

S.I. No. 149/1995 - European Communities (Certificates of Specific Character For Agricultural

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EUROPEAN COMMUNITIES (CERTIFICATES OF SPECIFIC CHARACTER FOR AGRICULTURAL PRODUCTS AND FOODSTUFFS) REGULATIONS, 1995.

I, IVAN YATES, Minister for Agriculture, Food and Forestry 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 Regulation (EEC) No. 2082/92 of 14 July 1992⁽¹⁾, hereby make the following Regulations:

1. (1) These Regulations may be cited as the European Communities (Certificates of Specific Character for Agricultural Products and Foodstuffs) Regulations, 1995.

2. (1) In these Regulations—

"authorised officer" means a person appointed under Regulation 5 of these Regulations;

"the competent authority" has the meaning assigned to it by Regulation 3 of these Regulations;

"Council Regulation" means Council Regulation (EEC) No. 2082/92 of 14 July 1992⁽¹⁾;

"the Minister" means the Minister for Agriculture, Food and Forestry.

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

3. For the purposes of the Council Regulation and these Regulations the competent authority shall be the Minister.

4. An application for registration referred to in Article 7 of the Council Regulation shall be made to the competent authority.

⁽¹⁾ O.J. No. L. 208, 24 July, 1992, p. 9.

5. (1) The Minister may appoint in writing such and so many of his officers or other persons as he thinks fit to be authorised officers for the purposes of these Regulations.

(2) A person appointed under this Regulation shall be furnished with a warrant of his appointment as an authorised officer by the Minister and when exercising any power conferred on an authorised officer by the Regulations shall, if requested by a person affected, produce the warrant to that person.

(3) An appointment under this Regulation shall remain in force until it is withdrawn by the Minister by an instrument in writing.

6. (1) Where an authorised officer has reasonable grounds for believing that any land, building, railway wagon, vehicle, ship, vessel or aircraft—

(*a*) is being or has been used for manufacturing, distribution, sale, storage or transporting of any agricultural products or foodstuffs, or

(*b*) is being or has been used for or in connection with the commission of an offence under these Regulations,

he may enter (if necessary by force) any such land or building or stop and enter (if necessary by force) any such railway wagon, vehicle, ship, vessel or aircraft and with such other authorised officers, such members of the Garda Síochána or officers of Customs and Excise (if any) as he considers appropriate—

(i) inspect such land, building, railway wagon, vehicle, ship, vessel or aircraft,

(ii) require any person therein to produce to him any books, documents or other records relating to any agricultural products or foodstuffs and to give him such information as he may reasonably require in relation to any entries in such books, documents or records,

(iii) inspect and take copies of, or extracts from any such books, documents or records,

(iv) take samples of any agricultural product or foodstuff, wrapping, packaging, labelling or advertising material therein,

(v) there or at any other place carry out such examinations, tests and inspections as he may consider appropriate for the purposes of these Regulations and the Council Regulation,

(vi) require any person therein to give him any information or assistance and provide such facilities as he may reasonably require, and

(vii) seize and detain anything which he believes to be in contravention of the provisions of the Council Regulation or these Regulations or which he believes to be being or have been used for or in connection with the Commission of an offence under these Regulations.

(2) Where a sample of an agricultural product or foodstuff is taken pursuant to this Regulation, the authorised officer concerned shall divide the sample into not more than four approximately equal parts each of which he shall mark in such a way as to identify it as part of the sample taken by him and he shall send or cause to be sent one or more of such parts for examination and testing.

(3) Where an authorised officer takes a sample which consists or appears to consist of predivided agricultural products or foodstuffs and the division of the sample into parts—

(a) is not reasonably practicable, or

(b) might affect the composition or impede the proper analysis of the contents,

the authorised officers shall divide the sample into not more than four lots each of which he shall mark in such a way as to identify it as a part of the sample taken by him and he shall send or cause to be sent one or more of such lots for examination and testing.

(4) In proceedings for an offence under these Regulations, the result of any test, examination or analysis of, or report on, a sample taken pursuant to this Regulation shall not be adduced unless before the proceedings were instituted one of the parts or lots, as the case may be, into which the sample was divided pursuant to this Regulation was left with or transmitted to the defendant.

7. (1) A person who—

(a) (i) uses a name referred to in Article 3 of the Council Regulation,

(ii) uses an indication referred to in Article 15 (1) of the Council Regulation, or

- (iii) uses the Community symbol referred to in Article 12 of the Council Regulation,

in respect of an agricultural product or foodstuff in contravention of Articles 13 or 15 (1) of the Council Regulation,
- (b) fails to comply with the provisions of Article 15 (2) of the Council Regulation,
- (c) (i) misuses an indication, the Community symbol or a registered name, or

(ii) uses an indication, the Community symbol or a registered name with intent to mislead,
- (d) obstructs or interferes with an authorised officer in the course of exercising a power conferred on him by Regulation 6 of these Regulations,
- (e) fraudulently tampers with any agricultural product or foodstuff so as to procure that any sample of it taken pursuant to these Regulations does not accurately represent the agricultural product or foodstuff,
- (f) tampers or interferes with any sample taken pursuant to these Regulations, or
- (g) fails to comply with a requirement of an authorised officer pursuant to Regulation 6 of these Regulations,

shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £1,500 or imprisonment for a term not exceeding 12 months or to both.

(2) Where an offence under these Regulations is committed by a body corporate and is proved to have been so committed with the consent or connivance of or to be attributable to any neglect on the part of a director, manager, secretary or other officer of that body corporate or

any person purporting to act in such capacity, that person shall be liable to be proceeded against and punished as if he had been guilty of the offence.

(3) Notwithstanding section 10(4) of the Petty Sessions (Ireland) Act, 1851, proceedings for an offence under these Regulations may be instituted within 12 months from the date of the offence.

(4) Proceedings for an offence under these Regulations may be brought and prosecuted by or on behalf of the Minister.

8. (1) Where a person has been convicted of an offence under these Regulations, the District Court may order the forfeiture to the Minister of anything used for the purposes of committing such offence.

(2) The Minister may deal with or dispose of as he thinks fit anything so forfeited under paragraph (1) of this Regulation.

(3) The net proceeds of anything sold by the Minister in pursuance of this Regulation shall be paid into or disposed of for the benefit of the Exchequer in such manner as the Minister for Finance shall direct.

GIVEN under my Official Seal, this 7th day of June, 1995.

IVAN YATES,

Minister for Agriculture, Food & Forestry.

EXPLANATORY NOTE.

The principal effects of these Regulations are to provide for penalties for breaches of certain provisions of EC Regulation 2082/92 on certificates of specific character for agricultural products and foodstuffs and confer powers of entry to premises on authorised officers.

These Regulations should be read together with the Council Regulation.