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STATUTORY INSTRUMENTS

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**2006 No. 864**

**ANIMALS, ENGLAND**

**ANIMAL HEALTH**

**The Salmonella in Broiler Flocks (Survey Powers) (England)  
Regulations 2006**

<i>Made</i> - - - -	<i>20th March 2006</i>
<i>Laid before Parliament</i>	<i>22nd March 2006</i>
<i>Coming into force</i> - -	<i>12th April 2006</i>

The Secretary of State, being designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b) in relation to the common agricultural policy of the European Community, in exercise of the powers conferred on her by that section, makes the following Regulations:

**Title, application and commencement**

1. These Regulations may be cited as the Salmonella in Broiler Flocks (Survey Powers) (England) Regulations 2006; they apply in England and come into force on 12th April 2006.

**Interpretation**

2.—(1) In these Regulations—

“Commission Decision” means Commission Decision 2005/636/EC concerning a financial contribution by the Community towards a baseline survey on the prevalence of *Salmonella* spp. in broiler flocks of *Gallus gallus* to be carried out in the Member States(c);

“holding” means a facility used for the rearing or keeping of broiler chickens;

“local authority” means—

- (a) in any part of England where there is, within the meaning of the Local Government Changes for England Regulations 1994(d), a unitary authority for that local government area, that authority;
- (b) in any part of England where there is not a unitary authority—
  - (i) in a metropolitan district, the council of that district;

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(a) S.I. 1972/1811.

(b) 1972 c 68.

(c) OJ No L 228, 3.9.2005, p 14.

(d) S.I. 1994/867 to which there are amendments not relevant to these Regulations.

- (ii) in a non-metropolitan county, the council of that county;
- (iii) in each London borough, the council of that borough; or
- (iv) in the City of London, the Common Council.

(2) Expressions defined in the Commission Decision have the same meaning in these Regulations.

### **The competent authority**

3. The Secretary of State is the competent authority for the purposes of the Commission Decision.

### **Selection of holdings**

4.—(1) The occupier or person in charge of a holding (or any employee or agent of the occupier or person in charge of a holding) shall, within 7 days of receiving a written notice from the Secretary of State, send her such information as she specifies in the notice as being required to assist her with the selection of holdings to be included in the survey for the purposes of the Commission Decision.

(2) Without prejudice to the generality of paragraph (1), a notice under it may contain a requirement for the recipient to send any or all of the following information—

- (a) the number of broiler chickens or the number of flocks of broiler chickens on the holding;
- (b) the number and times of the flock cycles of the broiler chickens on the holding; and
- (c) the production type of the broiler chickens on the holding.

(3) For the purposes of this regulation—

- (a) “survey” has the same meaning as in the Commission Decision; and
- (b) “production type” and “flock cycles” have the same meaning as in the technical specifications referred to in Article 5 of the Commission Decision.

### **Powers of inspectors**

5.—(1) An inspector shall, on producing some duly authenticated document evidencing his authority, have the right at all reasonable hours to enter any holding selected in accordance with the Commission Decision for the purposes of—

- (a) ascertaining in accordance with that Decision—
  - (i) whether *Salmonella* spp. exists or has existed there;
  - (ii) the *Salmonella* vaccination status of the broiler chickens on the holding; and
  - (iii) whether anti-microbials have been used; and
- (b) the enforcement of these Regulations.

(2) When he has entered a holding an inspector may—

- (a) take samples of faecal material;
- (b) examine any records in whatever form, including computerised records, and take copies of those records;
- (c) make inquiries of any person; and
- (d) take with him any person, vehicle or equipment he considers necessary for the execution or enforcement of these Regulations.

(3) For the purpose of this regulation, “inspector” means any person appointed by the Secretary of State or a local authority for the purposes of these Regulations.

## Offences

6. A person is guilty of an offence if he—
- (a) fails to comply with regulation 4;
  - (b) intentionally obstructs any person acting in the execution of these Regulations;
  - (c) gives any information that he knows to be false or misleading to any person acting in the execution of these Regulations; or
  - (d) otherwise than as specified in paragraph (a), fails without reasonable excuse—
    - (i) to give any assistance or information that any person acting in the execution of these Regulations may require him to give; or
    - (ii) to produce any record that any person acting in the execution of these Regulations may require him to produce,for the performance of that person's functions under these Regulations.

## Penalties

7. A person guilty of an offence under these Regulations is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

## Offences by bodies corporate

8.—(1) Where a body corporate is guilty of an offence under these Regulations, and that offence is proved to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of—

- (a) any director, manager, secretary or other similar representative of the body corporate; or
- (b) any person purporting to act in any such capacity,

he, as well as the body corporate, is guilty of the offence and is liable to be proceeded against and punished accordingly.

(2) For the purposes of paragraph (1), “director”, in relation to a body corporate whose affairs are managed by its members, means a member of the body corporate.

## Enforcement

9.—(1) These Regulations shall be enforced by the local authority.

(2) The Secretary of State may direct, in relation to cases of a particular description or a particular case, that any duty imposed on a local authority under paragraph (1) shall be discharged by the Secretary of State and not by the local authority.

## Revocation

10. The Salmonella in Broiler Flocks (Survey Powers) (England) Regulations 2005(a) are revoked.

20th March 2006

*Ben Bradshaw*  
Parliamentary Under Secretary of State  
Department for Environment, Food and Rural Affairs

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(a) S.I. 2005/2927.

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations revoke and replace the Salmonella in Broiler Flocks (Survey Powers) (England) Regulations 2005 (S.I. 2005/2927). They provide a period of 7 days for the occupier or person in charge of a holding to send the requested information to the Secretary of State (regulation 4). The revoked Regulations provided for information to be supplied to the Secretary of State upon request.

These Regulations provide a power of entry to inspectors to undertake sampling to detect the prevalence of Salmonella spp. in broiler chickens as required by Commission Decision 2005/636/EC concerning a financial contribution by the Community towards a baseline survey on the prevalence of Salmonella spp. in broiler flocks of Gallus gallus to be carried out in the Member States<sup>(a)</sup>. Regulation 3 designates the Secretary of State as the competent authority for the purposes of the Commission Decision. Regulation 4 provides that the occupier or person in charge of a holding must, within 7 days of a request, send information to the Secretary of State to assist her with the selection of holdings to be included in the survey. Regulation 5 provides inspectors with various powers including a power of entry and power to take samples of faecal material, to examine records and to make inquiries of any person. Regulation 6 creates offences for obstructing an inspector exercising his powers under these Regulations and regulation 7 sets out the applicable penalties. Regulation 9 provides that these Regulations shall be enforced by the local authority.

A full regulatory impact assessment has not been produced for these Regulations as they have no impact on the costs of business.

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(a) OJ No L 228, 3.9.2005, p 14.

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