

STATUTORY INSTRUMENTS.

S.I. No. 127 of 2000.

EUROPEAN COMMUNITIES (PROTECTION OF ANIMALS KEPT FOR FARMING PURPOSES) REGULATIONS, 2000.

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 98/58/EC⁽¹⁾ of 20 July, 1998, hereby make the following regulations:

¹O.J. No. L 221 of 8.8.98, p23.

Citation.

1. These Regulations may be cited as the European Communities (Protection of Animals Kept for Farming Purposes) Regulations, 2000.

Interpretation.

2. (1) In these Regulations—

"animal" means any animal (including fish, reptiles or amphibians) bred or kept for the production of food, wool, skin or fur or for other farming purposes;

"authorised officer" means a person who for the time being stands appointed under Regulation 5 or an inspector (within the meaning of the Diseases of Animals Act, 1966 (No. 6 of 1966)) or an authorised person or inspector within the meaning of the Protection of Animals Kept for Farming Purposes Act, 1984 (No. 13 of 1984);

"Council Directive" means Council Directive No. 98/58/EC of 20 July, 1998;

"Minister" means Minister for Agriculture, Food and Rural Development;

"veterinary surgeon" means a person registered for the time being in the register established under the Veterinary Surgeons Act, 1931 (No. 36 of 1931).

(2) A word or expression that is used in these Regulations and 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—

(a) a reference to a Regulation is to a Regulation of these Regulations, unless it is indicated that reference to some other provision is intended;

(b) a reference to a paragraph or subparagraph is to the paragraph or subparagraph of the provision in which the reference occurs, unless it is indicated that reference to some other provision is intended.

Scope.

3. These Regulations apply to the protection of animals kept or bred for farming purposes and do not apply to—

(a) animals living in the wild,

(b) animals intended for use in competitions, shows, cultural or sporting events or activities,

(c) experimental or laboratory animals, or

(d) any invertebrate animal.

Obligation to ensure welfare of animals.

4. (1) The owner or keeper of animals shall take all reasonable steps to ensure the welfare of the animals under their care and to ensure that such animals are not caused any unnecessary pain, suffering or injury.

(2) The owner or keeper of animals other than fish, reptiles or amphibians, shall ensure that the conditions under which such animals are bred or kept, having regard to their species and their degree of development, adaptation and domestication, and to their physiological and ethological needs in accordance with established experience and scientific knowledge, comply with the provisions set out in the Schedule to these Regulations

Appointment of authorised officers.

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

(2) An authorised officer, when exercising any power conferred on him or her by these Regulations, shall, if so requested by any person affected, produce evidence in writing of his or her appointment as an authorised officer.

(3) A member of the Garda Síochána, not in uniform, when exercising any power conferred on him or her by these Regulations, shall, if so requested by any person affected, produce evidence in writing that he or she is a member of the Garda Síochána.

Power of an authorised officer to enter and inspect.

6. (1) An authorised officer, member of the Garda Síochána, or veterinary expert employed by or acting on the authority of the Commission of the European Communities accompanying an authorised officer, may at all reasonable times enter any premises, land or place in which the authorised officer or the member of the Garda Síochána has reasonable grounds for believing that animals are kept or bred for farming purposes, for the purpose of carrying out inspections and examinations required by these Regulations and the Council Directive.

(2) An authorised officer may, for the purpose of these Regulations and the Council Directive, at any premises, land or place where animals are kept or bred for farming purposes—

(a) examine and inspect any animals held there.

(b) carry out or have carried out such examinations, checks and inspections of the premises, land or place and any facilities, equipment, machinery or plant or any other article, substance or liquid found there that he or she reasonably considers necessary or expedient for the purposes of his or her functions under these Regulations or the Council Directive,

(c) take, without payment of compensation, such samples of any animals (including blood, urine, faeces, milk, saliva, semen, tissue or other thing) or of any article, substance or liquid found there as he or she may reasonably require for the purpose of such functions and there or at any other place carry out or have carried out on the samples such analyses, examinations, checks and inspections as he or she considers necessary or expedient,

(d) require the owner or keeper of the animals held there to give to him or her such information and to produce to him or her such records of any medicinal treatment given to animals and of mortalities as he or she may reasonably require for the purposes of such functions,

(e) examine and take copies of, or of extracts from, any such records as aforesaid and

(f) seize and detain anything found there which he or she reasonably believes to be evidence of an offence under these Regulations.

(3) A member of the Garda Síochána shall have all the powers given to an authorised officer under paragraph (2) other than the power to examine or take samples from animals.

(4) A person shall not, in purported compliance with a requirement under paragraph 2(d), give information to an authorised officer or member of the Garda Síochána that he or she knows to be false or misleading in a material respect.

(5) A person shall not obstruct or impede an authorised officer or member of the Garda Síochána in the due exercise of any of the functions of the officer or member under these Regulations.

(6) A person who contravenes paragraph (4) or (5) is guilty of an offence and shall be liable on summary conviction to a fine not exceeding £1,500.

Notice given by authorised officer.

7. Where an authorised officer is of the opinion that—

(a) an animal is being caused unnecessary pain, suffering or injury,

(b) there is a serious risk to the welfare of an animal,

(c) the conditions under which an animal is being bred or kept are in contravention of these Regulations,

he or she may serve or cause to be served on the owner or keeper of the animal a notice stating that opinion and directing that—

(i) an ill or injured animal be cared for in an appropriate manner,

(ii) veterinary advice be obtained in respect of an ill or injured animal that is not responding to appropriate treatment,

(iii) the animal be fed food appropriate to its age and species and in such quantity as will maintain it in good health,

(iv) the animal be given access to such a supply of suitable water as will enable it to fulfil its fluid intake needs,

(v) the animal be moved to and kept in such place as the officer shall specify in the notice,

(vi) the animal be sold, destroyed or otherwise disposed of in such manner and at such place as the officer shall specify in the notice,

(vii) such alterations or additions be made to the premises, land or place at which the animal is kept, or to the equipment and facilities found there, as the officer shall specify in the notice,

(viii) such alterations be made to the manner in which the animal is kept as the officer shall specify in the notice,

(ix) such other measures be taken as are necessary to ensure that the animal is kept in a manner that complies with these Regulations and the Council Directive.

Provisions in regard to notices.

8. (1) A notice served under Regulation 7 may specify one or more requirements or refer to one or more animals or species of animal.

(2) A requirement contained in a notice served under Regulation 7 may specify a time limit within which it is to be complied with.

(3) A notice served under Regulation 7 may require the owner or keeper of the animal to choose between two or more of the requirements specified in the notice.

(4) A requirement specified in a notice served under Regulation 7 (in this Regulation referred to as "the earlier notice") may be modified or withdrawn in a further notice and in that event the earlier notice shall have effect subject to such modification or withdrawal.

(5) A notice served under Regulation 7 shall, subject to paragraph (6), be addressed to the person concerned by name and may be served on the person in one of the following ways—

(a) by delivering it by hand to the person,

(b) by leaving it at the address at which the person ordinarily resides or the last known place of abode or business of that person, or

(c) by sending it by post in a prepaid registered letter to the address at which the person ordinarily resides.

(6) Where a notice is to be served on a person who is the owner or keeper of an animal and the name of the person cannot be ascertained by reasonable enquiry, it may be addressed to that person by using the words "the owner" or "the keeper".

(7) No person, including a person upon whom a notice has been served under Regulation 7, shall deal with the animal concerned other than in accordance with the terms of the notice.

(8) In the event of an appeal made pursuant to Regulation 9 no person, including the person appealing, shall deal with the animal concerned pending the determination of the appeal other than in accordance with such directions as shall be given in writing to the appellant by an authorised officer.

(9) Where the terms of a notice referred to in Regulation 7 are confirmed with or without modification by the Judge of the District Court hearing an appeal

under Regulation 9, no person including the person who made the appeal shall deal with the animal concerned other than in accordance with the notice as confirmed.

Appeal against a notice.

9. (1) A person may appeal within 7 days of the service of a notice under Regulation 7 or paragraph (3) of Regulation 10 to the Judge of the District Court having jurisdiction in the District Court District where such animals are situated or to the Judge of the District Court where the person bringing the appeal ordinarily resides or carries on business on the grounds that the notice or any terms thereof are not justified having regard to the provisions of these Regulations.

(2) An appeal made pursuant to paragraph (1) may be heard at any sitting of the District Court within the appropriate District Court District.

(3) Notice of an appeal made pursuant to paragraph (1) shall be served on the Minister and the said notice shall be served on the Minister at least 2 days prior to the hearing of the appeal by serving it on the Minister or by leaving it at the place and in the manner specified in the notice issued under Regulation 7.

(4) The notice of appeal shall contain a statement of the grounds upon which it is alleged that the notice or any of the terms thereof are not justified.

(5) A copy of the notice of appeal shall be lodged with the District Court Clerk in the manner specified in the notice served under Regulation 7 or paragraph (3) of Regulation 10 at least 2 days prior to the hearing of the appeal.

(6) On the hearing of an appeal under this Regulation a Judge of the District Court may confirm, modify or annul the notice served under Regulation 7 or paragraph (3) of Regulation 10.

Power to seize and dispose of animals.

10. (1) Where—

(a) the owner or keeper of an animal fails to comply with the terms of a notice served on him or her under Regulation 7 within the time limit specified therein,

(b) an authorised officer has reasonable grounds for believing that the terms of a notice served under Regulation 7 will not be complied with,

(c) a notice served under Regulation 7 has been confirmed with or without modification under Regulation 9 and the notice has not been complied with,

(d) an authorised officer has reasonable grounds for believing that the terms of a notice served under Regulation 7 which has been confirmed with or without modification under Regulation 9 will not be complied with, or

(e) pending the determination of an appeal made pursuant to Regulation 9, an authorised officer has reasonable grounds for believing that directions given pursuant to paragraph 8 of Regulation 8 have not been or will not be complied with,

and an authorised officer is of the opinion that there is a serious risk to the welfare of an animal and that measures should be taken to prevent the animal being caused unnecessary pain or suffering, an authorised officer may at any time seize the animal concerned at such premises, land or place as he thinks fit in the circumstances of the case.

(2) In relation to any seized animal, an authorised officer may sell it or cause it to be sold or be otherwise disposed of or destroyed in such manner and at such place as the authorised officer considers appropriate in the circumstances of the case.

(3) The power conferred on an authorised officer by paragraph (2) may only be exercised where the authorised officer has served notice on the owner or keeper of the seized animal informing him or her of his or her right to appeal to the District Court.

(4) Any profits arising out of the sale or disposal of an animal under this Regulation shall be paid to the owner of such animal less any expenses incurred in connection with seizure, sale, disposal or destruction of the animal.

(5) The costs of seizure, sale, disposal or destruction of an animal under this Regulation shall, subject to paragraph (4), be recoverable as a simple contract debt in any court of competent jurisdiction from the person who was the owner of such animal at the time of seizure, sale, disposal or destruction took place.

(6) Any costs pertaining to action required to comply with a notice under Regulation 7 will be borne by the person on whom the notice is served.

11. Notwithstanding paragraph (1) of Regulation 9 and paragraph (3) of Regulation 10, where an authorised officer who is a veterinary surgeon is of the opinion that an animal is suffering such a degree of pain, suffering or injury that measures must be taken immediately to relieve its suffering, he or she may serve a notice under Regulation 7, or seize, sell, dispose of or destroy or have destroyed an animal under paragraph (2) of Regulation 10, without affording the owner or keeper the opportunity of making an appeal under Regulation 9

Offences.

12. (1) An offence under these Regulations may be prosecuted by the Minister.

(2) Any person who contravenes a provision of Regulation 4 or paragraph (7), (8) or (9) of Regulation 8 or who fails to comply with the requirements of a notice issued under Regulation 7, or such a notice confirmed with or without modification pursuant to paragraph (6) of Regulation 9, is guilty of an offence.

(3) Where an offence under these Regulations is committed by a body corporate or by a person purporting to act on behalf of a body corporate or on behalf of an unincorporated body of persons and it is proved to have been so committed with the consent or connivance of or to be attributable to any wilful neglect on the part of any other person who, when the offence was committed, was, or purported to act as, a director, manager, secretary or other officer (including a member of any committee of management or other controlling authority) of such body, such other person as well as the body, or the person so purporting to act on behalf of the body, is guilty of an offence and shall be liable to be proceeded against and punished as if he or she were guilty of the first-mentioned offence.

Penalties.

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

Saver.

14. (1) These Regulations apply without prejudice to European Community legislation concerning the protection and welfare of animals.

(2) The provisions of these Regulations are in addition to and not in substitution for—

(a) the Protection of Animals Kept for Farming Purposes Act, 1984 (No. 13 of 1984),

(b) the Care and Welfare of Poultry (Laying Hens) Regulations, 1990 (S.I. No. 238 of 1990),

(c) the European Communities (Welfare of Pigs) Regulations, 1995 (S.I. No. 91 of 1995) and

(d) the European Communities (Welfare of Calves) Regulations, 1998 (S.I. No. 138 of 1998).

SHOULD BE KEPT *SCHEDULE CONDITIONS UNDER WHICH ANIMALS*

Staffing.

1. Animals shall be cared for by a sufficient number of staff who possess the appropriate ability, knowledge and professional competence.

Inspection.

2. All animals kept in husbandry systems in which their welfare depends on frequent human attention shall be inspected at least once a day. Animals in other in other systems shall be inspected at intervals sufficient to avoid any suffering.

3. Adequate lighting (fixed or portable) shall be available to enable the animals to be thoroughly inspected at any time.

4. Any animal which appears to be ill or injured must be cared for appropriately without delay and, where an animal does not respond to such care, veterinary advice must be obtained as soon as possible. Where necessary, sick or injured animals shall be isolated in suitable accommodation with, where appropriate, dry comfortable bedding.

Record keeping.

5. The owner or keeper of the animals shall maintain a record of any medicinal treatment given and of the number of mortalities found at each inspection. Where equivalent information is being kept for other purposes this shall also suffice for the purposes of these Regulations.

6. These records shall be retained for a period of at least 3 years and shall be made available to an authorised officer when carrying out an inspection or when otherwise requested by an authorised officer.

Freedom of movement.

7. The freedom of movement of an animal, having regard to its species and in accordance with established experience and scientific knowledge, must not be restricted in such a way as to cause it unnecessary suffering or injury. Where an animal is continuously or regularly tethered or confined, it must be given the space appropriate to its physiological and ethological needs in accordance with established experience and scientific knowledge.

Buildings and accommodation.

8. Materials to be used for the construction of accommodation, and in particular for the construction of pens and equipment with which the animals may come into contact, must not be harmful to the animals and must be capable of being thoroughly cleaned and disinfected.

9. Accommodation and fittings for securing animals shall be constructed and maintained so that there are no sharp edges or protrusions likely to cause injury to the animals.

10. Air circulation, dust levels, temperature, relative air humidity and gas concentrations must be kept within limits which are not harmful to the animals.

11. Animals kept in buildings must not be kept either in permanent darkness or without an appropriate period of rest from artificial lighting. Where the natural light available is insufficient to meet the physiological and ethological needs of the animals appropriate artificial lighting must be provided.

Animals not kept in buildings.

12. Animals not kept in buildings shall where necessary and possible be given protection from adverse weather conditions, predators and risks to their health.

Automatic or mechanical equipment.

13. All automated or mechanical equipment essential for the health and well-being of the animals must be inspected at least once daily. Where defects are discovered these must be rectified immediately or, if this is impossible, appropriate steps must be taken to safeguard the health and well-being of the animals. Where the health and well-being of the animals are dependent on an artificial ventilation system provision must be made for an appropriate backup system to guarantee sufficient air renewal to preserve the health and well-being of the animals in the event of failure of the system and an alarm system must be provided to give warning of breakdown. The alarm system must be tested regularly.

Feed, water and other substances.

14. Animals must be fed a wholesome diet which is appropriate to their age and species and which is fed to them in sufficient quantity to maintain them in good health and satisfy their nutritional needs. No animal shall be provided with food or liquid in a manner, nor shall such food or liquid contain any substance, which may cause unnecessary suffering or injury.

15. All animals must have access to feed at intervals appropriate to their physiological needs.

16. All animals must have access to a suitable water supply or be able to satisfy their fluid intake needs by other means.

17. Feeding and watering equipment must be designed, constructed and placed so that contamination of food and water and the harmful effects of competition between the animals are minimised.

18. No animal remedy may be administered to an animal other than an animal remedy authorised under and administered in accordance with the Animal Remedies Regulations, 1996 (S.I. No. 179 of 1996) and the Control of Animal Remedies and their Residues Regulations, 1998 (S.I. No. 507 of 1998) and no other substance may be given to an animal unless it has been demonstrated by scientific studies of animal welfare or established experience that the effect of that substance is not detrimental to the health or welfare of the animal.

Breeding procedures.

19. Natural or artificial breeding or breeding procedures that cause or are likely to cause suffering or injury to any of the animals concerned must not be practised. This provision shall not preclude the use of certain procedures likely to cause

minimal or momentary suffering or injury or which might necessitate interventions which would not cause lasting injury.

20. No animal shall be kept for farming purposes unless it can reasonably be expected, on the basis of its genotype or phenotype, that it can be kept without detrimental effect on its health or welfare.



GIVEN under my Official Seal, this 11th day of May, 2000.

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 give effect to Council Directive 98/58/EC concerning the protection of animals kept for farming purposes and require owners and keepers to ensure the welfare of their animals.