



STATUTORY INSTRUMENTS

S.I. No. 247 of 2008

EUROPEAN COMMUNITIES (CONTROL OF SALMONELLA IN
LAYING FLOCKS OF DOMESTIC FOWL) REGULATIONS 2008

(Prn. A8/0981)

EUROPEAN COMMUNITIES (CONTROL OF SALMONELLA IN
LAYING FLOCKS OF DOMESTIC FOWL) REGULATIONS 2008

I, BRENDAN SMITH, Minister for Agriculture, Fisheries and Food, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972) and for the purpose of giving full effect to Commission Regulation (EC) No. 1168/2006 of 31 July 2006¹, and, so far as they concern laying flocks of domestic fowl, Regulation (EC) No. 2160/2003 of the European Parliament and of the Council of 17 November 2003² as amended by Commission Regulation (EC) No. 1003/2005 of 30 June 2005³, Council Regulation (EC) No. 1791/2006 of 20 November 2006⁴ and Commission Regulation (EC) No. 1237/2007 of 23 October 2007⁵, and Commission Regulation (EC) No. 1177/2006 of 1 August 2006⁶, hereby make the following regulations—

Citation

1. These Regulations may be cited as the European Communities (Control of salmonella in laying flocks of domestic fowl) Regulations 2008.

Interpretation

2. (1) In these Regulations—

“authorised officer” means—

- (a) an authorised officer within the meaning of section 17A (inserted by the Diseases of Animals (Amendment) Act 2001 (No. 3 of 2001)) of the Diseases of Animals Act 1966 (No. 6 of 1966),
- (b) a person who is an authorised officer under the European Communities (Marketing Standards for Eggs) Regulations 2007 (S.I. No. 810 of 2007),
- (c) a person appointed under Regulation 11, or
- (d) a member of An Garda Síochána;

“domestic fowl” means *Gallus gallus*;

“EC Regulations” means Commission Regulation (EC) No. 1168/2006 of 31 July 2006, and, so far as they concern laying flocks of domestic fowl, Regulation (EC) No. 2160/2003 of the European Parliament and of the Council of 17 November 2003 as amended by Commission Regulation (EC) No. 1003/2005 of 30 June

¹O.J. No. L 211 of 1.8.2006, p.4

²O.J. No. L 325 of 12.12.2003, p.1

³O.J. No. L170 of 1.7.2005, p. 12

⁴O.J. No. L 363 of 20.12.2006, p.1

⁵O.J. No. L280 of 24.10.2007, p.5

⁶O.J. No. L212 of 2.8.2006, p.3

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 8th July, 2008.*

2005, Council Regulation (EC) No. 1791/2006 of 20 November 2006 and Commission Regulation (EC) No. 1237/2007 of 23 October 2007, and Commission Regulation (EC) No. 1177/2006 of 1 August 2006;

“holder” in relation to a laboratory approval includes, if the context so requires or admits, a person employed by the holder;

“Minister” means Minister for Agriculture, Fisheries and Food;

“premises” includes land, buildings, structures, vehicles or container;

“Regulation 2160/2003” means Regulation (EC) No. 2160/2003 of the European Parliament and of the Council of 17 November 2003 as amended by Commission Regulation (EC) No. 1003/2005 of 30 June 2005, Council Regulation (EC) No. 1791/2006 of 20 November 2006 and Commission Regulation (EC) No. 1237/2007 of 23 October 2007.

(2) A word or expression that is used in the EC Regulations and that is also used in these Regulations has in these Regulations the same meaning as in the EC Regulations.

Samples

3. The owner or person in charge of a laying flock shall ensure that—

- (a) samples are taken at the holding on which the flock is held in accordance with Part 1 of the Schedule, and
- (b) each sample and each record relating to it is dealt with in accordance with Part 2 of the Schedule.

Laboratory approval

4. (1) A person shall not operate a laboratory for the purposes of these Regulations and the EC Regulations other than under and in accordance with an approval granted by the Minister (“laboratory approval”).

(2) An application for laboratory approval shall be made in a form, be accompanied by any material and contain any information that the Minister may require.

(3) The Minister shall not consider an application for laboratory approval unless the application contains all the material and particulars sought and is accompanied by the fee (if any) set in accordance with Regulation 5.

(4) The holder of a laboratory approval shall make such returns to the Minister as the Minister may require.

(5) The Minister may revoke or suspend a laboratory approval, attach conditions to an approval or refuse an application.

(6) If the Minister proposes to revoke or suspend a laboratory approval or refuse an application he or she shall—

- (a) notify the holder of a laboratory approval or applicant in writing of the proposal and of the reasons for the proposal, and that he or she may make representations to the Minister in relation to the proposal within 14 days of the notification,
- (b) consider any representations duly made before deciding whether to proceed with, modify or annul the proposal and
- (c) notify the holder of a laboratory approval or applicant of the decision and the reasons for the decision.

(7) If the Minister is of the opinion that it is necessary for the protection of human or animal health he or she may refuse an application or suspend or revoke an approval without allowing the representations referred to in paragraph (6).

(8) If the Minister grants a laboratory approval he or she may specify a date on which that approval will expire.

(9) A laboratory approved under the European Communities (Control of salmonella in breeding flocks of domestic fowl) Regulations 2006 (S.I. No. 706 of 2006) is considered to be an approved laboratory under these Regulations.

Fees

5. (1) The Minister may from time to time set and charge fees in respect of an application for a laboratory approval.

(2) Moneys received under this Regulation shall be paid into or disposed of for the benefit of the Exchequer in accordance with the directions of the Minister for Finance.

(3) The Public Offices Fees Act 1878 (42 & 43 Vict. Cap 58) does not apply to a fee charged pursuant to this Regulation.

Obligations of approved laboratories

6. (1) The holder of a laboratory approval in respect of a laboratory to which a sample is submitted shall ensure that—

- (a) the sample is dealt with in the manner set out in Part 3 of the Annex to Commission Regulation (EC) No. 1168/2006 of 31 July 2006 and tested for the presence of salmonella in accordance with a method approved by the Minister,
- (b) the result of the test is reported in writing as soon as practicable to the person who submitted the sample, and
- (c) if *Salmonella Enteritidis* or *Salmonella Typhimurium* is detected in a sample the Minister is immediately informed of that detection by means of an oral report followed by a written report within 24 hours.

(2) The holder of a laboratory approval shall—

- (a) apply quality control systems that conform to the current EN/ISO standard,
- (b) regularly participate in collaborative testing organised or coordinated by the national reference laboratory, and
- (c) comply with all conditions applicable to the laboratory as notified to the holder by the Minister at the time of approval or subsequently.

General control measures

7. (1) A person shall not market or use eggs for direct human consumption as table eggs unless the eggs originate from a flock that is registered under Regulation 10 of the European Communities (Welfare of Farmed Animals) Regulations 2008 (S.I. No. 14 of 2008) and that is not subject to a restriction notice under the Diseases of Animals Act 1966 (Notification and Control of Animal Diseases) Order 2008 (S.I. No. 101 of 2008).

(2) If eggs originate from a flock with unknown health status, or a flock that is affected or suspected of being affected with *Salmonella enteritidis* or *Salmonella typhimurium* or that is the source of infection in a specific human foodborne outbreak—

- (a) a person shall not market or use the eggs for human consumption unless they are treated in a manner that guarantees the destruction of all *Salmonella* serotypes with public health significance, and
- (b) the owner or person in charge of the eggs shall ensure that they are dealt with in accordance with Part D.2 of Annex II to Regulation 2160/2003.

(3) All expenses and losses necessitated by compliance with the EC Regulations are the responsibility of the owner of the laying flock.

Control measures if salmonella infection confirmed

8. (1) If a report of the detection of *Salmonella enteritidis* or *Salmonella typhimurium* is made to the Minister pursuant to Regulation 6(1)(c) the owner or person in charge of the flock shall ensure that no eggs, poultry or poultry meat are moved from the premises where the flock is located without the consent in writing of an authorised officer.

(2) If the presence of *Salmonella enteritidis* or *Salmonella typhimurium* is confirmed in a laying flock the owner or person in charge of the flock shall ensure that no eggs, poultry or poultry meat are moved from the premises where the flock is located without the consent in writing of an authorised officer.

(3) If birds from an infected flock are slaughtered or destroyed the person in charge of the birds or of products derived from them shall ensure that slaughter of the birds and the sale or disposal of their products is undertaken in accordance with Part D.3 of Annex II to Regulation 2160/2003.

(4) If an authorised officer gives the consent in writing referred to in paragraphs (1) or (2) the officer may specify the place or manner in which the birds should be slaughtered or destroyed or the place or manner in which eggs should be destroyed or treated and nobody shall deal with the birds or eggs except in accordance with such specification.

- (5) (a) If a premises that was occupied by a laying flock in which the presence of salmonella was detected has been emptied of birds and eggs, the owner or person in charge shall ensure that effective cleansing and disinfection is carried out, including safe disposal of manure and litter.
- (b) A person shall not restock premises referred to in subparagraph (a) unless an authorised officer is satisfied that all reasonable precautions have been taken to ensure the elimination of salmonella at the premises and consents in writing to the restocking.

Control plans

9. (1) If *Salmonella enteritidis* or *Salmonella typhimurium* is detected in a laying flock an authorised officer may serve a notice in writing (“direction”) and direct—

- (a) that a plan for the prevention, control and eradication of salmonella (“control plan”) is put in place for the flock within 30 days of service of the direction,
- (b) criteria with which the control plant must comply, and
- (c) that the control plan be submitted to the authorised officer within 30 days of service of the direction.

(2) Without prejudice to the generality of paragraph (1), an authorised officer may direct that a control plan contain such provisions and comply with such requirements as are specified in the direction, including provisions and requirements relating to-

- (a) the form of the plan,
- (b) the number and type of samples to be taken at the holding,
- (c) the testing of samples at an approved laboratory,
- (d) the frequency with which tests are to be conducted,
- (e) disinfection procedures to be adopted in relation to the holding, and
- (f) other measures to be taken by the person on whom the direction is served to control salmonella.

(3) A person on whom a direction is served shall comply with the direction.

(4) An authorised officer may approve a control plan submitted under this Regulation or refuse to approve a plan.

(5) An authorised officer may within a period of 60 days of the submission of the control plan require, by notice in writing, that the plan be modified in such manner as the officer directs.

(6) If an authorised officer requires that a control plan be modified, the owner or person in charge of the holding shall modify the plan accordingly within a period of 30 days of receipt of a notice under paragraph (5) and submit the plan as so modified to the officer.

(7) If an authorised officer does not, within a period of 60 days of receipt of a plan or a modified plan,—

- (a) approve,
- (b) refuse to approve, or
- (c) require the modification of,

the plan concerned it shall stand approved by the officer.

Records

10. The owner or person in charge of a laying flock shall keep, and retain for a period of at least two years, a record of the movement of poultry and eggs onto and off the premises including—

- (a) the date of the movement,
- (b) the number of poultry and eggs moved,
- (c) the identity of the building or group of buildings into which or from which the poultry or eggs were moved,
- (d) name and address of the premises from which incoming poultry were brought, and
- (e) name and address of the premises to which outgoing poultry or eggs were sent.

Appointment of authorised officers

11. (1) The Minister may appoint such and so many persons as the Minister thinks fit to be authorised officers.

(2) An appointment as an authorised officer ceases—

- (a) if it is terminated by the Minister,
- (b) if it is for a fixed period, on the expiry of that period, or
- (c) if the person appointed ceases to be an officer of the Minister.

(3) Nothing in paragraph (2) is to be construed so as to prevent the Minister from reappointing as an authorised officer a person to whom that paragraph relates.

(4) An authorised officer appointed under this Regulation shall be furnished with a warrant of appointment as an authorised officer and when exercising any power conferred by these Regulations such officer shall, if requested by any person affected, produce the warrant to that person.

Powers of an authorised officer

12. (1) An authorised officer or a person employed by or acting on the authority of the Commission of the European Communities accompanied by an authorised officer may, if the authorised officer has reasonable grounds for believing that a laying flock is being kept on a premises or that a document or other thing relating to a laying flock may be present on the premises—

- (a) at any time enter and search such premises or any parts of any other premises or other land, vehicle or container which are material to the operation of such premises,
- (b) search a person, where the authorised officer considers it necessary,
- (c) there or at any other place examine any poultry or eggs or other thing found there,
- (d) inspect, take or take copies of or extracts from any books, documents or other records found there,
- (e) take, without payment, samples of any poultry, eggs, cadavers, faeces, blood, tissue or any other thing, substance or article as he or she may reasonably require and carry out or cause to be carried out on a sample such tests, analyses, examinations or inspections as he or she considers necessary or expedient,
- (f) seize and detain (for so long as is necessary) any poultry, eggs, vehicle, container or other thing, substance or article,
- (g) give directions to or require any person there or the owner or person in charge of the premises or any person employed in connection therewith to give to him or her such information and to produce to him or her such books, certificates, documents, records or thing within the power of procurement of the person as the officer may reasonably require for the purposes of his or her functions under these Regulations,
- (h) retain a document or thing (for so long as is necessary),
- (i) dispose of the poultry, eggs or other thing or require the owner or person in charge of them to deal with or dispose of them in a manner that the authorised officer sees fit,

(j) require of a person the ownership, identity and origin of any poultry, eggs or other thing,

(k) mark or otherwise identify poultry, eggs or other thing or any sample taken under subparagraph (e).

(2) The person referred to in paragraph (1)(g) shall carry out all reasonable directions issued by an authorised officer.

(3) An authorised officer shall not enter, except with the consent of the occupier, a private dwelling, unless he or she has obtained a search warrant under Regulation 13 other than if he or she has reasonable cause to suspect that before a search warrant could be sought in relation to the dwelling anything to which paragraph (1) relates is being or is likely to be destroyed or disposed of.

(4) An authorised officer may use reasonable force, if necessary, in exercise of his or her powers under this Regulation.

(5) An authorised officer, when exercising a power under this Regulation may be accompanied by other persons and may take with him or her, or those persons may take with them, any equipment or materials to assist the officer in the exercise of the power.

(6) An authorised officer is not liable in any proceedings for anything done in the purported exercise of his or her powers under these Regulations if the court is satisfied that the act was done in good faith and that there were reasonable grounds for doing it.

(7) Without prejudice to the generality of paragraph (1), a direction or requirement of an authorised officer may include conditions prohibiting, restricting or otherwise controlling the movement of poultry, eggs, cadavers or any material or thing as may be specified by the authorised officer.

(8) If a member of the Garda Síochána has reasonable grounds to suspect that a person has committed an offence under these Regulations, the member may without warrant arrest the person.

(9) An authorised officer or an expert from the Commission of the European Communities may at any reasonable time inspect an approved laboratory, or a laboratory in respect of which an application for approval has been made, for the purpose of evaluating its suitability for approval.

Search warrant

13. (1) If a judge of the District Court is satisfied by information on oath of an authorised officer that there are reasonable grounds for suspecting—

(a) evidence of or relating to the commission of or intended commission of an offence under these Regulations or the EC Regulations is to be found on the premises,

- (b) there is or was poultry, eggs or other material or other thing used in connection with poultry or eggs on the premises,
- (c) a document or other record related to a thing to which subparagraph (a) refers is or may be on the premises,

the judge may issue a search warrant.

(2) A search warrant under this Regulation shall be expressed and operate to authorise a named authorised officer, accompanied by such authorised officers or other persons as the named authorised officer thinks necessary, at any time within one month from the date of issue of the warrant, on production, if so requested, of the warrant, to enter (if necessary by use of reasonable force) the premises or place named in the warrant.

(3) If a premises is entered pursuant to a warrant issued under this Regulation, an authorised officer may exercise all or any of the powers conferred on an authorised officer under these Regulations.

Offences and penalties

14. (1) A person who—

- (a) contravenes Article 9 or Parts B, D or E of Annex II to Regulation 2160/2003,
- (b) contravenes Regulation 3, 4 (1), 4(4), 6, 7, 8, 9, 10 or 12(2) of these Regulations,
- (c) tampers or otherwise interferes with any sample taken under these Regulations,
- (d) tampers or otherwise interferes with any poultry, poultrymeat or eggs so as to procure that any sample of it taken under these Regulations does not correctly represent the poultry, poultrymeat or eggs,
- (e) treats or allows treatment of any bird which causes any sample to be invalid,
- (f) forges, or utters knowing it to be forged, a record referred to in these Regulations,
- (g) fails to give assistance to, or obstructs, impedes or otherwise interferes with, an authorised officer in the performance of his or her functions or gives information to an authorised officer that he or she knows to be false or misleading in a material respect,
- (h) in applying for a laboratory approval wilfully makes a false or misleading statement,
- (i) fails to comply with a request of an authorised officer made under Regulation 12 (1)(g), (i) or (j),

commits an offence and is liable on summary conviction to a fine not exceeding €5000 or to imprisonment for a period not exceeding 6 months or to both.

(2) If an offence under these Regulations has been committed by a body corporate and is proved to be so committed with the consent or connivance of, or be attributable to any neglect on the part of, a person being a director, manager, secretary or other officer of the body corporate or a person who was purporting to act in any such capacity, that person, as well as the body corporate shall be found guilty of an offence and shall be liable to be proceeded against and punished as if he or she were guilty of the first-mentioned offence.

(3) If the affairs of a body corporate are managed by its members, paragraph (2) applies in relation to the acts and defaults of a member in connection with the functions of management as if the member were a director or manager of the body corporate.

(4) An offence under these Regulations may be prosecuted by the Minister.

SCHEDULE

Part 1

TAKING OF SAMPLES AS REFERRED TO IN REGULATION 3

(1) Adult laying flocks shall be sampled every 15 weeks during the laying period in accordance with the Annex to Commission Regulation (EC) No. 1168/2006 of 31 July 2006.

(2) Laying flocks other than adult flocks shall be sampled at the day-old chick stage and two weeks before the pullets move to the laying phase or laying unit as follows—

(a) in the case of day-old chicks—

(i) samples shall be taken, on the day of delivery of the chicks to the holding, from the internal linings of the boxes in which the chicks were delivered to the holding from the hatchery, with a minimum of one box-liner being sampled for every 500 chicks delivered and each sample to consist of at least one centimetre square from each liner,

(ii) samples shall be taken of the carcasses of all dead chicks, up to a maximum of 60, found dead on arrival on the day of delivery to the holding,

(b) in the case of pullets that will move to the laying phase or laying unit in two weeks—

(i) pooled faecal samples, made up of separate samples of fresh faeces each weighing not less than one gram taken at random from a number of sites in the building in which the birds are kept, shall be collected,

(ii) if the birds have free access to more than one building on the holding, pooled faecal samples shall be collected from each building on the holding in which the birds are kept,

(iii) the number of sites from which separate faeces samples are to be taken in order to make a pooled samples shall be—

<i>Number of birds kept in a building</i>	<i>Number of faeces samples to be taken in the building or group of buildings</i>
1 to 24	number equal to number of birds up to a maximum of 20
25 to 29	20
30 to 39	25
40 to 49	30
50 to 59	35
60 to 89	40
90 to 199	50
200 to 499	55
500 or more	60

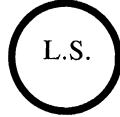
Part 2

MANNER IN WHICH A SAMPLE SHALL BE DEALT WITH

The owner or person in charge of a laying flock shall ensure that—

- (a) each sample is dispatched to an approved laboratory on the day of collection in a manner that ensures the integrity of the sample,
- (b) each sample is identified in a manner that enables the laboratory to which it is sent to know—
 - (i) the name of the owner or person in charge of the laying flock and, if different, the address of the farm,
 - (ii) date on which the sample was taken,
 - (iii) description of sample taken,
 - (iv) identity of the flock and
 - (v) identity of the building or group of buildings where the sample was taken,
- (c) such samples are tested using an approved method, at the expense of the owner or person in charge of the flock, for the presence of salmonella at an approved laboratory,
- (d) a record of samples taken for the purposes of salmonella testing is kept which shall contain at least the following information—
 - (i) date on which the sample was taken,
 - (ii) description of sample taken,
 - (iii) identity of the building or group of buildings where the samples were taken and

- (iv) the result of the test, and
- (e) the record referred to in subparagraph (d) and the report of the result of the test provided by the approved laboratory are retained for a period of at least three years from date of taking of the sample and is produced to an authorised officer on request.



GIVEN under my Official Seal,
4 July 2008

BRENDAN SMITH.
Minister for Agriculture, Fisheries and Food.

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation)

These Regulations give effect to European Communities legislation on the control of salmonella in table egg laying flocks, require the testing of such flocks and provide for the approval of laboratories to conduct tests.

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
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