

Egg Industry Regulations 2004

I, the Lieutenant-Governor in and over the State of Tasmania and its Dependencies in the Commonwealth of Australia, acting with the advice of the Executive Council, make the following regulations under the *Egg Industry Act 2002*.

15 November 2004

W. J. E. COX

Lieutenant-Governor

By His Excellency's Command,

STEVEN KONS

Minister for Primary Industries and Water

PART 1 - PRELIMINARY

1. Short title

These regulations may be cited as the *Egg Industry Regulations 2004*.

2. Commencement

These regulations take effect on the day on which their making is notified in the *Gazette*.

3. Interpretation

In these regulations –

"Act" means the *Egg Industry Act 2002*;

"seized" means seized by an inspector under the Act.

PART 2 - INSPECTORS

4. Powers of inspectors

(1) An inspector who has entered premises pursuant to section 11(1) of the Act may exercise any of the following powers:

(a) seize any eggs that the inspector reasonably believes will afford evidence of the commission of an offence against the Act;

(b) seize any eggs that the inspector reasonably believes have been produced by a person who is not –

(i) an approved egg producer; or

(ii) supplying an approved egg producer;

(c) search and, if necessary, stop any vehicle or machinery;

- (d) open or break open any containers, packages or receptacles apparently used for packing or storing eggs;
- (e) weigh, count, measure or gauge any eggs or any containers apparently used for packing or storing eggs;
- (f) mark, fasten, secure, take and remove a sample or specimen of any eggs or any containers apparently used for packing or storing eggs;
- (g) take measurements, notes or photographs;
- (h) check the physical condition of any hens and the conditions in which any hens are being kept;
- (i) require any person to provide information about the production and sale of eggs;
- (j) require any person to give such reasonable assistance as the inspector requires;
- (k) seize any other item that the inspector reasonably believes will afford evidence of the commission of an offence against the Act.

(2) A person must not fail to comply with a requirement under subregulation (1)(i) or (j) without reasonable excuse.

Penalty:

In the case of –

- (a) a body corporate, a fine not exceeding 20 penalty units; or
- (b) an individual, a fine not exceeding 10 penalty units.

PART 3 - SEIZURE OF ITEMS

5. Seizure

(1) If an inspector exercising power under section 11 of the Act or Part 2 of these regulations seizes any eggs or other items from any person, the inspector, as soon as practicable, is to give written notice of that seizure to that person.

(2) A notice given under subregulation (1) is to –

- (a) include a description of the items seized; and
- (b) state the address of the place where the items are held; and
- (c) state that a person who is entitled to possession of the seized items may –
 - (i) make a request under regulation 6 for access to, or a copy of, seized records or other seized documents; or
 - (ii) apply under regulation 7 for the release of seized items; and

(d) state that, if the person is convicted of an offence, a court may order that the seized items be forfeited in accordance with regulation 8.

(3) The Secretary may retain any seized item –

(a) for a period not exceeding 6 months commencing on the day it is seized; or

(b) if proceedings for an offence in relation to the seized item are instituted within that period, until the proceedings are terminated.

(4) The Secretary may, at any time and in any manner, dispose of or destroy eggs or any perishable items that have been seized if the Secretary is satisfied that the eggs or perishable items are not capable of being safely stored or preserved.

(5) A person must not remove any seized items except with the permission of an inspector.

Penalty:

In the case of –

(a) a body corporate, a fine not exceeding 20 penalty units; or

(b) an individual, a fine not exceeding 10 penalty units.

(6) A person must not tamper with, alter or in any way interfere with any seized items except under the direction of an inspector.

Penalty:

In the case of –

(a) a body corporate, a fine not exceeding 20 penalty units; or

(b) an individual, a fine not exceeding 10 penalty units.

6. Documents

The Secretary, at the written request of any person entitled to possession of a seized record or other seized document, is to provide that person with a copy of, or access to, that record or document as soon as practicable.

7. Release of seized items

(1) The Secretary may, on written application, release a seized item to the person from whom it was seized or such other person as appears to the Secretary to be entitled to it, subject to such conditions as the Secretary thinks fit.

(2) A person must not fail to comply with a condition imposed under subregulation (1).

Penalty:

In the case of –

(a) a body corporate, a fine not exceeding 20 penalty units; or

(b) an individual, a fine not exceeding 10 penalty units.

(3) If a court convicts a person of an offence under subregulation (2), the court may order the forfeiture to the Crown of any items released under subregulation (1).

(4) Anything forfeited under subregulation (3) may be sold or destroyed, or otherwise disposed of, as the Secretary directs.

(5) If the Secretary becomes satisfied that there has been no contravention of the Act, the Secretary, as soon as practicable, is to –

(a) cause any seized item to be delivered to the person from whom it was seized; or

(b) if a seized item has been damaged or destroyed, pay compensation of an amount equal to the item's market value at the time of the item's seizure.

8. Forfeiture of seized items

(1) If a court convicts a person of an offence against this Act, the court may order the forfeiture to the Crown of any items seized.

(2) Any items forfeited under subregulation (1) may be sold or destroyed, or otherwise disposed of, as the Secretary directs.

(3) If a court convicts a person of an offence against this Act, but the court does not order the forfeiture of an item, the Secretary, as soon as practicable, is to –

(a) cause the item to be released to the person from whom it was seized; or

(b) if the item has been damaged or destroyed, pay compensation of an amount equal to the item's market value at the time of the item's seizure.

PART 4 - FEES

9. Fees

The fees specified in Schedule 1 are the fees payable in respect of the matters specified in that Schedule.

SCHEDULE 1 - Fees

Regulation 9

	Section of Act	Type of fee	Fee units
1.	<u>Section 5(2)(b)</u>	Application for approval of egg production program	350
2.	<u>Section 6(2)(b)</u>	Application for approval to adopt an approved egg production program	100
3.	<u>Section</u>	Application for exemption from Act or any provision of it	50

Displayed and numbered in accordance with the [Rules Publication Act 1953](#).

Notified in the *Gazette* on 24 November 2004.

These regulations are administered in the Department of Primary Industries, Water and Environment.

Table Of Amendments

Citation	Serial Number	Date of commencement
Egg Industry Regulations 2004	S.R. 2004, No. 97	24.11.2004