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STATUTORY RULES OF NORTHERN IRELAND

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**2008 No. 98**

**The Eggs and Chicks Regulations (Northern Ireland) 2008**

**PART 4**

Miscellaneous provisions

**Powers of authorised officers**

**12.**—(1) An authorised officer may direct any person to leave undisturbed, for so long as reasonably necessary for the purpose of any examination or investigation—

- (a) eggs;
- (b) eggs for hatching;
- (c) packs or other containers for eggs, eggs for hatching or chicks;
- (d) labels or documents relating to eggs, eggs for hatching or chicks; and
- (e) any land<sup>(1)</sup>, vehicle or trailer on or in which any eggs, eggs for hatching or chicks, any packs or other containers for eggs, eggs for hatching or chicks, and any labels or documents relating to such eggs or chicks are found.

(2) If an examination or investigation will not be carried out immediately after a direction has been given under paragraph (1), an authorised officer may apply tape to the packs or other containers for eggs or eggs for hatching that are subject to that direction, or otherwise secure them pending the examination or investigation.

(3) An authorised officer may direct any person to ensure that any—

- (a) eggs;
- (b) eggs for hatching;
- (c) packs or other containers for eggs, eggs for hatching or chicks; or
- (d) labels or documents relating to eggs, eggs for hatching or chicks,

which do not comply in any respect with the requirements of any provision mentioned in Schedule 2 (as regards eggs for hatching and chicks) or 3 (as regards other eggs), comply with those requirements before being removed from any land, vehicle or trailer, except as may be otherwise directed in writing by an authorised officer.

(4) An authorised officer may seize any computer and associated equipment for the purpose of copying documents provided that they are returned as soon as practicable and, in any event, within 28 days.

(5) Where an authorised officer exercises the power under paragraph (4), he must notify the person in charge of the premises from which the equipment is seized of the right of appeal conferred by regulation 17.

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(1) By virtue of section 45(1) of the Interpretation Act (Northern Ireland) 1954 (c. 33), 'land' includes buildings and other structures

(6) Except as stated in paragraph (3), any direction given by an authorised officer under paragraph (1) or (3) can be given orally or in writing but any direction given orally must be confirmed in writing as soon as practicable and, in any event, within 24 hours.

(7) An authorised officer must not exercise the powers under paragraphs (1) to (4) except on the production, if so required, of a duly authenticated document showing his authority.

(8) A person is guilty of an offence if—

- (a) without reasonable excuse, he fails to comply with any requirement imposed on him by a direction given by an authorised officer under paragraph (1);
- (b) unless authorised to do so, in writing, by an authorised officer, he interferes with any packs or containers that have been secured by an authorised officer under paragraph (2); or
- (c) without reasonable excuse, he fails to comply with any requirement imposed on him by a direction given by an authorised officer under paragraph (3).

### **Record-keeping requirements**

**13.**—(1) The Department may direct any person carrying on any activity regulated by a provision mentioned in Schedule 2 or 3 to comply with any of the requirements specified in paragraph (2).

(2) The requirements are—

- (a) to keep, or cause to be kept, such records as the Department may reasonably require for the purposes of enforcing any such provision;
- (b) to provide the Department with such information derived from such records as the Department may require at the times specified in the notice; and
- (c) to retain such records for such period as the Department may reasonably require.

(3) But the Department must not give a direction under paragraph (1) unless the records to which the direction relates are of a type often kept by persons carrying on any activity regulated by a provision mentioned in Schedule 2 or 3 (whether or not kept by the person to whom the direction will be given) and—

- (a) the direction will be given on or before 14<sup>th</sup> October 2008 and the Department reasonably suspects that the person to whom the direction will be given has contravened, or failed to comply with, any provision mentioned in Schedule 2 or 3 since the coming into operation of these Regulations;
- (b) the direction will be given on or before 14<sup>th</sup> October 2008, the person to whom the direction will be given has been convicted of an offence under regulation 3 or 6 of these Regulations since the coming into operation of these Regulations, and the Department reasonably suspects that, since his conviction, that person—
  - (i) has continued to contravene, or failed to comply with, the provision mentioned in Schedule 2 or 3 to which his conviction relates; or
  - (ii) has contravened, or failed to comply with, some other provision mentioned in Schedule 2 or 3;
- (c) the direction will be given on or after 15<sup>th</sup> October 2008 and the Department reasonably suspects that the person to whom the direction will be given has contravened, or failed to comply with, any provision mentioned in Schedule 2 or 3 within the six month period immediately before the direction is given; or
- (d) the direction will be given on or after 15<sup>th</sup> October 2008, the person to whom the direction will be given has been convicted of an offence under regulation 3 or 6 of these Regulations within the six month period immediately before the giving of the direction, and the Department reasonably suspects that, since his conviction, that person —

- (i) has continued to contravene, or failed to comply with, the provision mentioned in Schedule 2 or 3 to which his conviction relates; or
  - (ii) has contravened, or failed to comply with, some other provision mentioned in Schedule 2 or 3.
- (4) Any direction given by the Department under paragraph (1) must be in writing.
- (5) A person is guilty of an offence if, without reasonable excuse, he fails to comply with any requirement imposed on him by a direction given by the Department under paragraph (1).

### **Obstruction**

**14.**—(1) A person is guilty of an offence if—

- (a) he intentionally obstructs an authorised officer acting in the execution of these Regulations;
- (b) without reasonable cause, he fails to give an authorised officer acting in the execution of these Regulations any assistance or information which that person may reasonably require of him for the performance of his functions under these Regulations;
- (c) he gives to an authorised officer acting in the execution of these Regulations any information which he knows, or ought reasonably to know, to be false or misleading; or
- (d) he fails to produce a record when required to do so by an authorised officer acting in the execution of these Regulations.

(2) Nothing in paragraph (1)(b) shall be construed as requiring any person to answer any question or give any information if to do so might incriminate him.

### **Enforcement**

**15.**—(1) Each district council must—

- (a) enforce the provisions mentioned in Schedule 3, as read with regulation 6, insofar as they apply to—
  - (i) the retail sale of eggs within their area; and
  - (ii) the sale of eggs to a mass caterer in their area;
- (b) enforce the provisions of regulation 12(8)—
  - (i) in the case of a direction given by an authorised officer who is authorised by the district council; and
  - (ii) in the case of a pack or container secured by an authorised officer who is authorised by the district council; and
- (c) enforce the provisions of regulation 14(1) in the case of an obstruction of an authorised officer who is authorised by the district council.

(2) The Department may enforce the provisions mentioned in Schedule 3, as read with regulation 6, insofar as they apply to the retail sale of eggs or the sale of eggs to a mass caterer.

(3) The Department must—

- (a) enforce the provisions mentioned in Schedule 2, as read with regulation 3;
- (b) enforce the provisions mentioned in Schedule 3, as read with regulation 6, insofar as they do not apply to the retail sale of eggs or the sale of eggs to a mass caterer;
- (c) enforce the provisions of regulation 12(8)—
  - (i) in the case of a direction given by an authorised officer who is authorised by the Department; and

- (ii) in the case of a pack or container secured by an authorised officer who is authorised by the Department;
  - (d) enforce the provisions of regulation 13(5); and
  - (e) enforce the provisions of regulation 14(1) in the case of an obstruction of an authorised officer who is authorised by the Department.
- (4) In this regulation—
- “mass caterer” means the entities referred to in Article 1(2) of Directive 2000/13/EC;
  - “retail sale” means any sale other than a sale for use or resale in the course of a trade or business; and
  - “sale” includes possession for sale and offer, exposure and advertising for sale.

### **Duty to give assistance and provide information**

16. Each enforcement authority must give such assistance and information to any other enforcement authority as that other authority may reasonably require for the purpose of their duties under these Regulations.

### **Appeals**

17.—(1) A person may, within 21 days of the notification of a decision to which this regulation applies, make written representations concerning the decision to a person appointed for this purpose by the Department.

(2) The appointed person shall consider the representations and report in writing to the Department.

(3) The Department shall give the person who made representations written notification of its final determination and the reasons for it.

(4) The procedure in this regulation applies to—

- (a) a decision by the Department to refuse to register an establishment as a pedigree breeding establishment, other breeding establishment or hatchery under Article 3 of [Council Regulation \(EEC\) No. 2782/75](#), or to withdraw such a registration;
- (b) a decision by the Department to refuse to authorise an undertaking as a packing centre to grade eggs under Article 5(2) of [Council Regulation \(EC\) No. 1028/2006](#), or to withdraw such an authorisation; and
- (c) a decision by an authorised officer to seize any computer or associated equipment under regulation 12(4).

(5) The decision to withdraw a registration or authorisation referred to in paragraph (4) shall not take effect until the time limit for making representations has expired, or, if such representations are made, until the final determination by the Department in accordance with paragraph (3).

### **Penalty**

18. A person guilty of an offence specified in regulation 3, 6, 12(8), 13(5) or 14(1) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

### **Extended period for bringing prosecutions**

19.—(1) Proceedings for an offence under these Regulations may be commenced within the period of one year from the date on which evidence sufficient in the opinion of the prosecutor to warrant the proceedings came to his knowledge.

(2) But no such proceedings shall be commenced by virtue of paragraph (1) more than three years after the commission of the offence.

(3) For the purposes of this regulation—

(a) a certificate signed by or on behalf of the prosecutor and stating the date on which evidence sufficient in his opinion to warrant the proceedings came to his knowledge shall be conclusive evidence of that fact; and

(b) a certificate stating that matter and purporting to be so signed shall be deemed to be so signed unless the contrary is proved.

### **Application of various Articles of the Order**

**20.**—(1) The following provisions of the Order shall apply for the purposes of these Regulations with the modifications specified in paragraph (2)—

Article 4 (presumptions that food intended for human consumption);

Article 19 (offences due to fault of another person);

Article 20 (defence of due diligence);

Article 29 (procurement of samples);

Article 30(8) (documentary evidence);

Article 33(2) (powers of entry);

Article 43 (protection of officers acting in good faith);

Article 45 (expenses of authorised officers); and

(2) The modifications are—

(a) construe any reference in the provisions specified in paragraph (1) to the Order (or a Part of the Order) as a reference to these Regulations, and also, in relation to Article 33(1)(a), construe the reference to “the provisions of this Order” as a reference to the provisions mentioned in Schedules 2 and 3;

(b) construe any reference in the provisions specified in paragraph (1) to an authorised officer, or an officer of an enforcement authority or district council, as a reference to an authorised officer as defined in regulation 2(1) of these Regulations;

(c) in relation to Article 19, construe the reference to the Article as including a reference to that Article as applied to these Regulations by paragraph (1);

(d) in relation to Article 20(2), replace the words “Article 13 or 14” with the words “these Regulations”;

(e) in relation to Article 29—

(i) in paragraph (b)(ii), construe the reference to Article 33 as including a reference to Article 33 as applied to these Regulations by paragraph (1); and

(ii) in paragraph (d), omit the words “or of regulations or orders made under it”;

(f) in relation to Article 30(8)(a), omit the words “under paragraph (6)”;

(g) in relation to Article 33—

(i) in paragraph (1)(a), omit the words “, or of regulations or orders made under it”;

(ii) in paragraph (5), construe the reference to the Article as including a reference to that Article as applied to these Regulations by paragraph (1);

- (iii) in paragraph (6), construe the reference to the Article as including a reference to that Article as applied to these Regulations by paragraph (1) and construe the reference to “a food business” as including a hatchery;
- (iv) in paragraph (7)(a), omit the words “or of regulations or orders made under it”; and
- (v) in paragraph (8), construe the reference to the Article as including a reference to that Article as applied to these Regulations by paragraph (1).

### **Transitional provision**

**21.** Any written authority granted to any person to act in matters arising under or in relation to the Eggs (Marketing Standards) Regulations (Northern Ireland) 1995<sup>(3)</sup> shall have effect as if it referred to these Regulations.

### **Revocation**

**22.** The Regulations specified in Schedule 1 are revoked.

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(3) S.R. 1995 No. 382 as amended by S.R. 1997 No. 108, S.R. 1997 No. 451, S.R. 1998 No. 269 and S.R. 2006 No. 287