



STATUTORY INSTRUMENTS.

S.I. No. 328 of 2010



EUROPEAN COMMUNITIES (MARKETING STANDARDS FOR
POULTRYMEAT) REGULATIONS 2010

(Prn. A10/0968)

EUROPEAN COMMUNITIES (MARKETING STANDARDS FOR
POULTRYMEAT) 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) for the purpose of giving full effect to Council Regulation (EC) No. 1234/2007 of 22 October 2007¹ as amended by Council Regulation (EC) No. 1047/2009 of 19 October 2009² in as far as it concerns marketing standards for poultrymeat and to Commission Regulation (EC) No. 543/2008 of 16 June 2008³ as amended by Commission Regulation (EC) No. 936/2008 of 24 September 2008⁴ and Commission Regulation (EC) No. 508/2009 of 15 June 2009⁵, hereby make the following regulations:

Citation

1. These Regulations may be cited as the European Communities (Marketing Standards for Poultrymeat) Regulations 2010.

Interpretation

2. (1) In these Regulations—

“authorised officer” means—

- (a) a person appointed under the European Communities (Agriculture, Fisheries and Food) (Compliance) Regulations 2009 (S.I. No. 424 of 2009) as amended by the European Communities (Marketing Standards) (Crops and Oils) Regulations 2010 (S.I. No. 153 of 2010),
- (b) an officer of Customs and Excise, or
- (c) a member of an Garda Síochána;

“Commission Regulation” means Commission Regulation (EC) No. 543/2008 of 16 June 2008 as amended by Commission Regulation (EC) No. 936/2008 of 24 September 2008 and Commission Regulation (EC) No. 508/2009 of 15 June 2009;

“Council Regulation” means Council Regulation (EC) No. 1234/2007 of 22 October 2007 as amended by Council Regulation (EC) No. 1047/2009 of 19 October 2009 in as far as it concerns marketing standards for poultrymeat;

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

¹O.J. No. L 299 of 16.11.2007, p.1.

²O.J. No. L 290 of 6.11.2009, p.1.

³O.J. No. L 157 of 17.6.2008, p.46.

⁴O.J. No. L 257 of 24.9.2008, p.7.

⁵O.J. No. L 151 of 16.6.2009, p.28.

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 6th July, 2010.*

(2) A word or expression that is used in these Regulations and is also used in the Council Regulation or the Commission Regulation has the same meaning in these Regulations as it has in the Council Regulation or the Commission Regulation.

(3) These Regulations do not apply to the direct supply of small quantities of poultrymeat in accordance with Part B.I.3 of Annex XIV to the Council Regulation.

Registration of producers and slaughterhouses

3. (1) A person shall not market poultrymeat bearing a term referred to in Article 11 of the Commission Regulation unless the poultrymeat has been slaughtered in a slaughterhouse and produced by a producer registered for the purposes of Article 12 of the Commission Regulation.

(2) The Minister may grant registration under this Regulation, attach conditions to registration, revoke or vary a condition, insert a new condition, suspend or withdraw registration or refuse an application.

(3) An application for registration under this Regulation shall be made in a form, be accompanied by any material and contain any particulars that the Minister specifies.

(4) The Minister shall not consider an application for registration under this Regulation if the application does not contain all the material and particulars sought by the Minister or is not accompanied by the fee (if any) set under Regulation 10.

(5) Without prejudice to the generality of paragraph (2), the Minister may refuse an application, suspend or withdraw registration under this Regulation if, in the opinion of the Minister—

- (a) the applicant or person to whom registration is granted has committed an offence under Regulations made under the European Communities Act 1972 that relates to marketing standards,
- (b) the applicant or person to whom registration is granted has failed to comply with a condition attached to registration,
- (c) the applicant or person to whom registration is granted has contravened the Council Regulation, the Commission Regulation or these Regulations,
- (d) the applicant or person to whom registration is granted is not a fit person to hold a registration,
- (e) without prejudice to paragraph (3), in relation to the application, information required has not been furnished or information that is false or misleading has been furnished, or

(f) it is necessary, incidental, supplementary or consequential for the purposes of giving effect to an act of the institutions of the European Communities relating to marketing standards.

(6) If the Minister proposes to suspend or withdraw registration, or to refuse an application, he or she shall—

(a) notify the applicant or holder of the registration 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 a representation duly made, and

(c) notify the applicant or holder of the registration in writing of the decision and the reasons for the decision.

(7) The Minister may restore a registration that has been suspended where the Minister is satisfied that-

(a) the shortcomings notified by the Minister to the owner or person in charge or producer have been rectified and

(b) the requirements of the Council Regulation, the Commission Regulation or these Regulations are being complied with.

(8) The Minister may decline to restore a registration that has been suspended where the Minister has reasonable grounds for believing that the Council Regulation, the Commission Regulation or these Regulations will not be complied with.

(9) A person to whom registration is granted under this Regulation shall make such returns to the Minister as and when, and in such form as, the Minister may direct.

Authorised officers

4. The European Communities (Agriculture, Fisheries and Food) (Compliance) Regulations 2009 apply to these Regulations

Compliance notice

5. (1) If an authorised officer is of the opinion that poultrymeat is being or has been dealt with other than in accordance with the Council Regulation, the Commission Regulation or these Regulations he or she may serve or cause to be served on the owner or person in charge of the poultrymeat a notice (“compliance notice”) stating that opinion and directing that—

(a) the poultrymeat not be sold or supplied,

(b) such action be taken, in the manner (if any) specified in the notice, as is necessary to make the poultrymeat comply with the Council

Regulation, the Commission Regulation or these Regulations and that proof of compliance be provided to the officer,

- (c) the poultrymeat be destroyed in a manner and at a place (if any) that the officer directs, or
- (d) the poultrymeat be used or disposed of in a manner that the officer directs.

(2) A person shall not contravene a compliance notice.

(3) A compliance notice may specify one or more requirements.

(4) A requirement contained in a compliance notice may specify a time limit within which it is to be complied with.

(5) A compliance notice may require the owner or person in charge of poultrymeat to choose between two or more of the requirements specified in the notice.

(6) A requirement specified in a compliance notice (in this Regulation referred to as “the earlier notice”) may be modified or withdrawn in a further compliance notice and in that event the earlier notice shall have effect subject to such modification or withdrawal.

(7) In the event of an appeal made under Regulation 7 a person, including the person appealing, shall not deal with poultrymeat to which a compliance notice relates pending the determination of the appeal other than in accordance with such directions as shall be given in writing to the appellant by an authorised officer.

(8) If the terms of a compliance notice are confirmed with or without modification by the Judge of the District Court hearing an appeal under Regulation 7, a person including the person who made the appeal shall not deal with poultrymeat to which the notice relates other than in accordance with the notice as confirmed.

(9) A person upon whom a compliance notice is served shall deal with the poultrymeat to which the notice relates—

(a) in accordance with the compliance notice if no appeal is made under Regulation 7 or

(b) if an appeal is made, in accordance with the compliance notice as confirmed with or without modifications.

(10) Any costs associated with actions required to comply with a compliance notice will be borne by the owner of the poultrymeat to which the notice relates.

Service of compliance notice

6. (1) A compliance notice shall, subject to paragraph (2), be addressed to the person concerned by name and may be served on a person—

- (a) by giving it to the person,
- (b) by leaving it at the address at which the person ordinarily resides or, where an address for service has been furnished, at that address,
- (c) by sending it by post in a prepaid registered letter to the address at which the person ordinarily resides or, where an address for service has been furnished, at that address,
- (d) if the address at which the person ordinarily resides cannot be ascertained by reasonable enquiry and the compliance notice relates to a premises, by delivering it to the premises or by affixing it in a conspicuous position on or near the premises, or
- (e) by electronic communication.

(2) If a compliance notice is to be served on a person who is the owner or person in charge of poultrymeat and the name of the person cannot be ascertained by reasonable enquiry, it may be addressed to that person by using the words “the owner” or “the person in charge”.

(3) A person shall not, at any time within 6 months after a compliance notice is affixed under paragraph (1)(d), remove, damage or deface the notice without lawful authority.

(4) For the purposes of this Regulation, a company within the meaning of the Companies Acts is considered to be ordinarily resident at its registered office and every other body corporate or unincorporated body is considered to be ordinarily resident at its principal office or place of business.

Appeal against compliance notice

7. (1) A person may appeal within 7 days of the service of a compliance notice to the Judge of the District Court having jurisdiction in the District Court District where the poultrymeat to which the notice relates is situate or to the Judge of the District Court where the person bringing the appeal ordinarily resides or carries on business on the grounds that the notice or any terms thereof are not justified having regard to the Council Regulation, the Commission Regulation or these Regulations (“an appeal”).

(2) An appeal may be heard at any sitting of the District Court within the appropriate District Court District.

(3) Notice of an appeal shall be served on the Minister at least 2 days prior to the hearing of the appeal by serving it on the Minister or by leaving it at the place and in the manner specified in the compliance notice.

(4) A notice of appeal shall contain a statement of the grounds upon which it is alleged that the notice or any of the terms thereof are not justified.

(5) A copy of the notice of appeal shall be lodged with the District Court Clerk in the manner specified in the compliance notice (if any) at least 2 days prior to the hearing of the appeal.

(6) On the hearing of an appeal under this Regulation a Judge of the District Court may confirm, modify or annul a compliance notice.

Power to seize and dispose of poultrymeat

8. (1) Without prejudice to Regulation 4, if—

- (a) the owner or person in charge of poultrymeat fails to comply with the terms of a compliance notice within the time limit specified in the compliance notice,
- (b) an authorised officer has reasonable grounds for believing that the terms of a compliance notice will not be complied with,
- (c) a compliance notice has been confirmed with or without modification under Regulation 7 and the notice has not been complied with,
- (d) an authorised officer has reasonable grounds for believing that the terms of a compliance notice which has been confirmed with or without modification under Regulation 7 will not be complied with, or
- (e) pending the determination of an appeal made pursuant to Regulation 7, an authorised officer has reasonable grounds for believing that a compliance notice or a direction given pursuant to the European Communities (Agriculture, Fisheries and Food) (Compliance) Regulations 2009 has not been or will not be complied with,

an authorised officer may seize the poultrymeat at such premises as he or she thinks fit.

(2) An authorised officer may sell or dispose of seized poultrymeat or cause it to be sold or be otherwise disposed of or destroyed in such manner and at such place as the authorised officer considers appropriate in the circumstances of the case.

(3) Any profits arising out of the sale or disposal of poultrymeat under this Regulation shall be paid to the owner of the poultrymeat less any expenses incurred in connection with seizure, sale, disposal or destruction of the poultrymeat.

(4) The costs (including ancillary costs) of seizure, maintenance, sale, disposal or destruction of poultrymeat under these Regulations are, subject to paragraph (3), recoverable-

- (a) by deducting the costs from any sum that is or becomes payable by the Minister to the owner of the poultrymeat, or
- (b) as a simple contract debt in any court of competent jurisdiction from the owner of the poultrymeat at the time of disposal.

Forgery

9. (1) A person shall not forge or utter knowing it to be forged a record purporting to be kept and maintained under these Regulations or an act of the institutions of the European Communities cited in these Regulations or a document purporting to be an extract therefrom (hereafter in this Regulation referred to as a “forged document”).

(2) A person shall not alter with intent to defraud or deceive, or utter knowing it to be so altered, a record purporting to be kept and maintained under these Regulations or an act of the institutions of the European Communities cited in these Regulations or a document purporting to be an extract therefrom pursuant to these Regulations or an extract therefrom (hereafter in this Regulation referred to as an “altered document”).

(3) A person shall not have, without lawful authority, in his or her possession or under his or her control a forged document or an altered document.

Fees

10. (1) The Minister, may set and charge a fee in respect of an application for registration.

(2) A fee payable to the Minister under this Regulation shall be disposed of for the benefit of the Exchequer in such manner as the Minister for Finance may direct.

Offences

11. (1) A person who, by act or omission, markets poultrymeat other than in accordance with Article 116 of the Council Regulation commits an offence.

(2) A person who, by act or omission—

- (a) markets poultrymeat in contravention of Article 3,
- (b) subject to Article 4(2), sells poultrymeat to which the Commission Regulation relates, under a name not referred to in Article 4,
- (c) markets a product (not referred to in Article 1)—
 - (i) under a name that misleads the consumer to a material degree, or
 - (ii) may be confused with a name referred to in Article 1 or 11,
 in contravention of Article 5(1),

- (d) markets poultry intended for the final consumer, whether pre-packaged or for sale without pre-packaging, in a manner that contravenes Article 5(2),
- (e) offers for sale poultrymeat without pre-packaging that does not bear the particulars listed in Article 5(4),
- (f) sells frozen poultrymeat in contravention of Article 6,
- (g) sells or supplies, as class A or B, poultry carcasses or cuts that do not comply with Article 7(1),
- (h) sells or supplies, as class A, poultry carcasses or cuts that do not comply with Article 7(2),
- (i) sells or supplies frozen or quick-frozen pre-packaged poultrymeat in contravention of Article 9,
- (j) uses on labelling a term to indicate type of farming other than a term referred to in Article 11,
- (k) being the owner or operator of a slaughterhouse—
 - (i) who fails to keep records as required by Article 12(1),
 - (ii) fails to take all necessary measures to comply with Article 15(2) and 20, or
 - (iii) fails to carry out any check referred to in Article 16 and 20,
- (l) being a producer, who fails to keep records as required by Article 12(2),
- (m) being a cutting plant fails to take all necessary measures to comply with Article 20,
- (n) being a feed manufacturer or supplier, fails to keep records as required by Article 12(3),
- (o) being the owner or operator of a hatchery, fails to keep records as required by Article 12(4),
- (p) markets poultrymeat imported from a third country other than in accordance with Article 14,
- (q) markets frozen or quick-frozen chickens whose water content exceeds a value determined by the method of analysis referred to in Article 15,
- (r) markets the fresh, frozen or quick-frozen cuts referred to in Article 20(1) if the water content exceeds a value determined by the method indicated in Article 20, or

(s) otherwise contravenes a provision (mentioned in this Regulation) of the Commission Regulation commits an offence.

(3) A person who contravenes Regulation 3(1), 3(9), 5(2), 5(7), 5(8), 5(9), 6(3) or 9 commits an offence.

(4) A person who commits an offence under these Regulations is liable on summary conviction to a fine not exceeding €5,000 or to a term of imprisonment not exceeding 6 months or to both.

(5) If an offence under these Regulations has been committed by a body corporate and is proved to be 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 is liable to be proceeded against and punished as if he or she were guilty of the first-mentioned offence.

(6) A summary offence under these Regulations may be prosecuted by the Minister.

Evidence on certificate

12. (1) In proceedings, evidence of an act of the institutions of the European Communities may be given by production of a copy of the act certified by an officer of the Minister to be a copy of the act, and it is not necessary to prove the signature of the officer or that he or she is an officer of the Minister.

(2) Paragraph (1) is in addition to and not in substitution for the European Communities (Judicial Notice and Documentary Evidence) Regulations 1972 (S.I. No. 341 of 1972).

Revocation and saver

13. (1) The European Communities (Labelling and Marketing Standards for Poultrymeat) Regulations 2004 (S.I. No. 42 of 2004) and the European Communities (Labelling and Marketing Standards for Poultrymeat) (Amendment) Regulations 2004 (S.I. No. 50 of 2004) are revoked.

(2) A registration granted under the European Communities (Marketing Standards for Poultrymeat) Regulations 2002 or under the European Communities (Labelling and Marketing Standards for Poultrymeat) Regulations 2004 and in force immediately before the commencement of these Regulations continues in force as if granted under Regulation 3.



GIVEN under my Official Seal,
1 July 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 require compliance with European Community legislation on the marketing standards for poultrymeat. These standards concern such matters as labelling, quality grading and free range production.

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
Le ceannach díreach ón
OIFIG DHÍOLTA FOILSEACHÁN RIALTAIS,
TEACH SUN ALLIANCE, SRÁID THEACH LAIGHEAN, BAILE ÁTHA CLIATH 2,
nó tríd an bpost ó
FOILSEACHÁIN RIALTAIS, AN RANNÓG POST-TRÁCHTA,
AONAD 20 PÁIRC MIONDÍOLA COIS LOCHA, CLÁR CHLAINNE MHUIRIS,
CONTAE MHAIGH EO,
(Teil: 01 - 6476834 nó 1890 213434; Fax: 094 - 9378964 nó 01 - 6476843)
nó trí aon díoltóir leabhar.

DUBLIN
PUBLISHED BY THE STATIONERY OFFICE
To be purchased directly from the
GOVERNMENT PUBLICATIONS SALE OFFICE
SUN ALLIANCE HOUSE, MOLESWORTH STREET, DUBLIN 2,
or by mail order from
GOVERNMENT PUBLICATIONS, POSTAL TRADE SECTION,
UNIT 20 LAKESIDE RETAIL PARK, CLAREMORRIS, CO. MAYO,
(Tel: 01 - 6476834 or 1890 213434; Fax: 094 - 9378964 or 01 - 6476843)
or through any bookseller.

€3.81



Wt. (B27737). 295. 7/10. Cahill. Gr. 30-15.