STATUTORY RULES OF NORTHERN IRELAND

2010 No. 124

FOOD

The Charges for Residues Surveillance Regulations (Northern Ireland) 2010

Made - - - - *23rd March 2010*

Coming into operation *2nd May 2010*

The Department of Agriculture and Rural Development (**1**) and the Department of Health, Social Services and Public Safety (**2**), are Departments designated (**3**) for the purposes of section 2(2) of the European Community Act 1972(**4**) in relation to the common agricultural policy of the European Community and in relation to medicinal products.

Acting jointly(**5**), the Department of Agriculture and Rural Development and the Department of Health, Social Services and Public Safety make the following Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act and Articles 44 and 47(2) of the Food Safety (Northern Ireland) Order 1991(**6**).

In accordance with Article 47 of the Food Safety (Northern Ireland) Order 1991 and Article 9 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 (**7**), the aforementioned Departments have carried out consultation with such organisations as appear to them to be representative of interests likely to be substantially affected by these Regulations.

Citation and Commencement

1. These Regulations may be cited as the Charges for Residues Surveillance Regulations (Northern Ireland) 2010 and shall come into operation on 2nd May 2010.

(**1**) Formerly the Department of Agriculture for Northern Ireland: see S.I. 1999/283 (N.I.), Article 3(4)
(**2**) Formerly the Department of Health and Social Services: see S.I. 1999/283 (N.I.), Article 3(6)
(**3**) S.I. 1972 / 1811 and S.I. 2000/2812
(**4**) 1972c. 68
(**5**) S.R. 2000 No.78: see regulation 13(1)(d)(i) which allows the Department of Agriculture and Rural Development to join with the Department of Health, Social Services and Public Safety in making regulations under the Food Safety (Northern Ireland) Order 1991 in relation to charges for inspection in relation to residues of veterinary products in food or food sources.
(**6**) S.I. 1991/762 (N.I.7) as amended by S.I. 1996/1633 (N.I.12) and 1999 c.28
(**7**) O.J. No. L31, 1.2.2002, p.1

Interpretation

2.—(1) In these Regulations—

"animal" means any bovine animal, swine, soliped, sheep, goat, poultry, game or wild game;

"animal product" means milk or eggs;

"brown trout" means any fish of the species Salmo trutta which has spent all of its life in fresh water;

"carcase" means the whole body of a slaughtered animal after bleeding and dressing;

"Department" means the Department of Agriculture and Rural Development for Northern Ireland;

"eggs" means hen eggs in shell, suitable for direct human consumption or for use in the food industry except for broken eggs, incubated eggs or cooked eggs;

"fish" means salmon, brown trout or rainbow trout;

"game" means—

(a) land mammals which are reared and slaughtered in captivity, excluding—

(i) any living within an enclosed territory under conditions of freedom similar to those that they would enjoy if they were living in the wild,

(ii) any bovine animal, swine, soliped, sheep or goat, and

(iii) members of the family Leporidea;

(b) birds (including ratites but excluding poultry) which are not generally considered to be domestic but which are bred, reared and slaughtered in captivity; and

(c) domestic rabbits;

"milk" means cows milk;

"poultry" means domestic fowls, turkeys, guinea fowls, ducks or geese;

"rainbow trout" means fish of the species Oncorhynchus mykiss;

"salmon" means fish of the species Salmo salar;

"wild game" means—

(d) wild land mammals which are hunted (including wild land mammals living within an enclosed area under conditions of freedom similar to those that they would enjoy if they were living in the wild); or

(e) wild birds.

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

Liability for and recovery of charges for residues surveillance

3.—(1) In respect of the costs incurred by the Department in carrying out the inspections and controls required by Directive 96/23 on the animals, fish or animal products listed in the first column of the Schedule, it shall, for each animal, fish or animal product so listed, charge the amount specified opposite in the second column of that Schedule.

(2) Any charge under paragraph (1) is payable to the Department, and is recoverable by it on demand as a debt owed to it by the person liable to pay the charge under paragraph (3).

(3) The person liable to pay that charge is—

(**8**) 1954 c.33 (N.I.)

(a) in relation to any animal other than wild game, the operator of the business slaughtering the animal for sale or supply for human consumption;

(b) in relation to wild game, the operator of the business preparing the carcase of the wild game for sale or supply for human consumption;

(c) in relation to fish, the operator of the business producing the fish;

(d) in relation to milk, the operator of the dairy collecting the milk, or, in the case of milk that is not collected in a dairy before being sold or supplied for human consumption, its producer; and

(e) in relation to eggs, the operator of the business packing the eggs.

(4) Where a person referred to in sub-paragraph (a), (b), (d) or (e) of paragraph (3), ("X"), has paid a charge under that sub-paragraph, X may recover, on demand, a sum equal to that charge as a debt owed to X by any person on whose behalf X slaughtered the animal, prepared the wild game, collected the milk or packed the eggs (as the case may be) in respect of which X made the payment.

(5) In this regulation, "Directive 96/23" means Council Directive 96/23/EC on measures to monitor certain substances and residues thereof in live animals and animal products and repealing Directives 85/358/EEC and 86/469/EEC and Decisions 89/187/EEC and 91/664/EEC(**9**) as amended on the date on which these Regulations are made (**10**).

Information, offences and enforcement

4.—(1) Any person so required by the Department shall supply, on demand—

(a) such information as the Department requires for the purpose of calculating charges payable under these Regulations; and

(b) such evidence as the Department requires to enable it to verify information supplied under sub-paragraph (a).

(2) Any person who, without reasonable excuse, fails to comply within a reasonable time with a demand made under paragraph (1) shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(3) Any person who knowingly furnishes the Department with false or misleading information for it to use when calculating charges payable under these Regulations shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(4) These Regulations shall be enforced by the Department.

Revocations

5. The Meat (Examinations for Residues) (Charges) Regulations (Northern Ireland) 2005 (**11**) are hereby revoked.

(**9**) O.J. No. L125, 23.5.1996, p. 10
(**10**) The last amendment was made by Directive 2006/104/EC (OJ No. L363, 20.12.2006, p. 352)
(**11**) S.R. 2005 No. 556