



STATUTORY INSTRUMENTS.

S.I. No. 96 of 2007

EUROPEAN COMMUNITIES (AVIAN INFLUENZA) (CONTROL ON
MOVEMENT OF PET BIRDS) REGULATIONS 2007

(Prn. A7/0340)

EUROPEAN COMMUNITIES (AVIAN INFLUENZA) (CONTROL ON
MOVEMENT OF PET BIRDS) REGULATIONS 2007

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. 2007/25/EC of 22 December 2006¹, hereby make the following regulations—

Citation

1. These Regulations may be cited as the European Communities (Avian Influenza) (Control on Movement of Pet Birds) Regulations 2007.

Interpretation

2. (1) In these Regulations—

“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. 2007/25/EC of 22 December 2006;

“Minister” means the Minister for Agriculture and Food;

“pet bird” means a live bird other than poultry, as defined in the third indent of Article 1 of Commission Decision No. 2000/666/EC²;

“premises” includes land with or without buildings;

“third country” means a country (other than Andorra, Croatia, Faroe Islands, Greenland, Iceland, Liechtenstein, Monaco, Norway, San Marino, Switzerland or Vatican City State) that is not a member state of the European Communities;

“vehicle” includes a ship, hovercraft, aircraft and offshore installation (being an offshore installation within the meaning assigned to it by section 2 (1) of the Safety, Health and Welfare (Offshore Installations) Act, 1987).

¹O.J. No. L8 13.01.2007, p.29

²O.J. No. L278 31.10.2000, p.26

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 9th March, 2007.*

(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.

Control on Import

3. (1) Subject to Regulation 4 a person, including the master or person in charge of an aircraft, shall not introduce into the State a pet bird that originates in a third country or cause or permit another person to introduce a pet bird that originates in a third country.

(2) A person shall not have in his or her possession or under his or her control a pet bird imported in contravention of paragraph (1) or Regulation 4.

Introduction of Pet Birds

4. (1) A person may import no more than 5 pet birds that comply with Article 1 of the Commission Decision provided that they are accompanied at the time of importation by a certificate of an official veterinarian of the country of export in accordance with the model in Annex II to the Commission Decision and a declaration by the owner or representative of the owner in accordance with Annex III of the Commission Decision.

(2) A person, including the master or person in charge of an aircraft, shall only introduce a pet bird into the State at Dublin airport or Shannon airport.

Authorised Officers

5. (1) Where an authorised officer has reasonable cause to suspect that—

- (a) a pet bird is being or may have been imported in contravention of Regulations 3 or 4,
- (b) a pet bird has been moved other than in accordance with a requirement, request or direction of an authorised officer under subparagraph (x) or (xi),
- (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, or container contains or has recently contained such a pet bird, or
- (e) 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 a person, vehicle or container,
- (iii) board and search a vehicle or container,
- (iv) search a person, if the authorised officer considers it necessary,

- (v) examine a pet bird, vehicle or container,
- (vi) take samples from a pet bird as the authorised officer considers appropriate,
- (vii) seize and detain (for so long as is necessary) a pet bird, vehicle or container,
- (viii) require the production of a relevant document or thing relating to a pet bird, vehicle or container,
- (ix) retain 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, a pet bird to dispose of it in such manner as the authorised officer sees fit,
- (xi) give such directions to, or request such information of, a person regarding a pet bird, food, litter, vehicle, 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 a pet bird is being delivered or who is causing it to be delivered,
- (xiii) require of a person the ownership, identity and origin of the pet bird, food or litter, or
- (xiv) mark or otherwise identify a pet bird or a sample 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 6.

(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 6 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 Regulation if the court is satisfied that the act was done in good faith and that there were reasonable grounds for doing it

(6) If 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

6. (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, or container a pet bird that has been, or may have been or may be imported in contravention of Regulation 4, or
- (b) that there is evidence of an offence under these regulations relating to a pet bird 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, or container named in the warrant.

(3) If any premises, land or vehicle, 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

7. A person shall not—

- (a) obstruct or impede an authorised officer in the exercise of any of his or her powers under Regulation 5 or 6,
- (b) fail, without reasonable excuse, to comply with a requirement or direction made by an authorised officer under Regulation 5, or
- (c) in purporting to give information required by an authorised officer for the performance of the officer's powers under Regulation 5—
 - (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

8. (1) A person who, by act or omission, contravenes Regulation 3, 4 or 7 commits an offence and is liable on conviction to a fine not exceeding €5,000 or

to a term of imprisonment not exceeding 6 months, or to both such fine and such imprisonment.

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

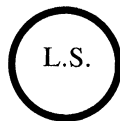
(3) Where an offence under these Regulations has been committed by a body corporate and it is proved to have been so committed with the consent or connivance of or to be attributable to any neglect on the part of any person who, when the offence was committed, was a director, manager, secretary or other 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.

Revocations

9. The following are revoked-

- (a) the European Communities (Avian Influenza) (Control and Movement of Pet Birds) Regulations 2005 (S.I. No. 708 of 2005),
- (b) the European Communities (Avian Influenza) (Control and Movement of Pet Birds) (Amendment) Regulations 2005 (S.I. No. 906 of 2005),
- (c) Regulations 2(3) of the European Communities (Avian Influenza) (Amendment of Regulations) Regulations (No. 2) 2006 (S.I. No. 356 of 2006),
- (d) Regulations 2(3) of the European Communities (Avian Influenza) (Amendment of Regulations) Regulations (No. 3) 2006 (S.I. No. 555 of 2006).



GIVEN under my Official Seal,
28 February 2007

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. 2007/25/EC of 22 December 2006 concerning certain protective measures with regard to pet birds imported from third countries.

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