



STATUTORY INSTRUMENTS.

**S.I. No. 99 of 2010**



EUROPEAN COMMUNITIES (CONTROL OF SALMONELLA IN  
TURKEYS) REGULATIONS 2010

**(Prn. A10/0353)**

## EUROPEAN COMMUNITIES (CONTROL OF SALMONELLA IN TURKEYS) REGULATIONS 2010

I, BRENDAN SMITH, Minister for Agriculture, Fisheries 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. 584/2008 of 20 June 2008<sup>1</sup> and, in so far as they concern turkeys, Regulation (EC) No. 2160/2003 of the European Parliament and of the Council of 17 November 2003<sup>2</sup>, as amended by Council Regulation (EC) No. 1791/2006 of 20 November 2006<sup>3</sup>, Commission Regulation (EC) No. 199/2009 of 13 March 2009<sup>4</sup> and Commission Regulation (EC) No. 213/2009 of 18 March 2009<sup>5</sup>, and Commission Regulation (EC) No. 1177/2006 of 1 August 2006<sup>6</sup>, hereby make the following regulations—

*Citation*

1. These Regulations may be cited as the European Communities (Control of salmonella in turkeys) Regulations 2010.

*Interpretation*

2. (1) In these Regulations—

“authorised officer” means—

- (a) an authorised officer within the meaning of 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), or
- (b) a person appointed under the European Communities (Agriculture, Fisheries and Food) (Compliance) Regulations 2009 (S.I. No. 424 of 2009);

“EC Regulations” means Commission Regulation (EC) No 584/2008 of 20 June 2008 and in as far as they concern turkeys, Regulation (EC) No. 2160/2003 of the European Parliament and of the Council of 17 November 2003, as amended by Council Regulation (EC) No. 1791/2006 of 20 November 2006, Commission Regulation (EC) No. 199/2009 of 13 March 2009 and Commission Regulation (EC) No.213/2009 of 18 March 2009, and Commission Regulation (EC) No. 1177/2006 of 1 August 2006;

<sup>1</sup>O.J. No. L 162 of 21.6.2008, p.3

<sup>2</sup>O.J. No. L 325 of 12.12.2003, p.1

<sup>3</sup>O.J. No. 363 of 20.12.2006, p. 1

<sup>4</sup>O.J. No. L70 of 14.3.2009, p.9

<sup>5</sup>O.J. No. L73 of 19.3.2009, p.5

<sup>6</sup>O.J. No. L212 of 2.8.2006, p.3

*Notice of the making of this Statutory Instrument was published in “Iris Oifigiúil” of 12th March, 2010.*

“holder” in relation to a laboratory approval includes, if the context so requires or admits, a person employed by the holder;

“Minister” means Minister for Agriculture, Fisheries and Food;

“premises” includes land, buildings, structures, vehicles or containers;

“Regulation 2160/2003” means Regulation (EC) No. 2160/2003 of the European Parliament and of the Council of 17 November 2003, as amended by Council Regulation (EC) No. 1791/2006 of 20 November 2006, Commission Regulation (EC) No. 199/2009 of 13 March 2009 and Commission Regulation (EC) No. 213/2009 of 18 March 2009.

(2) A word or expression that is used in the EC Regulations or Regulation 2160/2003 and that is also used in these Regulations has in these Regulations the same meaning as in the EC Regulations.

*Obligations of food business operators*

3. The owner or person in charge of a turkey flock shall ensure that—

- (a) sampling of the flock is carried out in accordance with the Annex to Commission Regulation (EC) No. 584/2008,
- (b) each sample is dispatched to an approved laboratory within 24 hours after collection in a manner that ensures the integrity of the sample,
- (c) each sample is identified in a manner that enables the laboratory to which it is sent to know—
  - (i) the name of the owner or person in charge of the fattening or breeding flock and, if different, the address of the farm,
  - (ii) date on which the sample was taken,
  - (iii) description of sample taken,
  - (iv) identity of the flock, and
  - (v) identity of the building or group of buildings where the sample was taken,
- (d) each sample is tested at an approved laboratory using an approved method, at the expense of the owner or person in charge of the flock, for the presence of salmonella,
- (e) a record of samples taken for the purposes of salmonella testing is kept which shall contain at least—
  - (i) the date on which the sample was taken.
  - (ii) description of sample taken,

- (iii) identity of the building or group of buildings where the samples were taken and
- (iv) the result of analysis, and
- (f) the record referred to in paragraph (e) and the report of the result of the test provided by the approved laboratory are retained for a period of at least three years from the date of taking of the sample and are produced to an authorised officer on request.

*Laboratory approval*

4. (1) A person shall not operate a laboratory for the purposes of these Regulations and the EC Regulations other than under and in accordance with an approval granted by the Minister, (“laboratory approval”).

(2) An application for laboratory approval shall be made in a form, be accompanied by any material and contain any information that the Minister may require.

(3) The Minister shall not consider an application for laboratory approval unless the application contains all the material and particulars sought and is accompanied by the fee (if any) set in accordance with Regulation 5.

(4) The holder of a laboratory approval shall make such returns to the Minister as the Minister may require.

(5) The Minister may revoke or suspend a laboratory approval, attach conditions to an approval or refuse an application.

(6) If the Minister proposes to revoke or suspend a laboratory approval or refuse an application he or she shall—

- (a) notify the holder of a laboratory approval or applicant in writing of the proposal and of the reasons for the proposal, and that he or she may make representations to the Minister in relation to the proposal within 14 days of the notification,
- (b) consider any representations duly made before deciding whether to proceed with, modify or annul the proposal and
- (c) notify the holder of a laboratory approval or applicant of the decision and the reasons for the decision.

(7) If the Minister is of the opinion that it is necessary for the protection of human or animal health he or she may refuse an application or suspend or revoke an approval without allowing the representations referred to in paragraph (6).

(8) If the Minister grants a laboratory approval he or she may specify a date on which that approval will expire.

(9) A laboratory approved under the European Communities (Control of salmonella in breeding flocks of domestic fowl) Regulations 2006 (S.I. No. 706 of 2006) or under the European Communities (Control of salmonella in laying flocks of domestic fowl) Regulations 2008 (S.I. No. 247 of 2008) is considered to be an approved laboratory under these Regulations.

#### *Fees*

5. (1) The Minister may from time to time set and charge fees in respect of an application for a laboratory approval.

(2) Moneys received under this Regulation shall be paid into or disposed of for the benefit of the Exchequer in accordance with the directions of the Minister for Finance.

(3) The Public Offices Fees Act 1878 (42 & 43 Vict. Cap 58) does not apply to a fee charged pursuant to this Regulation.

#### *Obligations of approved laboratories*

6. (1) The holder of a laboratory approval in respect of a laboratory to which a sample is submitted shall ensure that—

- (a) the sample is dealt with in the manner set out in Part 3 of the Annex to Commission Regulation (EC) No. 584/2008 of 20 June 2008 and tested for the presence of salmonella in accordance with a method approved by the Minister,
- (b) the result of the test is reported in writing as soon as practicable to the person who submitted the sample, and
- (c) if *Salmonella enteritidis* or *Salmonella typhimurium* is detected in a sample the Minister is immediately informed of that detection by means of an oral report followed by a written report within one working day.

(2) The holder of a laboratory approval shall—

- (a) apply quality control systems that conform to the current EN/ISO standard,
- (b) regularly participate in collaborative testing organised or coordinated by the national reference laboratory, and
- (c) comply with all conditions applicable to the laboratory as notified to the holder by the Minister at the time of approval or subsequently.

#### *Control plans*

7. (1) If *Salmonella enteritidis* or *Salmonella typhimurium* is detected in a fattening or breeding turkey flock an authorised officer may serve a notice in writing, (“direction”) and direct—

- (a) that a plan for the prevention, control and eradication of salmonella (“control plan”) is put in place for the flock within 30 days of service of the direction,
- (b) criteria with which the control plan must comply, and
- (c) that the control plan be submitted to an authorised officer within 30 days of service of the direction.

(2) Without prejudice to the generality of paragraph (1), an authorised officer may direct that a control plan contain such provisions and comply with such requirements as are specified in the direction, including provisions and requirements relating to—

- (a) the form of the plan,
- (b) the number and type of samples to be taken at the holding and frequency of sampling,
- (c) the testing of samples at an approved laboratory,
- (d) disinfection procedures to be adopted in relation to the holding,
- (e) biosecurity measures including staff, equipment, visitor access, pest control and control of animals and their products,
- (f) managerial practices including work flows and standard operating procedures,
- (g) restocking,
- (h) transport ,and
- (i) other measures to be taken by the person on whom the direction is served to control salmonella.

(3) A person on whom a direction is served shall comply with the direction.

(4) An authorised officer may approve a control plan submitted under this Regulation or refuse to approve a plan within 30 days of the receipt of the control plan.

(5) An authorised officer may within a period of 30 days of the receipt of the control plan require, by notice in writing, that the plan be modified in such manner as the officer directs.

(6) If an authorised officer requires that a control plan be modified, the owner or person in charge of the holding shall modify the plan accordingly within a period of 30 days of receipt of a notice under paragraph (5) and submit the plan as so modified to the officer.

*Records*

8. The owner or person in charge of a fattening or breeding turkey flock shall keep, and retain for a period of at least two years, a record of the movement of birds onto and off the premises including the

- (a) date of the movement,
- (b) number of birds moved,
- (c) identity of the building or group of buildings into which or from which the birds were moved,
- (d) name and address of the premises from which incoming birds were brought, and
- (e) name and address of the premises to which outgoing birds were sent.

*Authorised officer*

9. The European Communities (Agriculture, Fisheries and Food) (Compliance) Regulations 2009 (S.I. No. 424 of 2009) apply to these Regulations.

*Offences and penalties*

10. (1) A person who—

- (a) contravenes Articles 9.1, 10.4, Parts B or E of Annex II to Regulation 2160/2003,
- (b) contravenes Article 2 or 3 of Commission Regulation (EC) No. 1177/2006,
- (c) contravenes Regulation 3, 4(1), 4(4), 6, 7, 8, or 9 of these Regulations,
- (d) contravenes the Annex to Commission Regulation (EC) No. 584/2008,
- (e) tampers or otherwise interferes with any sample taken under these Regulations,
- (f) tampers or otherwise interferes with any poultry, poultrymeat or eggs so as to procure that any sample of it taken under these Regulations does not correctly represent the poultry, poultrymeat or eggs,
- (g) treats or allows treatment of any bird which causes any sample to be invalid,
- (h) forges, or utters knowing it to be forged, a record referred to in these Regulations,
- (i) fails to give assistance to, or obstructs, impedes or otherwise interferes with, an authorised officer in the performance of his, or her functions or gives information to an authorised officer that he or she knows to be false or misleading in a material respect,

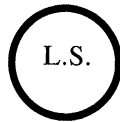
(j) in applying for a laboratory approval wilfully makes a false or misleading statement,

commits an offence and is liable on summary conviction to a fine not exceeding €5,000 or to imprisonment for a period not exceeding 6 months or to both.

(2) If an offence under these Regulations has been committed by a body corporate and is proved to be so committed with the consent or connivance of, or be attributable to any neglect on the part of, a person being a director, manager, secretary or other officer of the body corporate or a person who was purporting to act in any such capacity, that person, as well as the body corporate commits an offence and shall be liable to be proceeded against and punished as if he or she were guilty of the first-mentioned offence.

(3) If the affairs of a body corporate are managed by its members, paragraph (2) applies in relation to the acts and defaults of a member in connection with the functions of management as if the member were a director or manager of the body corporate.

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



GIVEN under my Official Seal,  
9 March 2010.

BRENDAN SMITH,  
Minister for Agriculture, Fisheries and Food.



EXPLANATORY NOTE

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

These Regulations give effect to European Communities legislation on the control of salmonella in fattening and breeding turkey flocks, requiring the testing of such flocks and provide for the approval of laboratories to conduct tests.

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