STATUTORY RULES OF NORTHERN IRELAND

# 2009 No. 247

# FOOD

## The Meat (Official Controls Charges) Regulations (Northern Ireland) 2009

| | |
|---|---|
| *Made - - - -* | *25th June 2009* |
| *Coming into operation* | *27th September 2009* |

The Department of Health, Social Services and Public Safety(**1**) 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(**2**).

The Department of Health, Social Services and Public has been designated for the purposes of that section in relation to measures relating to food (including drink) including the primary production of food(**3**).

These Regulations make provision for a purpose mentioned in section 2(2) of the European Communities Act 1972 and it appears to the Department that it is expedient for any reference to a Community instrument defined in Schedule 1 to be construed as a reference to that instrument as amended from time to time.

As required by 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(**4**) there has been open and transparent public consultation during the preparation and evaluation of the following Regulations.

### Citation, commencement and interpretation

**1.** These Regulations may be cited as the Meat (Official Controls Charges) Regulations (Northern Ireland) 2009 and come into operation on 27th September 2009.

(**1**) Formerly the Department of Health and Social Services: see S.I. 1999/283 (N.I.1) Article 3(6)
(**2**) 1972 c.68. Paragraph 1A of Schedule 2 was inserted by section 28 of the Legislative and Regulatory Reform Act 2006 (2006 c.51)
(**3**) S.I. 2003/2901
(**4**) OJ No. L31, 1.2.2002, p.1, as amended by Commission Regulation (EC) No. 202/2008 amending Regulation (EC) No. 178/2002 of the European Parliament and of the Council as regards the number and names of the permanent Scientific Panels of the European Food Safety Authority (OJ No. L60, 5.3.2008, p.17) (EC) No. 1642.2003 of the European Parliament and of the Council (OJ No. L245, 29.9.2003, P.4) and Commission Regulation (EC) No. 575/2006 (OJ No. L100, 8.4.2006, P.3)

**Interpretation**

**2.**—(1) In these Regulations —

"accounting period" means a period of less than a year determined by the Agency;

"the Agency" means the Food Standards Agency;

"audit" has the meaning given to it in Article 2.6 of Regulation 882/2004;

"controls" means those official controls performed by the Agency—

(a) pursuant to Regulation 854/2004, at slaughterhouses, game-handling establishments and cutting plants, for the verification of compliance with the provisions of Regulation 853/2004 in so far as they apply in relation to meat of domestic ungulates, meat from poultry and lagomorphs, meat of farmed game and meat of wild game;

(b) at slaughterhouses, for the verification of compliance with the provisions of the Welfare of Animals (Slaughter or Killing) Regulations (Northern Ireland) 1996(**5**) in so far as they apply in relation to animals slaughtered there for human consumption;

(c) in relation to domestic ungulates slaughtered outside the slaughterhouse, pursuant to Chapter VI of Section I of Annex III to Regulation 853/2004;

(d) in relation to poultry slaughtered on farm, pursuant to Chapter VI of Section II of Annex III to Regulation 853/2004; and

(e) in relation to—

(i) farmed ratites,

(ii) farmed game mammals of the family *Cervidae* or the family *Suidae,*or

(iii) bison,

slaughtered at the place of origin, pursuant to Section III of Annex III to Regulation 853/2004;

"cutting plant" means an establishment which is used for boning and/or cutting up fresh meat for placing on the market and which —

(a) is approved or conditionally approved under Article 31.2 of Regulation 882/2004; or

(b) (although lacking the approval or conditional approval that it requires under Article 4.3 of Regulation 853/2004) was, on 31st December 2005, operating as licensed cutting premises under the Fresh Meat (Hygiene and Inspection) Regulations (Northern Ireland) 1997(**6**) or the Poultry Meat, Farmed Game Bird Meat and Rabbit Meat (Hygiene and Inspection) Regulations (Northern Ireland) 1995(**7**);

"cutting up" has the meaning that it bears in Regulation 853/2004 and "cut up" shall be construed accordingly;

"Directive 2004/41", "Regulation 178/2002", "Regulation 852/2004", "Regulation 853/2004", "Regulation 854/2004", "Regulation 882/2004", "Regulation 1688/2005", "Regulation 2073/2005", "Regulation 2074/2005", "Regulation 2075/2005" and "Regulation 2076/2005" have the meanings respectively given to them in Schedule 1;

"domestic ungulates" has the meaning given to it in point 1.2 of Annex I to Regulation 853/2004;

"establishment" has the meaning given to it in Article 2.1(c) of Regulation 852/2004;

"farmed game" has the meaning given to it in point 1.6 of Annex I to Regulation 853/2004;

(**5**) S.R. 1996 No. 558 as amended by S.R. 2000 No. 76, S.R. 2001 No. 66, S.R. 2002 No. 304, S.R. 2004 No. 209 and S.R. 2008 No. 277
(**6**) S.R. 1997 No. 493, revoked with effect from 1st January 2006 by S.R. 2005 No. 356
(**7**) S.R. 1995 No. 396, revoked with effect from 11th January 2006 by S.R. 2006 No.3

"food business operator" has the meaning given to it in Article 3.3 of Regulation 178/2002;

"fresh meat" has the meaning given to it in point 1.10 of Annex I to Regulation 853/2004;

"game" has the meaning that it bears in Regulation 853/2004;

"game-handling establishment" means any establishment in which game and game meat obtained after hunting are prepared for placing on the market and which —

(a) is approved or conditionally approved under Article 31.2 of Regulation 882/2004; or

(b) (although lacking the approval or conditional approval that it requires under Article 4.3 of Regulation 853/2004) was, on 31st December 2005, operating as a licensed wild game processing facility under the Wild Game (Hygiene and Inspection) Regulations (Northern Ireland) 1997(**8**);

"game meat" has the meaning that it bears in Regulation 853/2004;

"inspector" means an official veterinarian, an official auxiliary or any other person appointed by the Agency for the purpose of performing controls;

"lagomorphs" has the meaning given to it in point 1.4 of Annex I to Regulation 853/2004;

"meat" has the meaning given to it in point 1.1 of Annex I to Regulation 853/2004;

"official auxiliary" has the meaning given to it in Article 2.1(h) of Regulation 854/2004;

"official controls" shall be construed in accordance with the definition of "official control" in Article 2.1 of Regulation 882/2004;

"official controls charge" means the charge calculated in accordance with Schedule 2 and notified in accordance with regulation 3(1), (2) or (3);

"official veterinarian" has the meaning given to it in Article 2.1(f) of Regulation 854/2004;

"operator" means a food business operator who is carrying on a food business at any premises, or his duly authorised representative;

"place of origin" has the meaning that it bears in point 3 of Section III of Annex III to Regulation 853/2004;

"placing on the market" has the meaning given to it in Article 3.8 of Regulation 178/2002;

"poultry" has the meaning given to it in point 1.3 of Annex I to Regulation 853/2004;

"premises" means any slaughterhouse, game–handling establishment, cutting plant, place that is outside the slaughterhouse for the purposes of Chapter VI of Section I of Annex III to Regulation 853/2004, farm or place of origin;

"slaughterhouse" means an establishment used for slaughtering and dressing animals, the meat of which is intended for human consumption and which —

(a) is approved or conditionally approved under Article 31.2 of Regulation 882/2004; or

(b) (although lacking the approval or conditional approval that it requires under Article 4.3 of Regulation 853/2004) was, on 31st December 2005, operating as a licensed slaughterhouse under the Fresh Meat (Hygiene and Inspection) Regulations (Northern Ireland) 1997 or the Poultry Meat, Farmed Game Bird Meat and Rabbit Meat (Hygiene and Inspection) Regulations (Northern Ireland) 1995;

"time costs" means, in relation to any establishment for any accounting period, the costs calculated in accordance with paragraphs 7 to 9 of Schedule 2;

"verification" means checking, by examination and provision of objective evidence; and

"wild game" has the meaning given to it in point 1.5 of Annex I to Regulation 853/2004.

(**8**) S.R. 1997 No. 496, revoked with effect from 1st January 2006 by S.R. 2005 No. 356

(2) In these Regulations, any reference to a Community instrument defined in Schedule 1 is a reference to that instrument as amended from time to time.

(3) The Interpretation Act (Northern Ireland) 1954(**9**) shall apply to these Regulations as it applies to an Act of the Northern Ireland Assembly.

### Charges

**3.**—(1) The Agency shall, subject to the following provisions of this regulation, notify each operator of any premises at which controls have been exercised in any accounting period of an official controls charge in respect of those controls as soon as practicable after the end of that period.

(2) Where the Agency cannot comply with paragraph (1) because it has insufficient information available to it to enable it to calculate the official controls charge for any accounting period in respect of any premises, it shall notify the operator of those premises of an interim charge, being such amount as the Agency estimates (having regard to the information it has) the official controls charge to be.

(3) Where the Agency has notified an operator of an interim charge in accordance with paragraph (2), and sufficient information becomes available to the Agency to calculate the official controls charge, it shall calculate that charge and —

(a) where it exceeds the interim charge, notify the operator of the amount by which the official controls charge exceeds the interim charge; or

(b) subject to paragraph (5), where it is less than the interim charge, credit to the operator the amount by which the interim charge exceeds the official controls charge.

(4) Any charge notified to an operator under paragraph (1), (2) or (3) shall be payable by him to the Agency on demand.

(5) Where under paragraph (3)(b) a sum is to be credited to an operator, the Agency may if it so determines pay such sum to the operator concerned instead of crediting it to him.

### Withdrawal of controls

**4.** Where the Agency has had judgment entered against an operator of any premises for any sum which is payable to it under regulation 3(4) and the operator fails within a reasonable time thereafter to satisfy the judgment, the Agency may (regardless of any other legal remedy open to it) refuse to exercise any further controls at those premises until the judgment has been satisfied.

### Information

**5.**—(1) An operator shall, on demand being made by the Agency, supply —

(a) such information as the Agency may reasonably require for the purpose of calculating the official controls charge or notifying an operator of it; and

(b) such evidence as the Agency may reasonably require to enable it to verify information supplied under sub–paragraph (a).

(2) Any demand made by the Agency under paragraph (1) shall be in writing and may be served on the operator concerned—

(a) by delivering it to that operator;

(b) in the case of an operator that is a body corporate other than a limited liability partnership—

(i) by delivering it to their secretary at their registered or principal office, or

(ii) by sending it in a prepaid letter addressed to their secretary at that office;

(**9**) 1954 c.33 (N.I.)

(c) in the case of an operator that is a limited liability partnership—

(i) by delivering it to a designated member of the partnership at their registered or principal office, or

(ii) by sending it in a prepaid letter addressed to a designated member of the partnership at that office;

(d) in the case of an operator that is a partnership other than a limited liability partnership, by delivering it to the partnership's principal place of business; or

(e) in the case of any other operator, by leaving it or sending it in a prepaid letter addressed to the operator at the operator's usual or last known residence.

(3) Where a demand is to be served on an operator under paragraph (2) but it is not reasonably practicable to ascertain the name and address of the person on whom it should be served, or the premises of the operator are unoccupied, the document may be served by addressing it to the operator in the capacity of occupier of those premises (naming them), and—

(a) by delivering it to some other person at the premises; and

(b) if there is no other person at the premises to whom it can be delivered, by affixing it or a copy of it to some conspicuous part of the premises.

(4) Any person who —

(a) without reasonable excuse, fails to comply within a reasonable time with a demand made under paragraph (1); or

(b) in purported compliance with paragraph (1), knowingly or recklessly supplies information or evidence that is false or misleading in a material particular,

is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

**Revocation**

**6.** The Meat (Official Controls Charges) Regulations (Northern Ireland) 2008(**10**) are revoked.

Sealed with the Official Seal of the Department of Health, Social Services and Public Safety on 25th June 2009.

L.S.

*Michael McGimpsey MLA*
Minister for Health, Social Services and Public Safety

(**10**) S.R. 2008 No. 89