

Statutory Instruments

S.I. No. 267 of 2004

European Communities (Control on imports of animal products for personal consumption) Regulations 2004

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S.I. No. 267 of 2004

European Communities (Control on imports of animal products for personal consumption) Regulations 2004

I, Joe Walsh, Minister for Agriculture and Food, 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 full effect to Commission Regulation (EC) No. 745/2004 of 16 April 2004¹, hereby make the following regulations-

Citation and Interpretation

1. (1) These Regulations may be cited as the European Communities (Control on imports of animal products for personal consumption) Regulations 2004.

(2) In these Regulations-

“authorised officer” has the same meaning as in 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);

“Commission Regulation” means Commission Regulation (EC) No. 745/2004 of 16 April 2004.

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

(4) In these Regulations, unless the contrary intention appears, a reference to a Regulation is to a reference to these Regulations and a reference to a paragraph or subparagraph is to the paragraph or subparagraph of the provision in which the reference occurs.

Offences

2. A person who-

- (a) contravenes Article 1(2) or Article 1(3), or
- (b) being the owner or operator of a port or airport, contravenes Article 3,

¹ O.J. No. L 122 of 26.4.2004, p.1.

of the Commission Regulation or Regulation 5 is guilty of an offence and liable, on conviction, to a fine not exceeding €3,000 or to a term of imprisonment not exceeding 6 months or to both.

Authorised Officers

3. (1) Where an authorised officer has reasonable cause to suspect that -

- (a) meat, a meat product, milk or a milk product to which the Commission Regulation applies is being or may have been imported in contravention of the Commission Regulation,
- (b) meat a meat product, milk or a milk product to which the Commission Regulation applies has been moved other than in accordance with a requirement, request or direction of an authorised officer under subparagraph (viii), (x), (xi), (xii) or (xiii),
- (c) a person is refusing or has refused to comply with a requirement, request or direction of an authorised officer under subparagraph (viii), (x), (xi), (xii) or (xiii),
- (d) any land or premises, vehicle, vessel, aircraft or container contains or has recently contained meat, a meat product, milk or a milk product to which the Commission Regulation applies,
- (f) an offence is being or has been committed under these Regulations,

such officer may -

- (i) enter and search any land, vehicle, premises or container,
- (ii) stop any person, vehicle or container,
- (iii) board and search any vehicle or container,
- (iv) search a person, where the authorised officer considers it necessary,
- (v) examine meat, a meat product, milk or a milk product, vehicle or container,
- (vi) take such specimens from meat, a meat product, milk or a milk product as the authorised officer considers appropriate ,

- (vii) seize and detain (for so long as is necessary) any such meat, a meat product, milk or a milk product, vehicle or container,
 - (viii) require the production of any relevant document or thing relating to the meat, a meat product, milk or a milk product, vehicle or container,
 - (ix) retain any such document or thing (for so long as is necessary),
 - (x) dispose of, or require the owner or person in charge of or in possession of meat a meat product, milk or a milk product to dispose of it in such manner as the authorised officer sees fit,
 - (xi) give such directions to, or request such information of, such person regarding the meat, a meat product, milk or a milk product, vessel, vehicle, aircraft or container as he or she considers necessary,
 - (xii) require the name and address of a person and the name and address of any other relevant person including the person to whom the meat is being delivered or who is causing it to be delivered,
 - (xiii) require of the person the ownership, identity and origin of the meat, a meat product, milk or a milk product to which the Commission Regulation, or
 - (xiv) mark or otherwise identify such meat, a meat product, milk or a milk product or a specimen taken under subparagraph (vi).
- (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 may use reasonable force, if necessary, in the exercise of his or her powers under this section.
- (4) 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.
- (5) An authorised officer shall not be liable in any proceedings for anything done in the purported exercise of his or her powers under this section if the court is satisfied that the act was done in good faith and that there were reasonable grounds for doing it

- (6) Where 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.

Search Warrant

4. (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, vehicle, vessel, aircraft or container meat, a meat product, milk or a milk product that has been, may have been or may be imported in contravention of the Commission Regulation, or

(b) that there is evidence of an offence under the Commission Regulation or these Regulations relating to meat 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 or times, 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, vessel, aircraft or container named in the warrant.

- (3) Where any 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.

Obstruction

5. A person shall not -

(a) obstruct or impede an authorised officer in the exercise of any of his or her powers under Regulation 3 or 4,

(b) fail, without reasonable excuse, to comply with a requirement or direction made by an authorised officer under Regulation 3 or 6, or

(c) in purporting to give information required by an authorised officer for the performance of the officer's powers under Regulation 3 -

- (i) make a statement which he or she knows to be false in a material particular or recklessly make a statement which is false in a material particular, or
- (ii) fail to disclose any material particular.

Direction

6. An authorised officer may give a direction to -
- (a) the operator of an aerodrome or port specifying the manner in which the information specified in Annex II the Commission Regulation is to be published or displayed, or
 - (b) a transporter, his or her employees, servants or agents who brings a person into the State from a third country through an aerodrome or port specifying the manner in which the information specified in Annex III to the Commission Regulation is to be published or displayed.

Prosecution

7. (1) An offence under these Regulations may be prosecuted by the Minister.
- (2) Where an offence under these Regulations has been 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, shall be guilty of an offence and shall be liable to be proceeded against and punished as if guilty of the first-mentioned offence.
- (3) Where the affairs of a body corporate are managed by its members, paragraph (2) shall apply in relation to the acts and defaults of a member in connection with the functions of management as if such a member were a director or manager of the body corporate.

Revocation and saver

8. (1) Articles 7 and 10 of the Diseases of Animals Act 1966 (Control on Animal Products) Order 2003 (S.I. No. 114 of 2003) are revoked.

- (2) In a prosecution for an offence under the Diseases of Animals Act 1966 where a contravention of the Diseases of Animals Act 1966 (Control on Animal Products) Order 2003 is alleged, it is a defence for the defendant to prove that the animal product to which the offence relates is a product referred to in Article 1(1) of the Commission Regulation and that it was imported in accordance with the Commission Regulation.

GIVEN under my Official Seal,
2nd June 2004

Joe Walsh
Minister for Agriculture and Food

EXPLANATORY NOTE

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

These Regulations provide for enforcements for the operation of Commission Regulation (EC) No. 745/2004 prohibiting, on the grounds of protection of animal and public health, the importation from third countries in the personal baggage of passengers of meat and meat products and milk and milk products that are destined for own consumption.

Instrument No. :

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