STATUTORY RULES OF NORTHERN IRELAND

2019 No. 227

AGRICULTURE

ANIMALS

The Official Controls (Animals, Feed and Food) Regulations (Northern Ireland) 2019

Made - - - -	*13th December 2019*
Coming into operation	*14th December 2019*

The Department of Agriculture, Environment and Rural Affairs [F1] is designated [F2] for the purposes of section 2(2) of the European Communities Act 1972 [F3] in relation to the common agricultural policy of the European Union, medicinal products and measures in the phytosanitary fields for the protection of public health and makes these Regulations in exercise of the powers conferred by section 2(2) of that Act.

F1 Formerly the Department of Agriculture and Rural Development (DARD see section 3(4) of the Departments (Northern Ireland) Order 1999 (S.I. 1999/283 (N.I. 1)). DARD was renamed the Department of Agriculture, Environment and Rural Affairs (DAERA) by Article 1(2) of the Departments Act (Northern Ireland) 2016 (c.5 (N.I.)).

F2 S.I. 2000/2812

F3 1972 c. 68; section 2(2) was amended by section 27(1)(a) of the Legislative and Regulatory Reform Act 2006 (c.51) (the 2006 Act) and by Part 1 of Schedule 1 to the European Union (Amendment) Act 2008 (c.7) (the 2008 Act). Paragraph 1A of Schedule 2 was inserted by section 28 of the 2006 Act and by Part 1 of Schedule 1 to the 2008 Act. Section 2(2) and paragraph 1A of Schedule 2 are prospectively amended by section 1 of the European Union (Withdrawal) Act 2018 (c.16) from exit day (see section 20 of that Act).

PART 1

General

Citation and commencement

1. These Regulations may be cited as the Official Controls (Animals, Feed and Food) Regulations (Northern Ireland) 2019 and come into operation on 14th December 2019.

Interpretation

2.—(1) In these Regulations—

"audit" means an audit of a competent authority carried out for the purposes of Article 6 in relation to relevant legislation;

"auditor" means a person carrying out an audit on behalf of the competent authority;

"the Department" means the Department of Agriculture, Environment and Rural Affairs;

"the EU Official Controls Regulations" means the EU Regulation and the Implementing and Delegated Regulations made under it;

"the EU Regulation" means Regulation (EU) 2017/625 of the European Parliament and of the Council of 15th March 2017 on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products [F4];

"the Feed and Food Regulations" means the Official Feed and Food Controls Regulations (Northern Ireland) 2009 [F5];

"inspector" means a person appointed to be an inspector for the purposes of these Regulations by the Department and includes a veterinary inspector, and in relation to relevant legislation means a person appointed as an inspector by the Department to act under that relevant legislation;

"official controls" means activities referred to in Article 2(1) other than those listed in Article 1(4);

"other official activities" has the meaning given by Article 2(2);

"premises" includes any place, vehicle, trailer, container, stall, moveable structure, ship or aircraft;

"relevant legislation" means European and domestic legislation governing the areas listed in sub-paragraphs (a), (c), (d), (e) and (f) of Article 1(2), with the exception of food and food safety, feed and feed safety legislation in so far as—

(a) such legislation is defined as "relevant feed law" or "relevant food law" in the Feed and Food Regulations;

(b) such legislation involves substances the use or presence of which on crops to produce or process feed or food may result in residues of those substances in feed or food; or

(c) it relates to feed additives or medicated feedingstuffs.

(2) In the definition of "relevant legislation", in paragraph (1)—

(a) "medicated feedingstuffs" means any mixture of feed with a veterinary medicinal product having properties for treating or preventing disease, restoring, correcting or modifying physiological functions in animals, or products and feed or feeds which are ready prepared for marketing and intended to be fed to animals without further processing; and

(b) "zootechnical additives" means feed additives in the categories mentioned in Article 6.1(d) and (e) of Regulation (EC) No 1831/2003 of the European Parliament and of the Council on additives for use in animal nutrition [F6], with the exception of those belonging to the functional group listed in paragraph 4(a), (b) and (c) of Annex I to that Regulation.

(3) Unless otherwise provided in this regulation, terms used in these Regulations have the same meaning as they have in the EU Regulation.

(4) Unless the context otherwise requires, any reference in these Regulations to an "Article" or "Title" is to an Article or Title of the EU Regulation.

(5) The Interpretation Act (Northern Ireland) 1954 [F7] shall apply to these Regulations as it applies to an Act of the Assembly.

F4 OJ No. L 95, 7.04.2017, p. 1
F5 S.R. 2009 No. 427, as last amended by S.R. 2019 No. 218.
F6 O.J. L 268, 18.10.2003, p. 29, last amended by Regulation (EU) 2019/1381 (OJ No. L231, 6.9.2019, p.1).
F7 1954 c. 33 (N.I.)

Designation for the purposes of Article 4

3.—(1) The Department is designated the competent authority for the purposes of Article 4 in relation to relevant legislation.

(2) The competent authority must draw up written records (on paper or in electronic form) of official controls and other activities that they perform, and such records must contain—

(a) a description of the purpose of the relevant official controls and other official activities;

(b) the control methods applied;

(c) the outcome; and

(d) where appropriate, any action required by the competent authority.

(3) Where non-compliance has been identified by the competent authority through the application of official controls, it must promptly inform the business operator of the non-compliance.

Exchange of information

4. The Department may disclose information to other competent authorities in the United Kingdom and [F8]... member States for the purposes of applying these Regulations and the EU Official Controls Regulations.

F8 Word in reg. 4 omitted (31.12.2020) by virtue of The Agriculture, Animals and Aquaculture (Health, Identification, Welfare, Trade etc.) (Amendment) (EU Exit) Regulations (Northern Ireland) 2020 (S.R. 2020/324), regs. 1(3), **22(2)**

PART 2

Audits and official controls

Powers of auditors

5.—(1) An auditor may exercise the powers in this regulation and carry out an audit in accordance with the EU Official Controls Regulations if so authorised by the Department.

(2) For the purposes of carrying out an audit, an auditor may enter premises to which an inspector has a power of entry under relevant legislation ("audit premises") as if the auditor were an inspector meeting the criteria for gaining such entry under that relevant legislation.

(3) An auditor exercising a power of entry may be accompanied by any person whose assistance is reasonably required by the auditor.

(4) An auditor may request such information from any person at any premises that is subject to an audit as may reasonably be required for purposes of the audit, and may inspect such records as may reasonably be required for those purposes.

(5) An auditor may make or require copies of such records.

(6) When exercising the powers conferred by this regulation an auditor must, upon request, produce evidence of authorisation under these Regulations.

PART 3

Assistance and co-operation under Title IV and recovery of expenses

Facilitating assistance and co-operation

6.—(1) For the purposes of assisting a competent authority of another member State as provided for in Article 104, or enabling the Department to do so, an inspector exercising powers under relevant legislation to enter premises or to inspect records may—

(a) be accompanied by authorised officers of a competent authority of **[**F9a**]** member State;

(b) show records to such accompanying authorised officers; and

(c) make copies for them or require copies to be made for them of the records.

(2) For the purposes of facilitating a visit by an inspection team as provided for in Article 108, an inspector may be accompanied by representatives of the EU Commission when exercising powers under relevant legislation to enter premises and inspect records.

(3) Any person may be required to provide an inspector with such assistance, information or facilities as the officer may reasonably require for the purpose of the execution or enforcement of these Regulations or the EU Official Controls Regulations.

F9 Word in reg. 6(1)(a) substituted (31.12.2020) by The Agriculture, Animals and Aquaculture (Health, Identification, Welfare, Trade etc.) (Amendment) (EU Exit) Regulations (Northern Ireland) 2020 (S.R. 2020/324), regs. 1(3), **22(3)**

Recovery of expenses

7.—(1) Any expenses incurred by the Department in carrying out measures under Articles 66, 67, 69 or 138 may be recovered from the relevant business operator and such expenses must be paid on written demand.

(2) The Department may recover any unpaid sum referred to in paragraph (1) as a civil debt.

PART 4

Enforcement and penalties

Enforcement and prosecution

8. Enforcement of these Regulations and the EU Official Controls Regulations is the responsibility of the competent authority.

Powers of inspectors

9.—(1) An inspector may—

(a) make any enquiries, observe any activity or process and take photographs;

(b) inspect any article, container, plant, equipment or records of any class which appear to the inspector to be relevant for the purposes of the investigation, and make or require copies of such records and remove such records as may reasonably be required;

(c) mark any item for identification purposes;

(d) require the production of any label, document or record (in whatever form it is held);

(e) inspect and take a copy of, or take a copy of an extract from, any label, document or record;

(f) have access to and inspect and check the data on, and operation of, any computer;

(g) if the inspector has reason to believe that a person is in contravention of these Regulations or the EU Official Controls Regulations and that the data may be relevant to the contravention, seize and detain any computer equipment for the purpose of copying the data or, where it has not been possible to carry out adequate inspection on the premises, of further inspection;

(h) if the inspector has reason to believe that a person is in contravention of these Regulations or the EU Official Controls Regulations and that certain records may be relevant to the contravention, seize and detain the records.

(2) An inspector must—

(a) produce evidence of authorisation when requested to do so;

(b) as soon as reasonably possible—

(i) provide to the person appearing to be responsible for any records removed from any premises a written receipt identifying those records; and

(ii) after deciding that they are no longer required, return anything removed, apart from records or other things to be used as evidence in court proceedings.

Powers of entry

10.—(1) An inspector may enter any premises (except any premises used wholly or mainly as a private dwelling) during normal working hours without prior notice, if the inspector believes that it is necessary for the purpose of official controls or other official activities under these Regulations or the EU Official Controls Regulations.

(2) In circumstances where an inspector is carrying out routine verification checks, notice must be provided before exercising a power of entry to premises during normal working hours.

(3) The requirement to give notice in paragraph (2) does not apply—

(a) where reasonable efforts to agree an appointment have failed;

(b) where an inspector reasonably believes that giving notice would defeat the object of the entry, including any situation in which notice is not required under Article 9(4);

(c) where an inspector has a reasonable suspicion that any provision of these Regulations or the EU Official Controls Regulations has been contravened.

(4) An inspector must, if requested to do so, produce a duly authenticated authorisation document.

(5) A Lay Magistrate may sign a warrant to permit an inspector to enter any premises, including dwelling-houses, if necessary by reasonable force, if the Lay Magistrate on sworn complaint in writing is satisfied—