STATUTORY RULES OF NORTHERN IRELAND

2005 No. 549

FOOD

The Meat (Official Controls Charges) Regulations (Northern Ireland) 2005

Made - - - - 8th December 2005

Coming into operation 1st January 2006

The Department of Health, Social Services and Public Safety(**1**), hereby makes the following Regulations in exercise of the powers conferred on it by section 2(2) of the European Communities Act 1972(**2**), and of every other power enabling it in that behalf.

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

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**) as last amended by Regulation (EC) No. 1642/2003 of the European Parliament and of the Council amending Regulation (EC) No. 178/2002 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(**5**) there has been open and transparent public consultation during the preparation of the following Regulations.

Citation and commencement

1. These Regulations may be cited as the Meat (Official Controls Charges) Regulations (Northern Ireland) 2005 and shall come into operation on 1st January 2006.

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;

(**1**) Formerly the Department of Health and Social Services; *see*S.I.1999/283 (N.I.1) Article 3(6)
(**2**) 1972 c. 68
(**3**) S.I. 2003/2901
(**4**) OJ No. L31, 1.2.2002, p.1
(**5**) OJ No. L245, 29.9.2003, p.4

"agreed slaughterhouse staff costs" means, in respect of any slaughterhouse at which poultry or lagomorphs are slaughtered—

(a) the proportion (expressed as a sum of money) of the salaries (including overtime payments and employers' pension and National Insurance contributions) paid to the staff at that slaughterhouse in respect of an accounting period that the Agency and the operator of the slaughterhouse shall agree as being attributable to any such staff assisting with official controls by carrying out certain tasks there during that period under Article 5.6 of Regulation 854/2004; plus

(b) 25% of that sum;

"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;

"Directive 2004/41", "Regulation 178/2002", "Regulation 1642/2003", "Regulation 852/2004", "Regulation 853/2004", "Regulation 854/2004", "Regulation 882/2004" and "Regulation 1688/2005" have the meanings respectively given to them in Schedule 1;

"employers' National Insurance contributions" means those social security contributions for which employers are liable under Part I of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**8**);

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

"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(**9**);

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

"lagomorph" shall be construed in accordance with the definition of the term "lagomorphs" 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 controls" means the controls that the Agency performs under Regulation 854/2004 for the verification of compliance with—

(**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, as amended by S.R. 1997 No. 496, S.R. 1998 No. 237, S.R. 2000 Nos. 78, 191 and 287, S.R. 2001 No. 429, S.R. 2002 No. 217 and S.R. 2005 No. 35
(**8**) 1992 c. 7 as amended by 1998 No. 1506 (N.I. 10)
(**9**) S.R. 1995 No. 496, revoked with effect from 1st January 2006 by S.R. 2005 No. 356.

(c) Articles 3, 4.1(a), 5, 7 and (save insofar as it relates to minced meat and eggs) 8 of Regulation 853/2004; and

(d) the requirements of the Welfare of Animals (Slaughter or Killing) Regulations (Northern Ireland) 1996(**10**) insofar as such verification relates to the welfare of animals slaughtered for human consumption in slaughterhouses;

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

"operator" means a food business operator who is carrying on the business of a slaughterhouse, game-handling establishment or cutting plant or his duly authorised representative;

"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 or cutting plant;

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

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

(f) (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; and

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

(2) The Interpretation Act (Northern Ireland) 1954(**11**) 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 the operator of each slaughterhouse, game-handling establishment and cutting plant in which official controls have been exercised in any accounting period of an official controls charge in respect of those official 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 such premises as are specified in that paragraph, 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 final charge, being the amount by which the official controls charge exceeds the interim charge; or

(b) subject to paragraph (6), 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.

(**10**) S.R. 1996 No. 558, amended by S.R. 2000 No. 76, S.R. 2001 No. 66, S.R. 2002 No. 304 and S.R. 2004 No. 209
(**11**) 1954 c. 33 (N.I.)

(5) Where any agreed slaughterhouse staff costs have been used to calculate a charge falling to be notified under paragraph (1), (2) or (3), those costs shall be set off against the amount of that charge in calculating the actual charge notified thereunder, provided that no refund shall be made to the relevant operator.

(6) 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 official 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 official controls at those premises until the judgment has been satisfied.

Information

5.—(1) Any person 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 person who—

(a) in purported compliance with paragraph (1), knowingly or recklessly furnishes information which is false or misleading in a material particular; or

(b) without reasonable excuse, fails to comply within a reasonable time with a demand made under that paragraph,

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

Revocation

6. The Meat (Hygiene, Inspection and Examination for Residues) (Charges) Regulations (Northern Ireland) 1995(**12**) are hereby revoked.

Sealed with the Official Seal of the Department of Health, Social Services and Public Safety on 8th December 2005.

Andrew Elliot
A senior officer of the
Department of Health, Social Services and
Public Safety

(**12**) S.R. 1995 No. 431 as amended by 1999 c. 28 and S.R. 2000 No. 78

SCHEDULE 1

Regulation 2(1)

DEFINITIONS OF COMMUNITY LEGISLATION

"Directive 2004/41" means Directive 2004/41/EC of the European Parliament and of the Council repealing certain directives concerning food hygiene and health conditions for the production and placing on the market of certain products of animal origin intended for human consumption and amending Council Directives 89/662/EEC and 92/118/EEC and Council Decision 95/408/EC(**13**);

"Regulation 178/2002" means 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 as last amended by Regulation 1642/2003;

"Regulation 1642/2003" means Regulation (EC) No. 1642/2003 of the European Parliament and of the Council amending Regulation (EC) No. 178/2002 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;

"Regulation 852/2004" means Regulation (EC) No. 852/2004 of the European Parliament and of the Council on the hygiene of foodstuffs(**14**) as read with Regulation 1688/2005;

"Regulation 853/2004" means Regulation (EC) No. 853/2004 of the European Parliament and of the Council laying down specific hygiene rules for food of animal origin(**15**) as read with Directive 2004/41 and Regulation 1688/2005;

"Regulation 854/2004" means Regulation (EC) No. 854/2004 of the European Parliament and of the Council laying down specific rules for the organisation of official controls on products of animal origin intended for human consumption(**16**) as amended by Regulation 882/2004 and as read with Directive 2004/41;

"Regulation 882/2004" means Regulation (EC) No. 882/2004 of the European Parliament and of the Council on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules(**17**); and

"Regulation 1688/2005" means Commission Regulation (EC) No. 1688/2005 implementing Regulation (EC) No. 853/2004 of the European Parliament and of the Council as regards special guarantees concerning salmonella for consignments to Finland and Sweden of certain meat and eggs(**18**).

(**13**) OJ No. L157, 30.4.2004, p.33. The revised text of Directive 2004/41/EC is now set out in a Corrigendum (OJ No. L195, 2.6.2004, p.12)

(**14**) OJ No. L139, 30.4.2004, p.1. The revised text of Regulation (EC) No. 852/2004 is now set out in a Corrigendum (OJ No. L226, 25.6.2004, p.3)

(**15**) OJ No. L139, 30.4.2004, p.55. The revised text of Regulation (EC) No. 853/2004 is now set out in a Corrigendum (OJ No. L226, 25.6.2004, p.22)

(**16**) OJ No. L139, 30.4.2004, p.206. The revised text of Regulation (EC) No. 854/2004 is now set out in a Corrigendum (OJ No. L226, 25.6.2004, p.83)

(**17**) OJ No. L165, 30.4.2004, p.1. The revised text of Regulation (EC) No. 882/2004 is now set out in a Corrigendum (OJ No. L191, 28.5.2004, p.1)

(**18**) OJ No. L271, 15.10.2005, p.17