

Statutory Instruments

S.I. No. 498 of 2006

European Communities (Avian Influenza) (Control on Imports of Avian Products from South Africa) Regulations 2006

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S.I. No. 498 of 2006

European Communities (Avian Influenza) (Control on Imports of Avian Products from South Africa) Regulations 2006

I, Mary Coughlan, 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 effect to Commission Decision No. 2006/532/EC of 28 July 2006¹, hereby make the following regulations: -

Citation

1. These Regulations may be cited as the European Communities (Avian Influenza) (Control on imports of avian products from South Africa) Regulations 2006.

Interpretation

2. (1) In these Regulations –

“avian product” means fresh meat of ratites, meat products and meat preparations consisting of or containing meat from ratites;

“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) a member of the Garda Síochána, or
- (c) an officer of Customs and Excise;

“Commission Decision” means Commission Decision No. 2006/532/EC of 28 July 2006;

“Minister” means the Minister for Agriculture and Food;

“premises” includes land (with or without buildings), vehicle, ship or other vessel, aircraft, railway wagon or other means of transport or any container used in transport;

"vehicle" includes a ship, hovercraft, aircraft and offshore installation (being an offshore installation within the meaning assigned to it by

¹ O.J. No. L 212 of 2.8.2006, p. 16.

section 2 (1) of the Safety, Health and Welfare (Offshore Installations) Act, 1987).

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

Restriction on imports

3. (1) Subject to paragraphs (3) and (4), a person, including the master or person in charge of a vessel or aircraft, shall not import live ratites, hatching eggs of ratites or an avian product from that part of the Republic of South Africa referred to in Annex 1 of the Decision that have been obtained from birds slaughtered on or after 1 May 2006.
- (2) A person, including the master or person in charge of a vessel or aircraft, shall not have in his or her possession or under his or her control live ratites, hatching eggs of ratites or an avian product that has been imported in contravention of paragraph (1).
- (3) A person importing an avian product, which has been obtained from birds slaughtered before 1 May 2006, from that part of South Africa referred to in Annex 1 of the Decision shall ensure that any such consignment is accompanied by a veterinary certificate that includes the appropriate statement in accordance with Article 2 (2).
- (4) Paragraph (1) does not apply to the import of meat products and meat preparations consisting of or containing meat of ratites, where such a consignment is accompanied by a veterinary certificate showing that the meat has undergone at least one of the specific treatments referred to under points B, C or D in part 4 of annex II to Commission Decision 2005/432/EC¹.

Authorised Officers

- 4.(1) Where an authorised officer has reasonable cause to suspect that -
- (a) live ratites, hatching eggs of ratites or an avian product is being or may have been imported in contravention of Regulation 3,
 - (b) live ratites, hatching eggs of ratites or an avian product 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),

¹ OJ No. L 151 of 14.6.2005, p.3

- (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 live ratites, hatching eggs of ratites or such an avian product,
- (e) any 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 such animal product, vehicle or container,
- (vi) take such specimens from live ratites, hatching eggs of ratites or an avian product as the authorised officer considers appropriate for the purposes of Article 3.2 of the Commission Decision or otherwise,
- (vii) seize and detain (for so long as is necessary) any such live ratites, hatching eggs of ratites or avian product, vehicle or container,
- (viii) require the production of any relevant document or thing relating to the live ratites, hatching eggs of ratites or avian 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, live ratites, hatching eggs of ratites or an avian 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 live ratites, hatching eggs of ratites or avian product, fodder, litter, 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 live ratites, hatching eggs of ratites or avian product is being delivered or who is causing it to be delivered,
 - (xiii) require of the person the ownership, identity and origin of the live ratites, hatching eggs of ratites or avian product, fodder or litter, or
 - (xiv) mark or otherwise identify such live ratites, hatching eggs of ratites or avian 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.
- (3) 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.
- (4) 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
- (5) 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

- 5.(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 an avian product that has been, may have been or may be imported in contravention of Regulation 3, or

- (b) that there is evidence of an offence under these regulations relating to an avian product 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

6. A person shall not -

- (a) obstruct or impede an authorised officer in the exercise of any of his or her powers under Regulation 4 or 5,
- (b) fail, without reasonable excuse, to comply with a requirement or direction made by an authorised officer under Regulation 4, or
- (c) in purporting to give information required by an authorised officer for the performance of the officer's powers under Regulation 4 -
 - (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.

Offences

- 7. (1) A person who does not comply with Regulations 3 or 6, shall be guilty of an offence.
- (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.

GIVEN under my Official Seal,
20th September 2006



Mary Coughlan
Minister for Agriculture and Food

EXPLANATORY NOTE

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

This Order gives effect to Commission Decision No. 2006/532/EC of 28 July 2006 concerning certain protective measures with regard to avian products imported from South Africa.

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