contravention of any regulations made under this Act, he shall be guilty of an offence. (2) A person guilty of an offence under subsection (1) shall be liable on summary conviction to a fine not exceeding £1,000. (3) In any proceedings for an offence under this section, it shall be a defence for the person charged to prove that— ( a ) he is the carrier for hire or reward of the foodstuffs to which the charge relates, and ( b ) it is a term of the contract for the carriage that he does not undertake to comply or to secure compliance with the requirements to which the charge relates.

## 11 Offences relating to use of certificates of compliance, certification plates and designated marks.

SECT 11.—(1) A person shall be guilty of an offence if he— ( a ) in making application for a certificate of compliance or a certification plate or in giving any information required of him under this Act, makes a statement which he knows to be false in a material particular, or recklessly makes any statement which is false in a material particular; ( b ) forges, alters or uses with intent to deceive any certificate or plate denoting compliance of transport equipment with ATP requirements or, with intent to deceive, makes or possesses any document or plate closely resembling any such certificate or plate; ( c ) without reasonable excuse, affixes or causes or permits to be affixed and remain fixed to transport equipment a designated mark while there is not in force in respect of that transport equipment a certificate or plate denoting compliance with ATP requirements or, with intent to deceive, affixes or applies to transport equipment a mark closely resembling a designated mark. (2) A person guilty of an offence under subsection (1) shall be liable— (i) on summary conviction, to a fine not exceeding £1,000 or, at the discretion of the court, to imprisonment for a term not exceeding 6 months or to both such fine and such imprisonment, or (ii) on conviction on indictment, to a fine not exceeding £10,000 or, at the discretion of the court, to imprisonment for a term not exceeding 12 months or to both such fine and such imprisonment. (3) Section 13 of the Criminal Procedure Act, 1967 (which provides for the procedure where a person pleads guilty in the District Court to an indictable offence) shall apply in relation to an offence under subsection (1) as if, in lieu of the penalties provided for in subsection(3) of the said section 13, there were specified therein the penalties provided for by subsection (2) of this section and the reference in section 2 (a)of the said section 13 to the penalties provided for in subsection (3) of that section shall be construed accordingly. (4) Where an offence under subsection (1) is committed by a body corporate and is proved to have been committed with the consent or connivance of or to be attributable to any neglect on the part of any person being a director, manager, secretary or other officer of the body, or any person who was purporting to act in any such capacity, that person shall also be guilty of an offence under that subsection.

## 12 Prosecution of summary offences by Minister.

SECT 12.—Summary proceedings in relation to an offence under this Act may be brought and prosecuted by the Minister.

## 13 Amendments consequential on amendment of Agreement.

SECT 13.—(1) The Minister may by order modify or otherwise amend any provision of this Act in such manner as appears to him to be necessary to enable effect to be given to any amendment of Annex 1, 2 or 3 to ATP, including any Appendix to the said Annex 1, made in accordance with Article 18 of that Agreement. (2) The Minister may by order revoke or amend an order under this section.

#### 14 Laying of orders and regulations before Houses of Oireachtas.

SECT 14.—Every order and regulation made by the Minister under this Act shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling any such order (other than an order under section 1) or regulation is passed by either such House within the next subsequent twenty-one days on which that House has sat after the order or regulation is laid before it, the order or regulation shall be annulled accordingly but without prejudice to the validity of anything previously done thereunder.

#### 15 Fees.

SECT 15.—The Minister may prescribe the fees to be paid in connection with the examination, testing and certification of transport equipment under this Act.

#### 16 Expenses.

SECT 16.—The expenses incurred by the Minister and any other Minister of the Government in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Finance, be paid out of moneys provided by the Oireachtas.

#### 17 Short title.

SECT 17.—This Act may be cited as the International Carriage of Perishable Foodstuffs Act, 1987.