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STATUTORY RULES OF NORTHERN IRELAND

2011 No. 315

AGRICULTURE

Poultrymeat Regulations (Northern Ireland) 2011

Made - - - - 14th September 2011

Coming into operation 14th October 2011

The Department of Agriculture and Rural Development is designated(**1**) for the purposes of section 2(2) of the European Communities Act 1972(**2**) in relation to the common agricultural policy of the European Union.

These Regulations make provision for a purpose mentioned in that section and it appears to the Department of Agriculture and Rural Development that it is expedient for references in these Regulations to the following Regulations to be construed as references to those Regulations as amended from time to time—

(a) Part B of Annex XIV to Council Regulation (EC) No. 1234/2007(**3**) establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation); and

(b) Commission Regulation (EC) No. 543/2008(**4**) laying down detailed rules for the application of Council Regulation (EC) No. 1234/2007 as regards the marketing standards for poultrymeat.

There has been open and transparent public consultation during the preparation of these Regulations as required by Article 9 of Regulation (EC) No. 178/2002 of the European Parliament and of the Council(**5**) laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety.

The Department of Agriculture and Rural Development makes the following Regulations in exercise of the powers conferred on it by section 2(2) of, and paragraph 1A of Schedule 2 to, the European Communities Act 1972(**6**).

(**1**) S.I. 2000/2812 to which there are amendments not relevant to the subject matter of these Regulations
(**2**) 1972 c. 68. Section 2(2) was amended by section 27(1)(a) of the Legislative and Regulatory Reform Act 2006 (c. 51) and Part 1 of the Schedule to the European Union (Amendment) Act 2008 (c. 7)
(**3**) O.J. No. L 299, 16.11.2007, p. 1, last amended by Regulation (EU) No. 1234/2010 of the European Parliament and of the Council (O.J. No. L 346, 30.12.2010, p. 11)
(**4**) O.J. No. L 157, 17.6. 2008, p. 46, last amended by Commission Regulation (EU) No. 557/2010 (O.J. No. L 159, 25.6.2010, p. 13)
(**5**) O.J. No. L 31, 1.2.2002, p. 1, last amended by Regulation (EC) No. 596/2009 (O.J. No. L 188, 18.7.2009, p. 14)
(**6**) Paragraph 1A of Schedule 2 was inserted by section 28 of the Legislative and Regulatory Reform Act 2006 (c. 51)

Citation, commencement and application

1.—(1) These Regulations may be cited as the Poultrymeat Regulations (Northern Ireland) 2011 and shall come into operation on 14 October 2011.

(2) These Regulations shall apply to poultrymeat described in point I(1) of Part B of Annex XIV to the Single CMO Regulation, excluding poultrymeat described in point I(2) of that Part of that Annex to that Regulation.

(3) These Regulations shall not apply to the direct supply of small quantities of poultrymeat by a producer with an annual production of under 10,000 birds where the meat—

(a) comes from poultry slaughtered on the producer's farm; and

(b) is supplied to –

(i) the final consumer; or

(ii) a local retail establishment directly supplying such meat to the final consumer as fresh meat.

Interpretation

2.—(1) In these Regulations—

"authorised officer" means any person who has written authority from an enforcement authority to act in matters arising under these Regulations;

"Commission Regulation" means Commission Regulation (EC) No. 543/2008 laying down detailed rules for the application of Council Regulation (EC) No. 1234/2007 as regards the marketing standards for poultrymeat, as amended from time to time;

"Department" means the Department of Agriculture and Rural Development;

"enforcement authority" means an authority exercising a function conferred on it by regulation 9;

"European poultrymeat provision" means a provision of the Single CMO Regulation or the Commission Regulation specified in column 1 of Part 1 or 2 of Schedule 1, as read with any provision mentioned in the corresponding entry in column 2 of Part 1 or 2 of that Schedule;

"officer"—

(a) in relation to a body corporate, means a director, member of the committee of management, chief executive, manager, secretary or other similar officer of the body; and

(b) in relation to an unincorporated body, means any member of its governing body or a chief executive, manager or other similar officer of the body;

"the Order" means the Food Safety (Northern Ireland) Order 1991(**7**);

"poultrymeat" has the meaning given by point II(1) of Part B to Annex XIV to the Single CMO Regulation;

"premises" means any place, including those requiring inspection under Article 12(5)(a) to (d) of the Commission Regulation, and any vehicle, trailer, stall or moveable structure; and

"Single CMO Regulation" means Council Regulation (EC) No. 1234/2007 establishing a common organisation of agricultural markets and on specific provision for certain agricultural products (Single CMO Regulation).

(2) In these Regulations, any reference to Part B of Annex XIV to the Single CMO Regulation is a reference to Part B of Annex XIV to the Single CMO Regulation as amended from time to time.

(**7**) S.I. 1991/762 (N.I. 7) as amended by S.I. 1996/1633 (N.I. 12) and 1999 c. 28

(3) Other expressions used in these Regulations and in the Single CMO Regulation or the Commission Regulation shall have the same meaning in these Regulations as in the European Regulation in which they are used.

(4) The Interpretation Act (Northern Ireland) 1954(**8**) shall apply to these Regulations as it applies to an Act of the Northern Ireland Assembly.

Offences

3. A person is guilty of an offence if that person contravenes a provision of the Commission Regulation referred to in column 1 of Schedule 2, as read with any provision mentioned in the corresponding entry in column 2 of that Schedule.

Temperature requirement for fresh poultrymeat

4.—(1) Poultrymeat that is cut and handled in premises of the type mentioned in paragraph (2) and is marketed on those premises as fresh poultrymeat shall be kept on those premises at a temperature not below –2ºC and not higher than 8ºC(**9**).

(2) The type of premises are—

(a) retail shops; and

(b) premises adjacent to sales points,

where the cutting and handling are performed solely for the purpose of supplying the consumer directly on the spot.

Registration as required by Article 12 of the Commission Regulation

5.—(1) The Department is designated as the competent authority for the purpose of registration of slaughterhouses and producers as required by Article 12 of the Commission Regulation.

(2) Any person who wishes to operate as—

(a) a slaughterhouse; or

(b) a producer,

authorised to use the terms specified in Article 11 of the Commission Regulation may make an application in writing to the Department.

(3) Where the Department receives an application for registration, the Department shall notify the applicant in writing of the matters specified in paragraph (4) without unreasonable delay.

(4) The specified matters are—

(a) the Department's decision on the application;

(b) the reasons for any refusal of registration; and

(c) the right of appeal conferred by regulation 6 in the case of any refusal of registration.

(5) Where the Department decides to cancel a registration, the Department shall notify the producer, or the person carrying on the business of the slaughterhouse concerned, as the case may be, of the matters specified in paragraph (6).

(6) The specified matters are—

(a) the Department's decision to cancel the registration;

(b) the date on which the cancellation is to take effect;

(**8**) 1954 c. 33 (N.I.)
(**9**) This derogates from the provisions of point II(2) of Part B of Annex XIV to the Single CMO Regulation

(c) the reasons for the cancellation; and

(d) the right of appeal conferred by regulation 6.

Appeals against registration decisions

6.—(1) Any person who is aggrieved about a decision specified in paragraph (2) may appeal against that decision to a magistrates' court.

(2) The decisions are—

(a) refusal of registration, or

(b) cancellation of a registration.

(3) The procedure on an appeal to a magistrates' court under paragraph (1) shall be initiated by notice under Part VII of the Magistrates' Courts (Northern Ireland) Order 1981(**10**).

(4) The period within which an appeal may be brought against a decision specified in paragraph (2) shall be 28 days, beginning with the day on which notification of the decision is given.

(5) The cancellation of a registration mentioned in paragraph (2)(b) shall not take effect until the time for appealing against it has expired or, if an appeal is lodged, until the appeal is finally disposed of or withdrawn.

Powers of a magistrates' court on appeal

7. On an appeal against a decision by the Department mentioned in regulation 6(2) the magistrates' court may either overturn the decision or confirm the decision.

Water content checks

8.—(1) Except where a water content check required by Article 16(1), (2), (3) or (4) or 20(2), (3) and (4) of the Commission Regulation is carried out by the Department, such a check shall be carried out by the food business operator of the slaughterhouse or cutting plant concerned.

(2) Except where a water content check referred to in paragraph (1) is carried out by the Department, such a check shall be carried out—

(a) at the food business operator's expense; and

(b) under the responsibility of, and in accordance with any directions given by, the Department.

(3) Schedule 3 shall have effect in relation to the fees payable to the Department for water content checks carried out by the Department.

(4) In this regulation "food business operator" shall have the same meaning as in Article 3(3) of Regulation (EC) No 178/2002 of the European Parliament and of the Council laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety.

Enforcement

9.—(1) The Department shall enforce the European poultrymeat provisions in relation to—

(a) slaughterhouses and cutting plants;

(b) producers;

(c) poultrymeat imported from third countries; and

(**10**) S.I.1981/1675 (N.I. 26)

(d) the record keeping requirements in Article 12(2), (3) and (4) of the Commission Regulation.

(2) District councils shall enforce—

(a) the European poultrymeat provisions (other than at slaughterhouses, cutting plants and producers); and

(b) regulation 4.

Duty to give assistance and provide information

10. Each enforcement authority shall give such assistance and information to any other enforcement authority as that authority may reasonably require for the purpose of helping that authority perform its duties under these Regulations.

Powers of entry

11.—(1) An authorised officer may enter any premises (except premises used as a private dwelling house) at any reasonable hour for the purpose of ensuring that the provisions of these Regulations are being complied with.

(2) The authorised officer may be accompanied by—

(a) such other persons as the authorised officer considers necessary; and

(b) any representative of the European Commission.

(3) An authorised officer shall not exercise the powers under paragraph (1) or (2) except on the production, if so required, of a duly authenticated document showing the officer's authority.

(4) Admission to any premises used as a private dwelling house may not be demanded as of right unless the entry is in accordance with a warrant granted under this regulation.

(5) If a lay magistrate, by complaint on oath, is satisfied of the matters mentioned in paragraph (6), the lay magistrate may sign a warrant permitting an authorised officer to enter any premises, if need be by reasonable force.

(6) The matters are that—

(a) there are reasonable grounds for believing that Condition A or B is met; and

(b) Condition C, D, E or F is met.

(7) Condition A is that on the premises there are items of the type mentioned in regulation 12(1)(a) or documents or records of the type mentioned in regulation 12(1)(d) and that their inspection is likely to disclose evidence of a contravention of these Regulations.

(8) Condition B is that a contravention of these Regulations has occurred, is occurring or is about to occur on those premises.

(9) Condition C is that admission to the premises has been, or is likely to be, refused, and that the occupier has been informed (whether orally or in writing) that a warrant may be applied for.

(10) Condition D is that admission to the premises has been, or is likely to be, refused, and informing the occupier that a warrant under this regulation may be applied for may defeat the object of the entry.

(11) Condition E is that the premises are unoccupied or that the occupier is temporarily absent and it may defeat the object of the entry to await the occupier's return.

(12) Condition F is that the premises are used as a private dwelling house.

(13) A warrant granted under paragraph (5)—

(a) shall be valid for one month, beginning with the day on which it is granted; and