

## **S.I. No. 98 of 2002**

### **European Communities (Welfare of Laying Hens) Regulations 2002**

I, Joe Walsh, Minister for Agriculture, Food and Rural Development, 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 Directive No. 1999/74/EC of 19 July 1999<sup>1</sup> and Commission Directive 2002/4/EC of 30 January 2002<sup>2</sup>, hereby make the following regulations:-

#### **Citation**

1. These Regulations may be cited as the European Communities (Welfare of Laying Hens) Regulations 2002.

#### **Interpretation**

2. In these Regulations –

“approved disinfectant” means a disinfectant approved under and in accordance with the Diseases of Animals (Disinfectants) Order 1975 (S.I. No. 273 of 1975) and the Diseases of Animals (Disinfectants) Order 1975 (Amendment) Order 1977 (S.I. No. 345 of 1977);

“authorised officer” means –

- (a) an authorised officer within the meaning of 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) an inspector or authorised person within the meaning of the Protection of Animals Kept for Farming Purposes Act 1984 (No. 13 of 1994),
- (c) an authorised officer within the meaning of the European Communities (Protection of Animals Kept for Farming Purposes) Regulations 2000 (S.I. No. 127 of 2000),
- (d) a member of the Garda Síochána, or
- (e) an officer of Customs and Excise;

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<sup>1</sup> O.J. L No. 203 of 3.8.1999, p.53.

<sup>2</sup> O.J. L No. 30 of 31.1.2002, p.44.

“barn system” means a system for keeping and rearing laying hens, other than in cages, in a building but does not include a free-range system;

“Commission Directive” means Commission Directive No. 2002/4/EC of 30 January 2002<sup>2</sup>;

“Council Directive” means Council Directive No. 1999/74/EC of 19 July 1999<sup>1</sup>;

“disinfection” means disinfected using an approved disinfectant and cognate words shall be construed accordingly;

“free-range system” means a system for keeping and rearing laying hens, other than in cages, where the laying hens have access to land in its natural state outside the barn;

“Minister” means the Minister for Agriculture, Food and Rural Development;

“premises” includes land or holding, with or without buildings;

“Register” means the register maintained under Regulation 7 and cognate words shall be construed accordingly;

“registered veterinary surgeon” means a person entered in the register maintained under the Veterinary Surgeons Act 1931 (No. 6 of 1931).

- (2) A word or expression that is used in these Regulations and that is also used in the Council Directive has, unless the contrary intention appears, the same meaning in these Regulations as it has in the Council Directive.
- (3) In these Regulations, unless the contrary intention appears, a reference to a Regulation is to a reference in these Regulations, a reference to a Schedule is to a Schedule of these Regulations and a reference to a paragraph or sub-paragraph is to the paragraph or sub-paragraph of the provision in which the reference occurs.

### **Application**

- 3. Subject to paragraph (6) of Regulation 14, these Regulations apply to premises where –
  - (a) there are 350 or more laying hens, or
  - (b) laying hens are kept for purposes other than breeding.

## **Accommodation for Laying Hens in Free Range or Barn Systems**

4.(1) Subject to paragraph (3), the owner or person in charge -

(a) of a barn or free- range system built, rebuilt or brought into use on or after 1 January, 2002, and

(b) after 1 January 2007, all barn or free-range systems,

used to keep laying hens shall not confine, or cause or permit another person to keep or confine a laying hen unless the premises is equipped –

(i) with either linear feeders providing at least 10 cm per hen or circular feeders providing at least 4 cm per hen,

(ii) with either continuous drinking troughs providing at least 2.5 cm per hen or circular troughs providing at least 1 cm per hen,

(iii) without prejudice to paragraph (4), with at least one nest for every seven hens, and

(iv) with, subject to paragraph (5), adequate perches without sharp edges, mounted other than above litter, that provide space of at least 15 cm in length per hen

(2) A person shall not provide or use nipple drinkers or cups in a barn or free-range system unless, without prejudice to paragraph (3), there is at least one nipple drinker or cup for every ten hens.

(3) A person shall not keep a laying hen in a barn or free- range system where drinking points are plumbed in unless, at least two nipple drinkers or cups are within reach of each hen.

(4) A person shall not keep a laying hen in a barn or free- range system in group nests unless there is a minimum of 1 square metre of nest space available for every 120 hens.

(5) A person shall not keep a laying hen in a barn or free- range system unless the horizontal distance between perches is at least 30 cm and the distance between a perch and a wall is at least 20 cm.

(6) A person shall not keep a laying hen in a barn or free- range system unless a littered area, that covers at least one third of the ground surface, of at least 250 square centimetres per hen is provided.

(7) A person shall not keep a laying hen in a barn or free- range system unless the system is constructed in a manner that adequately supports each forward facing claw on the foot of a laying hen.

- (8) A person shall not keep a laying hen in a barn or free-range system if-
- (a) the laying hen has access to more than four different levels,
  - (b) the headroom between different levels is less than 54 centimetres
  - (c) each hen does not have equal access to drinking and feeding facilities, or
  - (d) droppings from one level may fall on another level.

**Accommodation for Laying Hens in un-enriched Cage Systems**

5(1) Subject to paragraphs (2) and (3), from 1 January 2003, the owner or person in charge of an un-enriched cage system shall not keep a laying hen in a cage unless-

- (a) the cage has at least 550 unrestricted square centimetres of area (measured in a horizontal plane and not including non-waste deflection plates that may restrict the available area) available for each laying hen in the cage,
- (b) a feed trough, to which each laying hen has unrestricted access, the length of which measures at least 10 centimetres multiplied by the number of laying hens in the cage, is present in the cage,
- (c) subject to subparagraph (d), a drinking channel, to which each laying hen has unrestricted access, the length of which measures at least 10 centimetres multiplied by the number of laying hens in the cage, is present in the cage,
- (d) where drinking points are plumbed in, at least two nipple drinkers or cups are within reach of the cage,
- (e) the cage is at least 40 centimetres high over at least 65 per cent of its floor area and not less than 35 centimetres high at any point,
- (f) the floor of the cage is constructed in a manner that adequately supports each forward facing claw of each hen,
- (g) the slope of the floor of the cage does not exceed 14 per cent or 8 degrees, and
- (h) the cage is fitted with suitable claw-shortening devices.

(2) A person shall not keep or rear laying hens in an un-enriched cage system built, renovated or brought into service for the first time after 1 January 2003.

- (3) A person shall not keep or rear laying hens in an un-enriched cage system after 1 January 2012.

### **Accommodation for Laying Hens in enriched Cage Systems**

6. From 1 January 2003, the owner or person in charge of an enriched cage system shall not keep a laying hen in an enriched cage system unless-
- (a) the cage has a total area of at least 2000 square centimetres,
  - (b) an area of at least 750 square centimetres, of which a minimum of 600 square centimetres is usable, is available for each laying hen in the cage,
  - (c) the height of the cage is at least 20 centimetres at every point,
  - (d) there is a nest in the cage,
  - (e) adequate litter is available in the cage to permit pecking and scratching by each laying hen,
  - (f) appropriate perches, that measure, in length, at least 15 centimetres multiplied by the number of laying hens in the cage, are present in the cage,
  - (g) a feed trough, to which each laying hen has unrestricted access, that measures at least 12 centimetres multiplied by the number of laying hens in the cage, is present in the cage,
  - (h) subject to subparagraph (i), a drinking system, to which each laying hen has unrestricted access, appropriate to the number of laying hens is provided in the cage,
  - (i) where drinking points are plumbed in, at least two nipple drinkers or cups are within reach of each laying hen, and
  - (j) the cage is fitted with suitable claw-shortening devices.

### **Register**

- 7(1) The Minister shall, as soon as may be after the coming into operation of these Regulations and, in any event, prior to 1 June 2003, cause to be established and maintained a register (“the Register”) of all persons owning, keeping, rearing or having under their control laying hens.
- (2) A person who owns or has under his or her control, keeps or rears or proposes to own have under his or her control, keep or rear, a laying hen may, in

accordance with this Regulation, apply to the Minister to be registered in the Register.

- (3) An application under this Regulation shall be in writing and shall include the information specified at point 1 of the Annex to the Commission Directive and such other particulars as the Minister may, from time to time, require.
- (4) On receipt of an application for registration under and in accordance with this Regulation the Minister shall, subject to paragraph (5), cause to be entered in the Register, the particulars required to be included in the application by virtue of paragraph (3).
- (5) The Minister may refuse to enter on the Register, or may remove from the Register, the name of a person if –
  - (a) the application concerned fails to comply with the provisions of this Regulation,
  - (b) in the opinion of the Minister, the application concerned contains a statement that is false or misleading in a material respect,
  - (c) the premises to which the application or registration relates fails to comply with these Regulations, or
  - (d) the person is, in the opinion of the Minister, not a fit person to keep laying hens.
- (6) It shall not be lawful, from 1 June 2003, for a person to own or have in his or her charge or under his or her control a laying hen if he or she is not entered in the Register in relation to the premises where the laying hen is located.
- (7) Before refusing an application for entry in the Register the Minister shall by notice in writing served on the applicant inform the applicant of his or her intention to refuse the application and of the reasons for such refusal and shall consider any representations made by the applicant within 21 days of the date of the notice.
- (8) A person shall cease to be registered on the happening of one or more of the following events, that is to say-
  - (a) the application concerned fails to comply with the provisions of these Regulations,
  - (b) notice in writing being served on the Minister by or on behalf of a person to whom an entry in the Register relates stating that such person has ceased keep or rear laying hens at the premises to which registration relates,
  - (c) the payment pursuant to Council Regulation (EEC) 2079/92 of 30th July 1992 of a pension to a person to whom registration relates,

- (d) a person being notified in writing by the Minister of the Minister's belief that the person has ceased to keep or rear laying hens to which an entry in the Register relates, or
  - (e) the disqualification of the person by a Court of competent jurisdiction under any enactment from keeping, dealing in or having charge or control of, directly or indirectly, laying hens.
- (9) A notification under paragraph (7) or sub-paragraph (d) of paragraph (8) shall include a statement that the person to whom it is addressed may make representations to the Minister within 21 days of service on him or her of the notification.
- (10) Where a person entered in the Register dies the Minister shall, without prejudice to paragraph (8), on the application of the personal representative of such person enter in the Register the name of the personal representative in lieu of that person.
- (11) A person who, on the coming into operation of this Regulation, is lawfully engaged in keeping and rearing laying hens and who, no later than 90 days prior to 1 June 2003, applies to be registered under this Regulation and whose application has been acknowledged in writing by or on behalf of the Minister shall, until such time as the Minister grants or refuses the application concerned, be entitled to keep and rear laying hens.

#### **General Conditions for Keeping Laying Hens**

8. A person shall not have in his or her possession or under his or her control or cause or permit another person to have in his or her possession or under his or her control a laying hen unless the hen is kept and reared in conditions that comply with the Schedule.

#### **Authorised Officers**

9. An authorised officer or a veterinary expert employed by or acting on the authority of the Commission of the European Communities accompanied by an authorised officer may at all reasonable times enter any premises (other than such part of a premises that is a dwelling) in which the authorised officer has reasonable cause to suspect that a laying hen is being kept or reared.

#### **Powers of Authorised Officers**

10. An authorised officer may, on any premises –
- (a) examine or inspect any laying hen on the premises,
  - (b) take, without payment, such samples, including samples of blood, urine, faeces, saliva, tissue or other thing (including a laying hen) or any article, substance or liquid on the premises

as he or she may reasonably require and carry out or cause to be carried out on the samples such tests, analyses, examinations, tests or inspections as he or she considers necessary or expedient,

- (c) carry out or cause to be carried out such measurements, examinations, tests or inspections of the premises or any part thereof and any equipment, plant, machinery or other article, substance or liquid as he or she considers necessary or expedient,
- (d) require any person to give his or her name and address and such information or produce any book, certificate, document or other record as the authorised officer considers necessary or expedient,
- (e) examine and take copies of, or extracts from any thing aforesaid, and
- (f) seize and detain any thing aforesaid or other thing that he or she has reasonable cause to suspect may be evidence of an offence under these Regulations.

### **Welfare Notice**

11.(1) Subject to Regulation 12, where an authorised officer is of the opinion that –

- (a) the conditions under which a laying hen is being reared are in contravention of these Regulations,
- (b) there is a serious risk to the welfare of a laying hen, and
- (c) measures should be taken to prevent unnecessary suffering to a laying hen,

he or she may serve or cause to be served on the owner or person who appears to be in charge, possession or control of such laying hen a notice (in this Regulation referred to as a “welfare notice”) stating that opinion and directing that –

- (i) one or more laying hens be moved to and kept in such premises as the officer shall specify in the notice,
- (ii) such alterations be made to the premises in which such laying hen is located as the officer shall specify in the notice, or
- (iii) one or more laying hens be slaughtered or otherwise disposed of in such manner as the officer shall specify in the notice.



- (2) A person shall comply with a welfare notice or a requirement of a welfare notice unless and until the notice is annulled under paragraph (10).
- (3) A requirement contained in a welfare notice shall specify a time limit within which the notice is to be complied with.
- (4) A requirement specified in a welfare notice (in this paragraph referred to as “the earlier welfare notice”) may be amended or withdrawn by a further notice in writing and the earlier welfare notice shall have effect subject to such amendment or withdrawal.
- (5) A welfare notice, whether amended under paragraph (4) or not, may require the owner or person in charge of a laying hen to choose between one or more of the requirements specified in the welfare notice and that person shall comply with the requirement that he or she chooses.
- (6)(a) A welfare notice shall, subject to sub-paragraph (b), be addressed to the person concerned by name, and may be served on or given to the person in one of the following ways –
  - (i) by delivering it to the person,
  - (ii) by leaving it at the address at which the person ordinarily resides or, in a case where an address for service has been furnished, at that address,
  - (iii) by sending it by post in a prepaid registered letter to the address at which the person ordinarily resides or, in a case where an address for service has been furnished, at that address, or
  - (iv) where the address at which the person ordinarily resides cannot be ascertained by reasonable enquiry and the welfare notice relates to a premises, by delivering it to some person over 16 years of age resident or employed on the premises or by affixing it in a conspicuous position on or near the premises.
- (b) Where a welfare notice is to be served on or given to a person who is the owner or occupier of a premises and the name of the person cannot be ascertained by reasonable enquiry, it may be addressed to the person by using the words the owner, the occupier or, as the case may require, such other designation as the authorised officer considers appropriate.
- (c) A person shall not at any time within 6 months after a welfare notice is affixed under paragraph (6)(a)(iv) remove damage or deface the notice without lawful authority.

- (d) For the purposes of this Regulation, a company within the meaning of the Companies Acts, 1963 to 1990, shall be deemed to be ordinarily resident at its registered office, and every other body corporate and every unincorporated body shall be deemed to be ordinarily resident at its principal office or place of business.
- (7) A person, being a person effected by a welfare notice, may, within 7 days of service of the welfare notice, apply to the Judge of the District Court having jurisdiction in the District Court District where the laying hen is situated or to the Judge of the District Court having jurisdiction in the District Court District where the person ordinarily resides on the grounds that the welfare notice or any term of the welfare notice are not reasonable, having regard to these Regulations (in this Regulation referred to as “an appeal”).
- (8) An appeal may be heard at any sitting of the District Court within the appropriate District Court Area.
- (9) Notice of an appeal, which shall contain a statement of the grounds upon which it is alleged that the welfare notice or any term of the welfare notice is unreasonable having regard to these Regulations, shall be served on the Minister at least 48 hours prior to the hearing of the appeal and a copy thereof shall be lodged with the appropriate District Court Clerk.
- (10) On the hearing of an appeal, a Judge of the District Court may confirm, with or without modification, or annul a welfare notice.
- (11) A person, including a person on whom a welfare notice is served, shall not,
- (a) pending the determination of an appeal, deal with a laying hen to which a welfare notice relates other than under and in accordance with the notice, or
  - (b) after such appeal, deal with a laying hen to which a welfare notice relates other than under and in accordance the welfare notice or welfare notice as modified, as the case may be.
- (12) Where -
- (a) a person, by act or omission, fails to comply, whether within the time specified therein or otherwise, with a welfare notice (including a welfare notice modified in accordance with paragraph (10)), or
  - (b) an authorised officer has reasonable cause to suspect –
    - (i) that a welfare notice (including a welfare notice modified in accordance with paragraph (10)) is not or will not be complied with, or

- (ii) pending the determination of an appeal, a laying hen to which the welfare notice relates is or will not be dealt with in accordance with paragraph (11),

an authorised officer may seize and detain a laying hen in such manner as he or she thinks fit and sell or dispose of the laying hen in a manner (including slaughter) as the authorised officer considers appropriate.

- (13) Subject to paragraph (15), the proceeds of the sale or disposal of a laying hen under paragraph (12) shall be paid to the owner of the animal as soon as may be after such sale or disposal and after a person has satisfied the Minister that he or she is the owner or otherwise entitled to the proceeds of the sale or disposal of the laying hen.
- (14) The costs of seizure, sale or disposal of a laying hen under this Regulation shall be recoverable by the Minister as a simple contract debt in a court of competent jurisdiction.
- (15) The costs of any action required by a welfare notice shall be borne by the owner of a laying hen to which such notice relates.

### **Veterinary Treatment**

- 12. An authorised officer may, by service of a welfare notice or otherwise, require the owner or person in charge of a laying hen to obtain veterinary treatment for the hen within a specified time and he or she shall comply with the requirement.

### **Obstruction**

- 13. A person shall not obstruct or impede or attempt to obstruct or impede, whether by act or omission, an authorised officer or a person who accompanies an authorised officer in accordance with Regulation 8.

### **Offences**

- 14.(1) A person who, by act or omission, contravenes Regulation 4, 5, 6, paragraphs (2) or (6) of Regulation 7, Regulation 8, paragraphs (2), (5), (6)(c) or (11) of Regulation 11, Regulation 12 or 13 shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding € 2,500 or to a term of imprisonment not exceeding 12 months, or to both such fine and such imprisonment.
- (2) An offence under these Regulations may be prosecuted by the Minister
- (3) 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.

- (4) Where the affairs of a body corporate are managed by its members, paragraph (3) 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.
- (5) In a prosecution for an offence under these Regulations, it shall be a defence for the defendant to show that that the offence did not occur after the making of these Regulations.
- (6) In a prosecution for an offence under these Regulations, it shall not be a defence for the defendant to show that Regulation 3 applies to that person in respect of the premises to which the alleged offence relates if he or she is entered in the Register maintained under Regulation 7 unless he or she can show to the satisfaction of the Court that he or she has given notice in accordance with sub-paragraph (b) of paragraph (8) of Regulation 8 and the Minister has been put on notice of this defence no later than 10 days prior to the sitting of the Court where the case is heard.

### **Savers**

- 15. These Regulations are in addition to and not in substitution for –
  - (a) the Protection of Animals Act 1911 (1911, C. 27) as amended by the Protection of Animals (Amendment) Act 1965 (No. 10 of 1965),
  - (b) the Protection of Animals Kept for Farming Purposes Act 1984 (No. 13 of 1984), and
  - (c) the European Communities (Protection of Animals Kept for Farming Purposes) Regulations 2000 (S.I. No. 127 of 2000)

### **Revocation**

- 16. The Care and Welfare of Poultry (Laying Hens) Regulations, 1990 (S.I. No. 238 of 1990) are revoked.

## **SCHEDULE**

1. All laying hens shall be inspected by the owner or person in charge of the premises where they are located at least once each day.
2. The sound level shall be minimised and constant and sudden noises on a premises shall be avoided.
3. Ventilation fans, feeding machinery and other equipment shall be constructed, located, operated and maintained in a manner that causes the least possible noise.
4. Each building used to keep or rear laying hens shall have light level that are sufficient to allow laying hens to see one another and be seen clearly, to investigate their surroundings visually and show normal levels of activity. Where there is natural light, light apertures shall be placed in a manner that light is distributed evenly within the accommodation.

After the first days of conditioning, lighting shall follow a 24 hour cycle, include an uninterrupted period of darkness of approximately eight hours so that the laying hens may rest and avoid problems such as immuno-depression and ocular anomalies and, otherwise, be such as to prevent health and behavioural problems. An adequate period of twilight, when the light is dimmed and which facilitates the laying hens settling down without disturbance or injury, shall be provided.

5. Without prejudice to paragraph 6, parts of buildings, equipment, machinery or other utensils that may come into contact with laying hens shall be thoroughly cleansed and disinfected at regular intervals.
6. On each occasion when depopulation is carried out, parts of buildings, equipment, machinery or other utensils that may come into contact with laying hens shall be thoroughly cleansed and disinfected prior to the introduction of a new batch of laying hens.
7. While cages are occupied, they shall be kept satisfactorily clean.
8. Droppings must be removed as often as necessary and dead laying hens must be removed when found or, at a minimum, once a day.
9. Each cage shall be constructed in a manner that prevents a laying hen from escaping.
10. Accommodation that comprises two or more tiers of cages must have devices (or other appropriate measures must be taken) to facilitate inspection of each tier and removal of laying hens without difficulty.
11. A cage door must be designed and be of such dimensions that an adult laying hen may be removed without unnecessary suffering or sustaining injury.

12. Mutilation of a laying hen shall, without prejudice to point 19 to the Annex of Directive 98/58/EC, be prohibited.
13. Beak trimming may only be undertaken by trained and competent personnel and the beaks of laying hens over 9 days old shall not be trimmed.

**GIVEN** under my Official Seal,  
20<sup>th</sup> March 2002

Joe Walsh  
Minister for Agriculture, Food and  
Rural Development

## **EXPLANATORY NOTE**

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

These Regulations specify the accommodation and other welfare requirements for keeping and rearing laying hens.

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