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S.I. No. 432 of 2009



EUROPEAN COMMUNITIES (FOOD AND FEED HYGIENE)
REGULATIONS 2009

(Prn. A9/1488)

EUROPEAN COMMUNITIES (FOOD AND FEED HYGIENE)
REGULATIONS 2009

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EUROPEAN COMMUNITIES (FOOD AND FEED HYGIENE)
REGULATIONS 2009

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), for the purpose of giving effect to Directive No. 2002/32 of the European Parliament and of the Council of 7 May 2002¹ as amended by Commission Directive No. 2003/57/EC of 17 June 2003², Commission Directive No. 2003/100/EC of 31 October 2003³, Commission Directive No. 2005/8/EC of 27 January 2005⁴, Commission Directive No. 2005/86/EC of 5 December 2005⁵, Commission Directive No. 2005/87/EC of 5 December 2005⁶, Commission Directive No. 2006/13/EC of 3 February 2006⁷, Commission Directive No. 2006/77/EC of 29 September 2006⁸, Commission Directive No. 2008/76/EC of 25 July 2008⁹, Commission Directive No. 2009/8/EC of 10 February 2009¹⁰, and giving full effect to Regulation (EC) No. 178/2002 of the European Parliament and of the Council of 28 January 2002¹¹ (as amended by Regulation (EC) No. 1642/2003 of the European Parliament and of the Council of 22 July 2003¹², and Commission Regulation (EC) No. 575/2006 of 7 April 2006¹³), Regulation (EC) No. 852/2004 of the European Parliament and of the Council of 29 April 2004¹⁴ (as amended by Commission Regulation (EC) No. 1019/2008 of 17 October 2008¹⁵), Regulation (EC) No. 853/2004 of the European Parliament and of the Council of 29 April 2004¹⁶ (as amended by Commission Regulation (EC) No. 1662/2006 of 6 November 2006¹⁷, Commission Regulation (EC) No. 1243/2007 of 24 October 2007¹⁸, and Commission Regulation (EC) No. 1020/2008 of 17 October 2008¹⁹); Regulation (EC) No. 854/2004 of the European Parliament and of the Council of 29 April 2004²⁰ (as amended by Regulation (EC) No. 882/2004 of the European Parliament and of the Council of 29 April 2004²¹, Commission

¹O.J. No. L140, 30.05.2002, p.10.

²O.J. No. L151, 19.06.2003, p.38.

³O.J. No. L285, 01.11.2003, p.33.

⁴O.J. No. L 27, 29.01.2005, p.44.

⁵O.J. No. L318, 06.12.2005, p.16.

⁶O.J. No. L318, 06.12.2005, p.19.

⁷O.J. No. L 32, 04.02.2006, p. 44.

⁸O.J. No. L271, 30.09.2006, p. 53.

⁹O.J. No. L198, 26.07.2008, p. 37.

¹⁰O.J. No. L 40, 11.02.2009, p.19.

¹¹O.J. No. L 31, 01.02.2002, p.1.

¹²O.J. No. L 245, 29.09.2003, p.4.

¹³O.J. No. L 100, 08.04.2006, p.3.

¹⁴O.J. No. L 226, 25.6.2004, p.3.

¹⁵O.J. No. L 277, 18.10.2008, p. 7.

¹⁶O.J. No. L 226, 25.6.2004, p.22.

¹⁷O.J. No. L 320, 18.11.2006, p.1.

¹⁸O.J. No. L 281, 25.10.2007, p. 8.

¹⁹O.J. No. L 277, 18.10.2008, p.8.

²⁰O.J. No. L 226, 25.6.2004, p.83.

²¹O.J. No. L 191, 28.5.2004, p.1.

*Notice of the making of this Statutory Instrument was published in
"Iris Oifigiúil" of 30th October, 2009.*

Regulation (EC) No. 2074/2005 of 5 December 2005²², Commission Regulation (EC) No. 2076/2005 of 5 December 2005²³, Commission Regulation (EC) No. 1020/2008 of 17 October 2008²⁴, Commission Regulation (EC) No. 1021/2008 of 17 October 2008²⁵, Commission Regulation (EC) No. 1663/2006 of 6 November 2006²⁶, Commission Regulation (EC) No. 1666/2006 of 6 November 2006²⁷, and Council Regulation (EC) No. 1791/2006 of 20 November 2006²⁸), Regulation (EC) No. 882/2004 of the European Parliament and of the Council of 29 April 2004²⁹, (as amended by Commission Regulation (EC) No. 776/2006 of 23 May 2006³⁰ and Council Regulation (EC) No. 1791/2006 of 20 November 2006³¹); Regulation (EC) No. 183/2005 of the European Parliament and of the Council of 12 January 2005³²; Commission Regulation (EC) No. 2073/2005 of 15 November 2005³³ (as amended by Commission Regulation (EC) No. 1441/2007 of 5 December 2007³⁴); Commission Regulation (EC) No. 2074/2005 of 5 December 2005³⁵ (as amended by Commission Regulation (EC) No. 1664/2006 of 6 November 2006³⁶, Commission Regulation (EC) No. 1244/2007 of 24 October 2007³⁷, and Commission Regulation (EC) No. 1022/2008 of 31 August 2007³⁸); Commission Regulation (EC) No. 2075/2005 of 5 December 2005³⁹, (as amended by Commission Regulation (EC) No. 1665/2006 of 6 November 2006⁴⁰ and Commission Regulation (EC) No. 1245/2007 of 24 October 2007⁴¹); Commission Regulation (EC) No. 2076/2005 of 5 December 2005⁴² (as amended by Commission Regulation (EC) No. 1666/2006 of 6 November 2006⁴³, Commission Regulation (EC) No. 1246/2007 of 24 October 2007⁴⁴, Commission Regulation (EC) No. 1020/2008 of 17 October 2008⁴⁵, Commission Regulation (EC) No. 1021/2008 of 17 October 2008⁴⁶, and Commission Regulation (EC) No. 1023/2008 of 17 October 2008⁴⁷), hereby make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the European Communities (Food and Feed Hygiene) Regulations 2009 and come into operation on 1 November 2009.

²²O.J. No. L 338, 22.12.2005, p.27.

²³O.J. No. L 338, 22.12.2005, p.83.

²⁴O.J. No. L 277, 18.10.2008, p.8.

²⁵O.J. No. L 277, 18.10.2008, p.15.

²⁶O.J. No. L 320, 18.11.2006, p.11.

²⁷O.J. No. L 320, 18.11.2006 p.47.

²⁸O.J. No. L 363, 20.12.2006, p.1.

²⁹O.J. No. L 191, 28.05.2004, p.1.

³⁰O.J. No. L 136, 24.05.2006, p.3.

³¹O.J. No. L 363, 20.12.2006 p.1.

³²O.J. No. L 35, 08.02.2005, p.1.

³³O.J. No. L 338, 22.12.2005, p.1.

³⁴O.J. No. L 322, 07.12.2007, p.12.

³⁵O.J. No. L 338, 22.12.2005, p.27.

³⁶O.J. No. L 320, 18.11.2006, p.13.

³⁷O.J. No. L 281, 25.10.2007, p.12.

³⁸O.J. No. L 230, 01.09.2007; p.6.

³⁹O.J. No. L 338, 22.12.2005, p.60.

⁴⁰O.J. No. L 320, 18.11.2006, p.46.

⁴¹O.J. No. L 281, 25.10.2007, p.19.

⁴²O.J. No. L 338, 22.12.2005, p.83.

⁴³O.J. No. L 320, 18.11.2006, p.47.

⁴⁴O.J. No. L 281, 25.10.2007, p.21.

⁴⁵O.J. No. L 277, 18.10.2008, p.8.

⁴⁶O.J. No. L 277, 18.10.2008, p.15.

⁴⁷O.J.No. L 277, 18.10.2008, p.21.

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 veterinary inspector within the meaning of section 35, or authorised officer within the meaning of section 53, of the Abattoirs Act 1988 (No. 8 of 1988),
- (c) an authorised officer within the meaning of the Food Safety Authority of Ireland Act 1998 (No.29 of 1998),
- (d) a sea-fisheries protection officer (within the meaning of section 16 of the Sea-Fisheries and Maritime Jurisdiction Act 2006 (No. 8 of 2006)),
- (e) a person who, immediately before the making of these Regulations, was an authorised officer within the meaning of the Regulations of 2005 (other than a person appointed under the European Communities (Hygienic production and placing on the market of raw milk, heat treated milk and milk-based products) Regulations 1996 (S.I. No. 9 of 1996)),
- (f) an authorised officer within the meaning of the European Communities (Marketing Standards for eggs) Regulations 2009 (S.I. No. 140 of 2009),
- (g) a member of an Garda Síochána,
- (h) an officer of Customs and Excise, or
- (i) a person appointed under Regulation 12.

“local authority” means the council of a county or the corporation of a county borough and the functional area of the local authority means, subject to an agreement under section 85 of the Local Government Act 2001 (No. 37 of 2001), the county or county borough;

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

“premises” includes land (including land under water) with or without buildings, an establishment, a vehicle (including a boat, ship, hovercraft, aircraft or offshore installation (being an offshore installation within the meaning of the Safety, Health and Welfare (Offshore Installations) Act 1987 (No. 18 of 1987)), railway wagon, container or other thing used in connection with, or ancillary to, such a thing;

“registering authority” means the person to whom application is made or should be made in accordance with Regulation 3;

“Regulation No. 178/2002” means Regulation (EC) No. 178/2002 of the European Parliament and of the Council of 28 January 2002;

“Regulation No. 852/2004” means Regulation (EC) No. 852/2004 of the European Parliament and of the Council of 29 April 2004 and, in so far as is required by Article 2(2) thereof, Articles 2 and 3 of Regulation No. 178/2002;

“Regulation No. 853/2004” means Regulation (EC) No. 853/2004 of the European Parliament and of the Council of 29 April 2004 (and, in so far as is required by Article 2 thereof, Articles 2 and 3 of Regulation No. 178/2002 and Regulation No. 852/2004) as amended by Commission Regulation (EC) No. 2074/2005 of 5 December 2005, Commission Regulation (EC) No. 2076/2005 of 5 December 2005, Commission Regulation (EC) No. 1662/2006 of 6 November 2006, Commission Regulation (EC) No. 1666/2006 of 6 November 2006 and Commission Regulation (EC) No. 1019/2008 of 17 October 2008;

“Regulation No. 854/2004” means Regulation (EC) No. 854/2004 of the European Parliament and of the Council of 29 April 2004 (and, in so far as is required by Article 2(2) thereof, Regulation No. 1774/2002 of the European Parliament and of the Council of 3 October 2002, Articles 2 and 3 of Regulation No. 178/2002, Regulation No. 852/2004 and Regulation 853/2004) as amended by Regulation (EC) No. 882/2004 of 29 April 2004, Commission Regulation (EC) No. 2074/2005 of 5 December 2004, Commission Regulation (EC) No. 2076/2005 of 5 December 2004, Commission Regulation (EC) No. 1663/2006 of 6 November 2006, Commission Regulation (EC) No. 1666/2006 of 6 November 2006 and Commission Regulation (EC) No. 1020/2008 of 17 October 2008;

“Regulation No. 882/2004” means Regulation (EC) No. 882/2004 of the European Parliament and of the Council of 29 April 2004 (and, in so far as is required by Article 2 thereof, Articles 2 and 3 of Regulation No. 178/2002) as amended by Commission Regulation (EC) No. 1020/2008 of 17 October 2008 and Commission Regulation (EC) No. 1021/2008 of 17 October 2008;

“Regulation No. 183/2005” means Regulation No. (EC) 183/2005 of the European Parliament and of the Council of 12 January 2005 and, in so far as is required by Article 3 thereof, Articles 2 and 3 of Regulation No. 178/2002;

“Regulations of 2005” means the European Communities (Food and Feed Hygiene) Regulations 2005 (S.I. No. 910 of 2005).

(2) A word or expression that is used in Regulation No. 178/2002, Regulation No. 852/2004, Regulation No. 853/2004, Regulation No. 854/2004, Regulation No. 882/2004 or Regulation No. 183/2005 and that is also used in these Regulations has, in these Regulations (other than Regulation 6), the same meaning as in the Regulation (cited in this paragraph) in which it occurs.

(3) In these Regulations, if the context so requires or admits, a reference to a fishery product includes a reference to live bivalve molluscs, live echinoderms, live tunicates and live marine gastropods.

Registration of food business and feed business

3. (1) Without prejudice to Regulation 4, a person shall not operate-

- (a) a food business unless his or her name, the name and address of the establishment and the nature of the food business operated in the establishment, or
- (b) a feed business unless his or her name, the name and address of the establishment and the nature of the feed business operated in the establishment,

is entered in the register maintained for the purposes of—

- (i) Article 6 of Regulation No. 852/2004 (“Register of food businesses”), or
 - (ii) Article 9 of Regulation No. 183/2005 (“Register of feed businesses”).
- (2) An application for registration in respect of—

- (a) a primary producer (other than a primary producer whose production relates to fishery products), or, an importer or distributor of foods of animal origin who engages in the distribution of 20 tonnes or more of animal products at any one time shall be in a form and contain any information that the Minister may require,
- (b) a primary producer or an establishment engaged in the production processing, distribution export, import, or otherwise placing on the market, of fishery products, not subject to Regulation 4, shall be in a form and contain information that the Sea Fisheries Protection Authority may require, or
- (c) a primary producer engaged in hunting wild game shall be in a form and contain any information that the Minister for the Environment, Heritage and Local Government may require.

(3) An application for registration in respect of—

- (a) a food business engaged in the slaughter of animals referred to in paragraph (17) where no more than 100 livestock units are slaughtered in any week with a maximum of 5,000 livestock units slaughtered in a calendar year,
- (b) a food business engaged in the slaughter of poultry where no more than 3,000 birds are slaughtered in any week with a maximum of 150,000 birds slaughtered in a calendar year,

- (c) a food business engaged in the slaughter of lagomorphs where no more than 3,000 lagomorphs are slaughtered in any week with a maximum of 150,000 lagomorphs slaughtered in a calendar year,
- (d) a food business engaged in the preparation of minced meat or mechanically separated meat where no more than 5 tonnes of minced meat and mechanically separated meat in total is produced in any week,
- (e) a food business engaged in the production of meat preparations or meat products, where no more than 20 tonnes of finished products or preparations in total are produced in any week, and in respect of which the Health Service Executive has not exercised statutory functions prior to the making of these Regulations,
- (f) a food business operating as a cutting plant where no more than 20 tonnes of fresh meat is produced in any week, or
- (g) a food business handling wild game where no more than 8 livestock units are handled in any week with a maximum of 200 livestock units being handled in a calendar year,

shall be in a form and contain any information that the local authority in whose functional area the business is situate may require.

(4) An application for registration in respect of—

- (a) a food business of a class or description specified in paragraph (3) where the amount produced is greater than that specified for that type of business in that paragraph,
- (b) a food business engaged in the slaughter of animals not referred to otherwise in this Regulation, or
- (c) a feed business, or a food business to which, immediately before the making of the Regulations of 2005—
 - (i) the European Communities (Egg Products Regulations) 1991 (S.I. No. 293 of 1991), or
 - (ii) the European Communities (Hygienic production and placing on the market of raw milk, heat treated milk and milk-based products) Regulations 1996 (S.I. No. 9 of 1996),

applied or, but for the making of the Regulations of 2005 would apply, shall be in a form and contain any information that the Minister may require.

(5) An application for registration in respect of a food business or a feed business to which, but for the making of these Regulations, the European Communities (Hygiene of Fishery Products and Fish Feed) Regulations 2006 (S.I. No. 335 of 2006) apply (other than a fishmeal plant), shall be in a form and

contain any information that the Sea Fisheries Protection Authority may require.

(6) An application for registration in respect of a food business to which this Regulation relates, that is not referred to in paragraph (2), (3), (4) or (5) and in respect of which the Health Service Executive exercised statutory functions prior to the making of these Regulations, shall be in a form and contain any information that the Executive may require.

(7) An application for registration in respect of a food business to which this Regulation apply, that is not otherwise specified in this Regulation, shall be made to the registering authority to which the Food Safety Authority of Ireland directs the application.

(8) A registering authority may enter the name and address of a person, the name and address of an establishment and the nature of the feed business or food business operated in the establishment in the register of feed businesses or register of food businesses, suspend or revoke registration or refuse an application.

(9) A registering authority shall not consider an application unless the application contains all the material and particulars sought by the authority and is accompanied by the fee (if any) set in accordance with Regulation 19.

(10) A person whose name is entered in the register of food businesses or the register of feed businesses shall make such returns to the Minister or registering authority as the Minister or registering authority may require.

(11) Without prejudice to the generality of paragraph (8), a registering authority may refuse an application or suspend or revoke a registration if it is satisfied that—

- (a) an act of the institutions of the European Communities or a provision of these Regulations has not, is not or will not be, complied with,
- (b) the applicant or registered person has committed an offence, whether he or she has been convicted or not, relating to food, feed, animal or public health or welfare or the environment,
- (c) the applicant or registered person has failed to comply with a condition of registration,
- (d) in relation to an application, information required has not been furnished or information that is false or misleading in a material respect has been furnished,
- (e) the premises to which the application or registration relates is not a fit and proper premises to be registered,
- (f) the applicant or registered person is not a fit and proper person to be registered,

- (g) the registered person has ceased to carry out the activity to which registration relates on the premises to which registration relates,
- (h) the applicant or registered person, having been given 14 days to do so, fails to pay a fee under Regulation 19,
- (i) it is necessary for the protection of human health, animal health or welfare or the environment including the prevention, control or eradication of a disease, or
- (j) it is necessary, ancillary or supplementary for an act of the institutions of the European Communities (including an act cited in the preamble to these Regulations) to have full effect.

(12) Other than in the case of paragraph (11)(i) or (j), if a registering authority proposes to refuse an application or suspend or revoke a registration, it shall—

- (a) notify the applicant or registered person of the proposal and the reasons for the proposal, and that he or she may make representations in relation to the proposal to the registering authority within 14 days of notification,
- (b) consider a representation duly made before deciding whether to proceed with, modify or annul the proposal, and
- (c) notify the applicant or registered person of the decision and the reasons for the decision.

(13) If a registering authority is of the opinion that—

- (a) it is necessary for the protection of human health, animal health or welfare or the environment including the prevention, control or eradication of a disease, or
- (b) it is necessary, ancillary or supplementary for an act of the institutions of the European Communities to have full effect,

it may refuse an application or suspend or revoke a registration in accordance with paragraph (14).

(14) If a registering authority refuses an application or suspends or revokes a registration in accordance with this paragraph, it shall—

- (a) notify the applicant or registered person of the decision and the reasons for the decision, and that he or she may make representations in relation to the decision to the registering authority within 14 days of notification,
- (b) consider a representation made, and

- (c) confirm, modify or annul the decision and notify the applicant or registered person of the decision and the reasons for the decision.

(15) If a registering authority—

- (a) suspends registration in the register of feed businesses or the register of food businesses or an approval to which Regulation 4 relates, the entry relating to the person and establishment suspended has no effect for the duration of the suspension as notified to the person formerly registered, or
- (b) revokes registration in the register of feed businesses or the register of food businesses or an approval under Regulation 4 or the registration expires by effluxion of time, the entry relating to the person to whom, and establishment to which, registration, formerly related has no effect.

(16) Notwithstanding paragraph (1)(a), a primary producer who is of a class or type who may be eligible to receive a payment under Council Regulation (EC) No. 1782/2003 of 29 September 2003 and who, before 30 June 2006, made application under that Council Regulation is considered, unless he or she indicated otherwise at time of application, to have applied for entry onto the Register of Food Businesses and if he or she is eligible to receive a payment under Council Regulation (EC) No. 1782/2003 of 29 September 2003, is considered to be entered in the Register of Food Businesses.

(17) In this Regulation and in Regulation 4—

- (a) 1 livestock unit is the equivalent of a bovine aged 24 months or more, a suckler cow, a dairy cow or a horse,
- (b) 0.6 livestock units is the equivalent of a bovine aged between 6 and 24 months,
- (c) 0.3 livestock units is the equivalent of a pig aged 12 months or more or a bovine aged under 6 months,
- (d) 0.2 livestock units is the equivalent of a pig aged less than 12 months or a red deer aged 12 months or more,
- (e) 0.15 livestock units is the equivalent of a sheep or goat, and
- (f) 0.1 livestock units is the equivalent of a ratite or a deer other than a deer referred to in subparagraph (d).

Approval of food business and feed business

4. (1) A person shall not operate an establishment as—

- (a) a food business to which Article 4(3) of Regulation No. 853/2004 applies other than under and in accordance with an approval granted for the purposes of those provisions (“food business approval”), or

- (b) a feed business to which Article 10 of Regulation No. 183/2005 applies other than under and in accordance with an approval granted for the purposes of that provision (“feed business approval”).
- (2) An application for a food business approval in respect of—
- (a) a food business engaged in the slaughter of animals referred to in Regulation 3(17) where no more than 100 livestock units are slaughtered in any week with a maximum of 5,000 livestock units slaughtered in a calendar year,
 - (b) a food business engaged in the slaughter of poultry where no more than 3,000 birds are slaughtered in any week with a maximum of 150,000 birds slaughtered in a calendar year,
 - (c) a food business engaged in the slaughter of lagomorphs where no more than 3,000 lagomorphs are slaughtered in any week with a maximum of 150,000 lagomorphs slaughtered in a calendar year,
 - (d) a food business engaged in the preparation of minced meat or mechanically separated meat where no more than 5 tonnes of minced meat and mechanically separated meat in total is produced in any week,
 - (e) subject to paragraph (5), a food business engaged in the production of meat preparations or meat products, where no more than 20 tonnes of finished products or preparations in total are produced in any week, and in respect of which the Health Service Executive has not exercised statutory functions prior to the making of these regulations,
 - (f) a food business operating as a cutting plant where no more than 20 tonnes of fresh meat is produced in any week, or
 - (g) a food business handling wild game where no more than 8 livestock units are handled in any week with a maximum of 200 livestock units being handled in a calendar year,

shall be in a form and contain any information that the local authority in whose functional area the business is situate may require.

- (3) An application for a feed business approval or food business approval in respect of—
- (a) a food business of a class or description specified in paragraph (2) where the amount produced is greater than the amount specified for that type of business in that paragraph,
 - (b) a food business engaged in the slaughter of animals not otherwise referred to in this Regulation, or
 - (c) a feed business or food business to which, immediately before the making of the Regulations of 2005—

- (i) the European Communities (Egg Products) Regulations 1991 (S.I. No. 293 of 1991), or
- (ii) the European Communities (Hygienic production and placing on the market of raw milk, heat treated milk and milk-based products) Regulations 1996 (S.I. No. 9 of 1996),

applied or, but for the making of the Regulations of 2005 would apply, shall be in a form and contain any information that the Minister may require.

(4) An application for approval in respect of a food business or a feed business to which, but for the making of these Regulations, the European Communities (Hygiene of Fishery Products and Fish Feed) Regulations 2006 (S.I. No. 335 of 2006) would apply (other than a fishmeal plant), shall be in a form and contain any information that the Sea Fisheries Protection Authority may require.

(5) An application for approval in respect of a food business to which this Regulation relates, that is not referred to in paragraph (2), (3) or (4) and in respect of which the Health Service Executive exercised statutory functions prior to the making of these Regulations, shall be in a form and contain any information that the Executive may require.

(6) An application for approval in respect of a food business not otherwise specified in this Regulation shall be made to the registering authority to which the Food Safety Authority of Ireland directs the application.

(7) A registering authority may grant a feed business approval or food business approval, attach a condition to a feed business approval or a food business approval, vary or revoke a condition, suspend or revoke a feed business approval or a food business approval or refuse an application.

(8) If an establishment is—

- (a) engaged in more than one activity to which this Regulation relates, and
- (b) those activities would (but for this paragraph) be subject to application to different registering authorities,

the application shall be determined by one registering authority agreed between the registering authorities concerned.

(9) A registering authority may transfer an application for approval to another registering authority, by agreement between the registering authorities.

(10) A registering authority shall not consider an application unless the application contains all the material and particulars sought by the authority and is accompanied by the fee (if any) set in accordance with Regulation 19.

(11) The holder of a feed business approval or a food business approval shall make such returns to the Minister or registering authority as the Minister or registering authority may require.

(12) A registering authority may, in exceptional circumstances, for good and sufficient reason make a feed business approval or a food business approval valid for a limited period.

(13) Without prejudice to the generality of paragraph (7), a registering authority may refuse an application or suspend or revoke a feed business approval or a food business approval if it is satisfied—

- (a) that an act of the institutions of the European Communities or these Regulations have not, are not or will not be, complied with,
- (b) the applicant or holder of a feed business approval or a food business approval has committed an offence, whether he or she has been convicted or not, relating to food, feed, animal or public health or welfare or the environment,
- (c) the applicant or holder of a feed business approval or a food business approval has failed to comply with a condition of a feed business approval or a food business approval,
- (d) in relation to an application, information required has not been furnished or information that is false or misleading in a material respect has been furnished,
- (e) the premises to which the application, feed business approval or food business approval relates is not, or has ceased to be, a fit and proper premises to be approved,
- (f) the applicant or holder of a feed business approval or food business approval is not a fit and proper person to be approved,
- (g) the holder of a feed business approval or food business approval has ceased to carry out the activity to which approval relates at the premises to which approval relates,
- (h) the applicant or registered person, having been given 28 days to do so, fails to pay a fee under Regulation 19,
- (i) it is necessary for the protection of human health, animal health or welfare or the environment including the prevention, control or eradication of a disease, or
- (j) it is necessary, ancillary or supplementary for an act of the institutions of the European Communities to have full effect.

(14) Other than in the case of paragraph (13)(i) or (j), if a registering authority proposes to refuse an application or suspend or revoke a feed business approval or food business approval, it shall—

- (a) notify the applicant or holder of the feed business approval or food business approval of the proposal and the reasons for the proposal, and that he or she may make representations in relation to the proposal to the registering authority within 14 days of notification,
 - (b) consider a representation duly made before deciding whether to proceed with, modify or annul the proposal, and
 - (c) notify the applicant or registered person of the decision and the reasons for the decision.
- (15) If a registering authority is of the opinion that—
- (a) it is necessary for the protection of human health, animal health or welfare or the environment including the prevention, control or eradication of a disease, or
 - (b) it is necessary, ancillary or supplementary for an act of the institutions of the European Communities to have full effect,

it may refuse an application, suspend or revoke an approval in accordance with paragraph (16).

- (16) If a registering authority refuses an application or suspends or revokes an approval in accordance with this paragraph, it shall—
- (a) notify the applicant or registered person of the decision and the reasons for the decision, and that he or she may make representations in relation to the decision to the registering authority within 14 days of notification,
 - (b) consider a representation made, and
 - (c) confirm, modify or annul the decision and notify the applicant or holder of the authorization of the decision and the reasons for the decision.
- (17) If a registering authority—
- (a) suspends a feed business approval or food business approval, the approval and the entry in the register of feed businesses or register of food businesses relating to the person and establishment suspended has no effect for the duration of the suspension, or
 - (b) revokes a feed business approval or a food business approval or the approval expires by effluxion of time, the approval and the entry in the register of feed businesses or register of food businesses relating to the person to whom, and establishment to which, approval formerly related has no effect.

(18) This Regulation does not apply to a producer engaged solely in the supply of poultry and lagomorphs slaughtered on the farm as referred to in Article 1(3)(d) of Regulation 853/2004, if—

- (a) no more than 1000 birds are slaughtered in a week, with a maximum of 10,000 birds being slaughtered in a calendar year, or
- (b) no more than 1000 animals are slaughtered in a week, with a maximum of 10,000 animals being slaughtered in a calendar year, and
- (c) the meat from the birds or lagomorphs is supplied only to final consumers or to retail establishments (located no more than 100 km from the establishment where birds are slaughtered) that directly supply the meat to the final consumer.

Certificate of approval

5. (1) If a registering authority grants a feed business approval or a food business approval, it shall issue a certificate to the holder of the feed business approval or food business approval (“certificate of approval”).

(2) A certificate of approval shall contain-

- (a) the name of the holder of the feed business approval or food business approval,
- (b) the address of the premises to which the feed business approval or food business approval relates,
- (c) the nature of the activity to which the feed business approval or food business approval relates,
- (d) the conditions to which the feed business approval or food business approval is subject,
- (e) the period of validity (if any) of the feed business approval or food business approval,
- (f) a unique reference number that identifies the feed business or food business, and
- (g) the name and address of the registering authority.

(3) If a feed business approval or food business approval is suspended or revoked, the holder of the certificate of approval shall surrender it on request to the registering authority or an authorised officer.

(4) If a certificate of approval is surrendered to a registering authority or an authorised officer, the authority or officer shall return it to the holder on expiry of a period of suspension.

(5) The holder of a feed business approval or a food business approval shall cause the certificate of approval to be displayed prominently on the premises to which the approval relates during business hours.

Undesirable substances in feedingstuffs

6. (1) A person shall not import, export, put into circulation, manufacture, incorporate in a feedingstuff, feed to an animal or have in his or her possession or under his or her control a product unless—

(a) it is of sound merchantable quality, and

(b) if the product is mentioned in Annex I to the Directive, the amount of an undesirable substance mentioned in column (1) of that Annex opposite the mention in column (2) of the product does not exceed the level specified in column (3) opposite the mention of the product in column (2).

(2) A person shall not, for dilution purposes, mix a product that does not comply with paragraph (1) with another product or a further quantity of the same product.

(3) Paragraph (1) does not apply to a complementary feedingstuff taking into account the proportion of the complementary product prescribed for use in a daily ration.

(4) Annex I to the Directive is construed and has effect as if each maximum level referred to in footnotes (1), (3) and (4) is prescribed.

(5) A person shall not have in his or her possession or under his or her control, sell or supply an animal to which a product has been administered in contravention of paragraph (1).

(6) A person who imports, exports, puts into circulation, manufactures, incorporates a product in a feedingstuff, shall maintain a record of each transaction relating to a product or a feedingstuff, maintain the record for not less than 8 years and make it available on request to an authorised officer.

(7) The Minister may determine the form and manner in which a record maintained under paragraph (1) is to be maintained and, if he or she does so, a person shall comply with the determination.

(8) In this Regulation—

“Directive” means Directive No. 2002/32/EC of the European Parliament and of the Council of 7 May 2002 as amended by Commission Directive 2003/57/EC of 17 June 2003, Commission Directive No. 2003/100/EC of 31 October 2003, Commission Directive No. 2005/8/EC of 27 January 2005, Commission Directive No. 2005/86/EC of 5 December 2005, Commission Directive No. 2005/87/EC of 5 December 2005, Commission Directive No. 2006/13/EC of 3 February 2006, Commission Directive No. 2006/77/EC of 29 September 2006, Commission

Directive No. 2008/76/EC of 25 July 2008 and (from 1 July 2009) Commission Directive No. 2009/8/EC of 10 February 2009;

“product” means a product intended for animal feed, including an additive, feedstuff or premixture.

(9) A word or expression that is used in this Regulation and is also used in the Directive has, in this Regulation, the same meaning as it has in the Directive.

Notice of import of feed

7. (1) A person shall not bring an animal feed into the State unless he or she has given notice to the Minister, in a form approved by the Minister, at least 5 working days before the animal feed is brought into the State, of—

- (a) the nature and quantity of animal feed,
- (b) the place where it is intended to bring the animal feed into the State,
- (c) the date and time that the animal feed is to be brought into the State,

and the animal feed is brought into the State in accordance with the notice

(2) A person who gives notice under paragraph (1) shall advise the Minister of any change of circumstances relating to the importation or proposed importation of the animal feed to which the notice relates within 24 hours of becoming aware of the change and at least 24 hours before the product enters the State.

Provision relating to salmonella

8. (1) A person shall not purport to exercise the derogation provided in Article 8 of Commission Regulation No. 2073/2005 of 5 December 2005 save under and in accordance with the written consent of a registering authority.

(2) An application for a consent under paragraph (1) shall be in a form and contain the information that the registering authority may require.

(3) A registering authority may issue a consent in respect of an establishment, attach conditions to a consent, vary a condition, suspend or revoke a consent or refuse an application.

(4) A registering authority shall not consider an application unless the application contains all the material and particulars sought by the authority.

(5) A person to whom a consent is issued shall make such returns to the registering authority as the authority may require.

(6) Without prejudice to the generality of paragraph (3), a registering authority may refuse an application or suspend or revoke a registration if the authority is satisfied that—

- (a) an act of the institutions of the European Communities or these Regulations have not, are not or will not be, complied with,

- (b) the applicant or holder of a consent has committed an offence, whether he or she has been convicted or not, relating to food, feed, animal or public health or welfare or the environment,
 - (c) the applicant or holder of a consent has failed to comply with a condition of a consent,
 - (d) in relation to an application, information required has not been furnished or information that is false or misleading in a material respect has been furnished,
 - (e) the premises to which the application or consent relates is not a fit and proper premises for a consent,
 - (f) the applicant or consent holder is not a fit and proper person to hold a consent,
 - (g) it is necessary for the protection of human health, animal health or welfare or the environment including the prevention, control or eradication of a disease, or
 - (h) it is necessary, ancillary or supplementary for an act of the institutions of the European Communities to have full effect.
- (7) Other than in the case of paragraph (6)(g) or (h), if a registering authority proposes to refuse an application or suspend or revoke a consent, the authority shall—
- (a) notify the applicant or holder of the consent of the proposal and the reasons for the proposal, and that he or she may make representations in relation to the proposal to the authority within 14 days of notification,
 - (b) consider a representation duly made before deciding whether to proceed with, modify or annul the proposal, and
 - (c) notify the applicant or holder of a consent of the decision and the reasons for the decision.
- (8) If a registering authority is of the opinion that—
- (a) it is necessary for the protection of human health, animal health or welfare or the environment including the prevention, control or eradication of a disease, or
 - (b) it is necessary, ancillary or supplementary for an act of the institutions of the European Communities to have full effect,
- the authority may refuse an application or suspend or revoke a consent in accordance with paragraph (9).

(9) If a registering authority refuses an application or suspends or revokes a consent in accordance with this paragraph, the authority shall—

- (a) notify the applicant or holder of the consent of the decision and the reasons for the decision, and that he or she may make representations in relation to the decision to the registering authority within 14 days of notification,
- (b) consider a representation made, and
- (c) confirm, modify or annul the decision and notify the applicant or registered person of the decision and the reasons for the decision.

(10) This Regulation expires on 31 December 2009.

Maintenance of Register etc

9. (1) The Food Safety Authority of Ireland shall maintain and publish, in a manner that the Authority considers appropriate the register of approved food businesses on the basis of information furnished by registering authorities.

(2) The Minister shall maintain and publish, in a manner that he or she considers appropriate—

- (a) the register of feed businesses, and
- (b) a list of feed business approvals.

Records

10. A person who is required to maintain a record pursuant to Regulation No. 178/2002, Regulation No. 852/2004, Regulation No. 853/2004, Regulation No. 854/2004, Regulation No. 183/2005 or as a condition of registration or approval under these Regulations shall maintain the record for a period of three years and make it available on request to an authorised officer.

Forgery

11. (1) A person shall not forge or utter knowing it to be forged—

- (a) a document or record referred to in Article 5(2)(g) or (4), or Part III of Annex I to, Regulation No. 852/2004,
- (b) a health mark or identification mark referred to in Article 5 of Regulation No. 853/2004,
- (c) documentation or certification referred to in Article 6(4) of Regulation No. 853/2004,
- (d) a certificate or document referred to in Article 7 of Regulation No. 853/2004,
- (e) an entry in the register of food businesses or register of feed businesses, a food business approval, a feed business approval, a record purporting to be maintained under Regulation 10, a requirement or

direction of an authorised officer under Regulation 13 (if the requirement or direction is in writing), a compliance notice or notice under Regulation 18, a certificate or other document purporting to be issued, granted or given under these Regulations,

(hereafter in this Regulation referred to as "a forged document").

(2) A person shall not alter with intent to defraud or deceive, or to utter knowing it to be so altered—

- (a) a document or record referred to in Article 5(2)(g) or (4), or Part III of Annex I to, Regulation No. 852/2004,
- (b) a health mark or identification mark referred to in Article 5 of Regulation no. 853/2004,
- (c) documentation or certification referred to in Article 6(4) of Regulation No. 853/2004,
- (d) a certificate or document referred to in Article 7 of Regulation No. 853/2004, or
- (e) an entry in the register of food businesses or register of feed businesses, a feed business approval, a food business approval, a record purporting to be maintained under Regulation 10, a requirement or direction of an authorised officer under Regulation 13 (if the requirement or direction is in writing), a compliance notice or notice under Regulation 18, a certificate or other document purporting to be issued, granted or given under these Regulations,

(hereafter in this Regulation referred to as "an altered document").

(3) A person shall not have, without lawful authority, in his or her possession or under his or her control a forged document or an altered document.

Appointment of authorised officer

12. (1) The Minister may, by instrument in writing, appoint such and so many persons as he or she thinks fit to be authorised officers for the purposes of some or all of these Regulations as may be specified in the instrument.

(2) The Minister for the Environment, Heritage and Local Government may, by instrument in writing, appoint such and so many of his or her officers as he or she thinks fit to be authorised officers for the purposes of some or all of these Regulations as may be specified in the instrument.

(3) The manager of a local authority may, by instrument in writing, appoint such and so many officers of the authority as he or she thinks fit to be authorised officers for the purpose of some or all of the functions conferred on the authority by these Regulations as may be specified in the instrument.

(4) The Sea-Fisheries Protection Authority may, by instrument in writing, appoint such and so many officers of the authority as it thinks fit to be authorised officers for the purpose of some or all of the functions conferred on the authority by these Regulations as may be specified in the instrument.

(5) The Chief Executive of the Health Service Executive may, by instrument in writing, appoint such and so many officers of the Executive to be authorised officers for the purposes of some or all of these Regulations, in relation to a class of food business to which Regulation No. 853/2004 applies as may be specified in the instrument.

(6) The Minister, Minister for the Environment, Heritage and Local Government, the manager of a local authority, the Sea Fisheries Protection Authority or the Chief Executive of the Health Service Executive may terminate the appointment of an authorised officer appointed by him or her, whether or not the appointment was for a fixed period.

(7) An appointment as an authorised officer ceases—

- (a) if it is terminated pursuant to paragraph (6),
- (b) if it is for a fixed period, on the expiry of that period, or
- (c) if the person appointed is an officer of the Minister, Minister for the Environment, Heritage and Local Government, a local authority, the Sea Fisheries Protection Authority or the Health Service Executive upon the person ceasing to be such an officer.

(8) Nothing in paragraph (6) is to be construed so as to prevent the Minister, the Minister for the Environment, Heritage and Local Government, the manager of a local authority, the Chief Executive of the Sea Fisheries Protection Authority or the Chief Executive of the Health Service Executive from reappointing as an authorised officer a person to whom that paragraph relates.

(9) An authorised officer shall be furnished with a warrant of his or her appointment as an authorised officer and, when exercising a power conferred on him or her, the officer, an officer of Customs and Excise or a member of an Garda Síochána shall, if requested by a person affected, produce the warrant or evidence that he or she is such an officer or member to the person.

Functions of authorised officer

13. (1) If an authorised officer has cause to suspect that—

- (a) an animal, feed, a feed additive or food is present, has been present or may be present on a premises,
- (b) an animal, feed, a feed additive or food is or has been processed, stored or otherwise dealt with on a premises,

- (c) a sample taken from an animal, feed, a feed additive or food is or has been processed, stored, analysed or otherwise dealt with on a premises,
- (d) a premises is entered in the register of feed businesses or register of food businesses, is subject to a feed business approval or a food business approval, is the subject of an application for registration or approval, is required to be registered or approved or is ancillary to a premises registered or approved, subject to an application for registration or approval or required to be registered or approved, or
- (e) a document relating to an animal, feed, a feed additive, food or other thing referred to in paragraph (a), (b) or (c) is present, was present or may be present on a premises, or
- (f) an offence is being or has been committed under these Regulations,

the authorised officer may enter the premises and he or she may—

- (i) search the premises,
- (ii) stop a person, vehicle, vessel or container,
- (iii) board and search a vehicle, vessel or container,
- (iv) search a person, if the authorised officer considers it necessary,
- (v) examine an animal, feed, feed additive or food, vehicle, vessel, container or other thing that may, consist of or contain feed, a feed additive or food,
- (vi) take, without payment, samples of an animal, feed, a feed additive or food or other thing or an article, substance or liquid 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,
- (vii) seize, and detain (for so long as is necessary) any animal feed, a feed additive, food, vehicle or container,
- (viii) require the production of a document or thing relating to an animal, feed, feed additive or food, vehicle, vessel or container,
- (ix) retain a document or thing (for so long as is necessary),
- (x) take evidence, including photographic evidence or electronically recorded evidence, of anything relating to an offence under these Regulations which is being committed or suspected of being or having been committed,
- (xi) make a record, including by means of writing, sound recording, photograph, video or other means,

- (xii) dispose of, or require the owner or person in charge of or in possession of, an animal, feed, a feed additive or food to deal with or dispose of it (or any equipment, machinery, plant or other thing used in connection with, or that may have been in contact with, the animal, feed, feed additive or food) in a manner that the authorised officer sees fit,
- (xiii) give a direction to, or request information of, a person regarding an animal, feed, a feed additive or food, or a premises as he or she considers necessary,
- (xiv) require the name and address of a person and the name and address of any other relevant person including the person to whom an animal, feed, a feed additive or food is being delivered or who is causing it to be delivered,
- (xv) require of a person the ownership, identity and origin of an animal, feed, a feed additive or food, or
- (xvi) mark or otherwise identify an animal, feed, a feed additive, food or a sample taken under subparagraph (vi).

(2) 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 14 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.

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

(4) 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.

(5) 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.

(6) 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 use, processing or movement of feed, a feed additive or food as may be specified by the authorised officer.

(7) Nothing in this Regulation operates to prejudice any power to search, or to seize or detain property, which may, apart from these Regulations, be exercised by a member of the Garda Síochána or an officer of Customs and Excise.

(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) Nothing in section 17 of the Industrial and Provident Societies Act 1893 prevents an authorised officer from exercising a power conferred on him or her by these Regulations.

Search warrant

14. (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 or intended commission of an offence under these Regulations is to be found on a premises,
- (b) there is or was feed, a feed additive, food or equipment or other thing made used or adapted for use (including manufacture and transport) in connection with feed, a feed additive or food, or
- (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, vehicle, vessel or aircraft named in the warrant.

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

Compliance notice

15. (1) Without prejudice to Regulation 13, if an authorised officer has reasonable grounds to suspect that—

- (a) an act of the institutions of the European Communities is not being or has not been complied with or there are reasons to believe that an act of the institutions of the European Communities, will not be complied with,
- (b) it is necessary for the protection of human health, animal health or welfare or the environment including the prevention, control or eradication of a disease or contamination of feed or food, or
- (c) it is necessary, ancillary or supplementary for an act of the institutions of the European Communities to have full effect,

he or she may serve or cause to be served on the owner or person who appears to be in charge, possession or control of a premises, animal, feed, a feed additive or food a notice (“compliance notice”) stating that opinion and directing that—

- (i) an animal, feed, a feed additive or food be dealt with in a manner specified in the notice,
- (ii) such alterations be made to a premises or operations at a premises as the officer specifies in the notice,
- (iii) an animal, feed, a feed additive or food be disposed of in such manner as the officer specifies in the notice,
- (iv) a specified operation or activity cease on a premises,
- (v) a specified operation or activity take place only in a manner specified in the notice,
- (vi) a specified type or level of sampling and analysis be undertaken for a period specified in the notice,
- (vii) a measure within the meaning of Article 54(2) of Regulation 882/2004 be taken as specified in the notice, or
- (viii) a specified operation or activity may only be carried out under and in accordance with such terms and conditions as are specified in the compliance notice.

(2) A person shall comply with a compliance notice or a requirement of a compliance notice unless and until the notice is annulled under Regulation 16.

(3) A requirement contained in a compliance notice shall specify a time limit within which the notice is to be complied with.

(4) A requirement specified in a compliance notice (in this paragraph referred to as “the earlier compliance notice”) may be amended or withdrawn by a further notice in writing and the earlier compliance notice has effect subject to such amendment or withdrawal.

(5) A compliance notice, whether amended under paragraph (4) or not, may require the owner or person in charge of feed, a feed additive or food to choose between one or more of the requirements specified in the compliance notice and that person shall comply with the alternative requirement that he or she chooses.

Appeal against compliance notice

16. (1) A person affected by a compliance notice may, within 7 days of service of the compliance notice, apply to the Judge of the District Court having jurisdiction in the District Court District where the feed business or food business is situated or to the Judge of the District Court having jurisdiction in the District Court District where the person ordinarily resides on the grounds that the compliance notice or any term of the compliance notice are not reasonable, having

regard to Regulation No. 178/2002, Regulation No. 852/2004, Regulation No. 853/2004, Regulation No. 854/2004, Regulation No. 882/2004, Regulation No. 183/2005, the objectives of Directive No. 2002/32/EC of the European Parliament and of the Council of 17 June 2003, or these Regulations (in this Regulation referred to as “an appeal”).

(2) An appeal may be heard at any sitting of the District Court within the appropriate District Court Area.

(3) A person making an appeal shall serve notice of the appeal, which shall contain a statement of the grounds upon which it is alleged that the compliance notice or any term of the compliance notice is unreasonable having regard to Regulation No. 178/2002, Regulation No. 852/2004, Regulation No. 853/2004, Regulation No. 854/2004, Regulation No. 882/2004, Regulation No. 183/2005, the objectives of Directive No. 2002/32/EC of the European Parliament and of the Council of 17 June 2003, or these Regulations, on the appropriate registering authority at least 48 hours prior to the hearing of the appeal and a copy of the notice of appeal shall be lodged with the appropriate District Court Clerk.

(4) On the hearing of an appeal, a Judge of the District Court may confirm, with or without modification, or annul a compliance notice.

(5) A person, including a person on whom a compliance notice is served, shall not-

- (a) pending the determination of an appeal, deal with an animal, feed, a feed additive or food to which a compliance notice relates other than under and in accordance with the notice, or
- (b) after the appeal, deal with an animal, feed, a feed additive or food to which a compliance notice relates other than under and in accordance with the compliance notice or compliance notice as modified.

Emergency measures

17. (1) If—

- (a) a person, by act or omission, fails to comply, whether within the time specified therein or otherwise, with a compliance notice (including a compliance notice modified in accordance with Regulation 15(4), or
- (b) an authorised officer has reasonable cause to suspect—
 - (i) that a compliance notice (including a compliance notice modified in accordance with Regulation 15(4)) is not or will not be complied with, or
 - (ii) pending the determination of an appeal, a premises, animal, feed, a feed additive or food to which the compliance notice relates is or will not be dealt with other than in accordance with Regulation 15(5),

an authorised officer may seize and detain an animal, feed, a feed additive or food in a manner that he or she thinks fit and sell or dispose of the animal, feed, a feed additive or food in a manner (including slaughter) as the authorised officer considers appropriate.

(2) Subject to paragraph (4), the proceeds of the sale or disposal of an animal, feed, a feed additive, food or other thing under paragraph (1) shall be paid to the owner of the animal, feed, feed additive, food or other thing as soon as may be after such sale or disposal and after a person has satisfied the registering authority that he or she is the owner or otherwise entitled to the proceeds of the sale or disposal of the animal, feed, feed additive, food or other thing.

(3) The costs of seizure, sale or disposal of an animal, feed, a feed additive, food or other thing under this Regulation shall be recoverable by the registering authority—

- (a) as a simple contract debt in a court of competent jurisdiction, or
- (b) by deducting the costs from any sum due by the registering authority to a person on whom a notice has been served.

(4) The costs of any action required by a compliance notice shall be borne by the owner of a premises, animal, feed, a feed additive or food to which the notice relates.

Fixed penalty notice

18. (1) If an officer of a registering authority authorised by the authority in that behalf has reasonable grounds for suspecting that a person is committing or has committed an offence under these Regulations, he or she may serve a notice in writing on that person stating that—

- (a) the person is alleged to have committed the offence,
- (b) the person may during the period of 28 days on the date of the notice make to the registering authority a payment of €250 accompanied by the notice, and
- (c) a prosecution in respect of the alleged offence will not be instituted during the period specified in the notice and, if the payment specified in the notice is made during that period, no prosecution in respect of the alleged offence will be instituted.

(2) If notice is given under paragraph (1)—

- (a) a person to whom the notice applies may, during the period specified in the notice, make to the registering authority at the address specified in the notice the payment specified in the notice accompanied by the notice,
- (b) the registering authority may receive the payment, issue a receipt for it and retain the money so paid, and any payment so received shall

not be recoverable in any circumstances by the person who made it, and

- (c) a prosecution in respect of the alleged offence shall not be instituted in the period specified in the notice, and if the payment so specified is made during that period, no prosecution in respect of the alleged offence shall be instituted.

(3) In a prosecution for an offence under these Regulations, the onus of proving that a payment pursuant to a notice under this Regulation has been made lies on the defendant.

Fees

19. (1) A registering authority may, from time to time, set and charge a fee in respect of—

- (a) an application for entry onto, or amendment to, the register of feed businesses,
- (b) an application for entry onto, or amendment to, the register of food businesses,
- (c) an application for approval under Regulation 4,
- (d) in respect of registration, a licence, authorisation, approval or certificate (or amendment to registration, a licence, authorisation, approval or certificate) which is in force for a definite or indefinite period of more than 12 months, such annual fee (if any), or
- (e) the performance by the authority of a function under Regulation No. 178/2002, Regulation No. 852/2004, Regulation No. 853/2004, Regulation No. 854/2004, Regulation No. 882/2004, Regulation No. 183/2005, Commission Regulation (EC) No. 2073/2005, Commission Regulation (EC) No. 2074/2005, Commission Regulation (EC) No. 2075/2005 and Commission Regulation (EC) No. 2076/2005 or under these Regulations,

and different fees (having regard to Articles 27 and 28 of, and Annex VI to, Regulation No. 882/2004 and not exceeding the cost, estimated by the registering authority charging the fee, of performing the function to which the fee relates) may be set and charged having regard to the cost to the authority of performing a particular function.

(2) Notwithstanding paragraph (1), a registering authority shall charge a fee referred to in Article 27 of Regulation No. 882/2004 in respect of which a fee is set under either Annex IV or Annex V to that Regulation unless it sets a different fee which may not be less than the fee established under an Annex aforesaid.

(3) A fee payable pursuant to this Regulation may be recovered by a registering authority from the person by whom it is payable as a simple contract debt in a court of competent jurisdiction.

(4) Moneys received by a Minister of the Government under this Regulation or Regulation 18 shall be paid into or disposed of for the benefit of the Exchequer in accordance with the directions of the Minister for Finance.

(5) A fee set under the Regulations revoked by Regulation 33(1) remains payable and may be recovered by a registering authority from the person by whom it is payable as a simple contract debt in a court of competent jurisdiction.

Obstruction, etc

20. A person shall not—

- (a) obstruct or impede an authorised officer in the exercise of his or her powers under Regulation 13,
- (b) fail, without reasonable cause, to comply with a requirement or direction of an authorised officer under Regulation 13,
- (c) in making an application for registration under Regulation 3 or approval under Regulation 4 or in purporting to give information to an authorised officer for the performance of the officer's powers under Regulation 13—
 - (i) make a statement that he or she knows to be false in a material particular or recklessly make a statement which is false in a material particular, or
 - (ii) fail to disclose a material particular,
- (d) tamper or otherwise interfere with a sample taken under Regulation 13, or
- (e) aid or abet a contravention of an act of the institutions of the European Communities or these Regulations.

Contravention of Regulation (EC) No. 178/2002

21. A person who, by act or omission—

- (a) imports feed or food other than in accordance with Article 11,
- (b) exports or re-exports feed or food other than in accordance with Article 12,
- (c) places unsafe food on the market in contravention of Article 14(1),
- (d) places unsafe feed on the market or feeds it to an animal in contravention of Article 15(1),
- (e) misleads or attempts to mislead consumers in contravention of Article 16,
- (f) fails to ensure that food or feed satisfies food law in contravention of Article 17(1),

- (g) fails to identify a person from whom he or she has been supplied with food, feed, a food producing animal or a substance intended to be or expected to be incorporated into food or feed in contravention of Article 18(2),
- (h) fails to identify a person to whom a product marketed by him or her has been supplied or fails to have in place systems and procedures to identify persons to whom products marketed by him or her have been supplied in contravention of Article 18(3),
- (i) places food on the market in contravention of Article 18(4),
- (j) fails to initiate procedures to withdraw food from the market in contravention of Article 19(1) or (2),
- (k) fails to inform the registering authority with whom the food business is registered as required by Article 19(3),
- (l) fails to collaborate with a registering authority or an authorised officer in contravention of Article 19(4) or 20(4),
- (m) fails to initiate procedures to withdraw feed from the market in contravention of Article 20(1) or (2),
- (n) fails to inform the registering authority with whom the feed business is registered as required by Article 20(3), or
- (o) otherwise contravenes a provision (mentioned in this Regulation),

of Regulation (EC) No. 178/2002 commits an offence.

Contravention of Regulation (EC) No. 852/2004

22. (1) A person who, by act or omission—

- (a) fails to ensure that all stages of production, processing and distribution complies with Article 3,
- (b) fails to comply with the general hygiene requirements referred to in Article 4 (1) or (2),
- (c) fails to adopt specific hygiene measures in contravention of Article 4(3),
- (d) fails to use appropriate sampling and analytical methods in contravention of Article 4(5),
- (e) fails to put in place, implement and maintain procedures based on the HACCP principles in contravention of Article 5(1),
- (f) fails to provide a registering authority or authorised officer with evidence in contravention of Article 5(4)(a),

- (g) fails to ensure that documents comply with Article 5(4)(b),
- (h) fails to retain documents in contravention of Article 5(4)(c),
- (i) fails to co-operate with a registering authority in contravention of Article 6(1),
- (j) fails to make notification or ensure that a registering authority has up to date information in contravention of Article 6(2),
- (k) fails to ensure that an establishment is approved in contravention of Article 6(3),
- (l) imports food in contravention of Article 10,
- (m) exports or re-exports food in contravention of Article 11, or
- (n) otherwise contravenes a provision (mentioned in this paragraph),

of Regulation (EC) No. 852/2004 commits an offence.

(2) A person who, by act or omission-

- (a) having adopted a specific hygiene measure referred to in Article 4(3) of Regulation No. 852/2004, fails to comply with that measure,
- (b) contravenes a criteria, requirement or target referred to in Article 4(4) of Regulation No. 852/2004 that is adopted in accordance with Article 14 (2) of that Regulation,
- (c) having adopted a principle referred to in the first subparagraph of Article 5(2) of Regulation No. 852/2004, fails to comply with the principle,
- (d) contravenes a detailed arrangement referred to in Article 5(5) of Regulation No. 852/2004, or
- (e) otherwise contravenes a provision mentioned in this paragraph,

commits an offence.

Contravention of Regulation (EC) No. 853/2004

23. A person who, by act or omission—

- (a) subject to Article 8, 9 and 10 of Commission Regulation (EC) No. 2076/2005 of 5 December 2005, fails to comply with a relevant provision in contravention of Article 3(1),
- (b) uses a substance in contravention of Article 3(2), or in a manner prohibited by Article 3(2),

- (c) subject to Article 4 of Commission Regulation (EC) No. 2076/2005 of 5 December 2005, places a product of animal origin on the market other than in accordance with Article 4(1) or 5(1),
- (d) operates in contravention of Article 4(2) or (3),
- (e) fails to co-operate with a registering authority or an authorised officer, or operates, in contravention of Article 4(3),
- (f) removes a health mark in contravention of Article 5(4),
- (g) subject to Article 7 of Commission Regulation (EC) No. 2076/2005 of 5 December 2005, imports a product of animal origin in contravention of Article 6,
- (h) does not ensure that certificates or other documents accompany a consignment in contravention of Article 7(1),
- (i) does not comply with an implementing measure or transitional arrangement in contravention of Article 9, or
- (j) otherwise contravenes a provision (mentioned in this Regulation),

of Regulation (EC) No. 853/2004 commits an offence.

Contravention of Regulation (EC) No. 183/2005

24. (1) A person who, by act or omission-

- (a) fails to comply with a general obligation in contravention of Article 4,
- (b) fails to comply with a specific obligation in contravention of Article 5,
- (c) fails to put in place, implement or maintain a HACCP system in contravention of Article 6(1),
- (d) fails to make necessary changes in contravention of Article 6(3),
- (e) fails to comply with documentary requirements in contravention of Article 7(1),
- (f) fails to submit proof of cover by financial guarantees in contravention of Article 8(2),
- (g) fails to co-operate with a registering authority or an authorised officer in contravention of Article 9(1),
- (h) fails to notify or provide up to date information to a registering authority in contravention of Article 9(2),
- (i) fails to ensure that a food business is approved in contravention of Article 10,

- (j) operates in contravention of Article 11,
- (k) fails to submit a declaration in contravention of article 17(2),
- (l) fails to make a declaration in contravention of Article 18(3),
- (m) imports feed in contravention of Article 23,
- (n) exports feed in contravention of Article 25, or
- (o) otherwise contravenes a provision (mentioned in this paragraph),

of Regulation (EC) No. 183/2005 commits an offence.

(2) A person who, by act or omission—

- (a) contravenes a criteria or target referred to in Article 5(3) of Regulation No. 183/2005 that is adopted in accordance with Article 31 (2) of that Regulation,
- (b) contravenes a measure referred to in Article 6(5) of Regulation No. 183/2005 that is adopted in accordance with Article 31(2) of that Regulation,
- (c) contravenes an arrangement referred to in Article 7(3) of Regulation No. 183/2005 that is adopted in accordance with Article 31(2) of that Regulation, or
- (d) otherwise contravenes a provision mentioned in this paragraph,

commits an offence.

Contravention of Regulation (EC) No. 2073/2005

25. A person who, by act or omission—

- (a) fails to comply with a general requirement in contravention of Article 3,
- (b) fails to perform testing in contravention of Article 4,
- (c) fails to comply with a specific rule in contravention of Article 5,
- (d) fails to comply with a labelling requirement in contravention of Article 6,
- (e) fails to take a measure in contravention of Article 7(1),
- (f) deals with a product in contravention of Article 7(2),
- (g) fails to taken action, in contravention of Article 7(4),
- (h) fails to analyse trends, in contravention of Article 9, or

(i) otherwise contravenes a provision (mentioned in this Regulation),
of Regulation (EC) No. 2073/2005 commits an offence.

Contravention of Regulation (EC) No. 2074/2005

26. A person who by act or omission-

- (a) contravenes a requirement concerning food chain information in contravention of Article 1,
- (b) contravenes a requirement concerning a fishery product in contravention of Article 2, or
- (c) otherwise contravenes a provision (mentioned in this Regulation),

of Regulation (EC) No. 2074/2005 commits an offence.

Contravention of Regulation (EC) No. 2075/2005

27. A person who, by act or omission-

- (a) fails to sample carcasses, in contravention of Article 2,
- (b) deals with a carcass, other parts of an animal, or animal waste or a by-product in contravention of Article 4,
- (c) applies the health mark in contravention of Article 4(3),
- (d) uses a method of detection in contravention of Article 6(1),
- (e) fails to forward a sample, in contravention of Article 6(2),
- (f) fails to inform the Minister, in contravention of Article 9, or
- (g) otherwise contravenes a provision (mentioned in this Regulation),

of Regulation (EC) No. 2075/2005 commits an offence.

Contravention of these Regulations

28. A person who, by act or omission-

- (a) contravenes Regulation 3(1) or (10), 4(1) or (11), 5(3) or (5), 6(1), (2), (5), (6) or (7), 7, 8(1) or (5), 10, 11, 15(2), 16(5) or 20 of these Regulations,
- (b) fails to give assistance to an authorised officer,
- (c) contravenes a condition of-
 - (i) a feed business registration,
 - (ii) a food business registration,
 - (iii) a feed business approval, or

(iv) a food business approval,

commits an offence

Service

29. (1) A notification under Regulation 3(12) or (14) or Regulation 4(14) or (16), or a compliance notice shall, subject to paragraph (2), be addressed to the person concerned by name and may be served on or given to the person—

- (a) by giving it to the person, his or her employee, servant or agent,
- (b) by leaving it at the address at which the person ordinarily resides, normally carries out business, or, if an address for service has been furnished, at that address,
- (c) by sending it by post in a prepaid registered letter to the address at which the person ordinarily resides or, if an address for service has been furnished, at that address,
- (d) if the address at which the person ordinarily resides cannot be ascertained by reasonable enquiry and the compliance notice relates to a premises, by delivering it to the premises or by affixing it in a conspicuous position on or near the premises.
- (e) by electronic communication.
- (f) by sending a copy, by means of a facsimile machine, to a device or facility for the reception of facsimiles located at the address at which the person ordinarily resides or carries on business or, if an address for service has been furnished by the person, that address, provided that the sender's facsimile machine generates a message confirming successful transmission of the total number of pages of the notice.

(2) If a notification under Regulation 3(12) or (14) or Regulation 4(14) or (16) or a compliance notice is to be served on or given to a person who is the owner or occupier of a premises and the name of the person cannot be ascertained by reasonable enquiry, it may be addressed to the person by using the words the owner or the occupier.

(3) A person shall not, at any time within 6 months after a notification under Regulation 3(12) or (14) or Regulation 4(14) or (16) or a compliance notice is affixed under paragraph (1)(d), remove, damage or deface the notification or compliance notice without lawful authority.

(4) For the purposes of this Regulation, a company within the meaning of the Companies Acts is considered to be ordinarily resident at its registered office and every other body corporate or unincorporated body is considered to be ordinarily resident at its principal office or place of business.

Penalties and prosecutions

30. (1) A person who commits an offence under these Regulations is liable—
- (a) on summary conviction, to a fine not exceeding € 5,000, or to imprisonment for a term not exceeding 6 months, or to both, or
 - (b) on conviction on indictment to a fine not exceeding €250,000, or to imprisonment for a term not exceeding 3 years, or to both.
- (2) A summary offence under these Regulations may be prosecuted by a registering authority or by the Food Safety Authority of Ireland.
- (3) If an offence under these Regulations is committed by a body corporate and is proven to have been so committed with the consent, connivance or approval of or to have been attributable to the wilful neglect on the part of any person, being a director, manager, secretary or other officer of the body corporate or a person who was purported to act in any such capacity, that person, as well as the body corporate, commits offence and is liable to be proceeded against and punished as if he or she was guilty of the offence.
- (4) If the affairs of a body corporate are managed by its members, paragraph (3) 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.
- (5) In proceedings alleging a contravention of these Regulations, it is a defence for the defendant to show he or she acted in accordance with a derogation or transitional measure laid down by an act of an institution of the European Communities relevant to the subject of the offence it is alleged that he or she committed.

Evidence on certificate etc

31. (1) In proceedings for an offence under these Regulations, a certificate purported to be signed by a person employed at a laboratory where a sample taken under these Regulations is analysed stating the capacity in which the person is employed and stating—
- (a) that the person received a sample,
 - (b) that, for the period specified in the certificate, the person had the sample in his or her possession,
 - (c) that the person gave the sample to another person named in the certificate, or
 - (d) the person carried out a procedure for the purpose of detecting in the sample, a substance or contamination or that the sample contained a substance as is, or was contaminated in a manner, specified in the certificate,

is (without proof of the signature of the person or that he or she is employed at the laboratory), unless the contrary is proved, evidence of the matters stated in the certificate.

(2) A certificate purporting to be signed by an officer of a registering authority and to certify that on a specific day or days or during the whole of a specified period-

- (a) a particular person or establishment did not stand registered in the register of feed businesses or the register of food businesses,
- (b) the registration of a person or establishment in the register of feed businesses or the register of food businesses is suspended or has been revoked,
- (c) a person was or was not the holder of an approval granted under Regulation 4,
- (d) an establishment was or was not approved under Regulation 4, or
- (e) that a particular approval or registration, referred to in this paragraph, was subject to a particular condition or conditions,

is, without proof of the signature of the person purporting to sign the certificate or that he or she is an officer of the registering authority, evidence, unless the contrary is shown, of the matters stated in the certificate.

(3) In proceedings for an offence under these Regulations the court may, if it considers that the interests of justice so require, direct that oral evidence of any matter stated in a certificate under paragraph (1) or (2) be given, and the court may for the purpose of receiving oral evidence adjourn the matter.

(4) In proceedings, evidence of an act of the institutions of the European Communities may be given by production of a copy of the act certified by an officer of a registering authority to be a copy of the act, and it is not necessary to prove the signature of the officer or that he or she is an officer of the authority.

(5) Paragraph (4) is in addition to and not in substitution for the European Communities (Judicial Notice and Documentary Evidence) Regulations 1972 (S.I. No. 341 of 1972).

Revocations, savers, etc

32. (1) The following are revoked-

- (a) the European Communities (Undesirable substances in feedingstuffs) Regulations 2003 (S.I. No. 317 of 2003),
- (b) the European Communities (Food and Feed Hygiene) Regulations 2005 (S.I. No. 910 of 2005),

- (d) the European Communities (Hygiene of Fishery Products and Fish Feed) Regulations 2006 (S.I. No. 335 of 2006),
 - (e) the European Communities (Food and Feed Hygiene) (Amendment) Regulations 2006 (S.I. No. 387 of 2006),
 - (f) the European Communities (Undesirable substances in feedingstuffs) (Amendment) Regulations 2006 (S.I. No. 577 of 2006),
 - (g) the European Communities (Food and Feed Hygiene) (Amendment) Regulations 2007 (S.I. No. 56 of 2007),
 - (h) the European Communities (Undesirable substances in feedingstuffs) (Amendment) Regulations 2007 (S.I. No. 720 of 2007), and
 - (i) the European Communities (Undesirable substances in feedingstuffs) (Amendment) Regulations 2009 (S.I. No. 185 of 2009).
- (2) These Regulations apply in place of—
- (a) the Dairy Produce Acts 1924 to 1984,
 - (b) the Creamery Acts 1928 to 1934, and
 - (c) the Milk and Dairies Acts 1935 to 1956,

in relation to the hygienic production and placing on the market of raw milk, heat-treated milk and milk-based products.

(3) The European Communities (Hygiene of Foodstuffs) Regulations 2006 (S.I. No. 369 of 2006) and the European Communities (General Food Law) Regulations 2007 (S.I. No. 747 of 2007) do not apply to a primary producer or other food business to which these Regulations apply.

(4) These Regulations do not apply to a primary producer or other food business engaged in—

- (a) retail sale or supply directly to a final consumer except-
 - (i) if the sale or supply is from an establishment registered or approved under these Regulations, or
 - (ii) subject to subparagraph (d) retail of fish or a fishery product (by, or on behalf of, a primary producer),
- (b) primary production, domestic preparation, handling or storage for private domestic production,
- (c) direct supply, in any one week, by the producer, of a primary fishery product not exceeding €50 in value to the final consumer or to a local retail establishment supplying directly to the final consumer,

- (d) the supply of fish feed for, and feeding of fish feed to, fish—
 - (i) kept for domestic production, or
 - (ii) not kept for food production,
 or
- (e) marginal, localised and restricted supply of a food of animal origin from a retail establishment to another retail establishment,

to the extent that the food or feed business engages in any of these activities.

- (5) A reference in an enactment to—
 - (a) a statutory instrument revoked by paragraph (1),
 - (b) a statutory instrument revoked by the Regulations of 2005, the European Communities (Hygiene of Fishery Products and Fish Feed) Regulations 2006 (S.I. No. 335 of 2006), the European Communities (Food and Feed Hygiene) (Amendment) Regulations 2006 (S.I. No. 387 of 2006) or the European Communities (Food and Feed Hygiene) (Amendment)
 - (c) the Act repealed by Regulation 19 (2) of the Regulations of 2005, or
 - (d) a provision of a statutory instrument referred to in subparagraph (a) or (b) or the Act referred to in subparagraph (c),

is construed and has effect as if the reference is a reference to these Regulations or the corresponding provision of these Regulations.

(6) An entry in the register of food businesses or an entry in the register of feed businesses (within the meaning of the Regulations revoked by paragraph (1)) that is in force immediately before the making of these Regulations remains in force, is considered to be a entry in the register of food businesses or an entry in the register of feed businesses and may be dealt with by the registering authority specified in these Regulations as if it is an entry in the register of food businesses or an entry in the register of feed businesses granted by that registering authority.

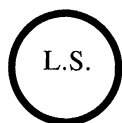
(7) An entry in the register maintained under the Regulations revoked by paragraph (1)(b) that was in force immediately before the making of the Regulations of 2005 remains in force, is considered to be a entry in the register of food businesses and may be dealt with by the registering authority specified in these Regulations as if it is an entry in the register of food businesses or an entry in the register of feed businesses granted by that authority.

(8) A food business approval or a feed business approval (within the meaning of the Regulations revoked by paragraph (1)) that is in force immediately before the making of these Regulations remains in force, is considered to be a food

business approval or a feed business approval and may be dealt with by the registering authority specified in these Regulations as if it is a food business approval or a feed business approval granted by that registering authority.

(9) An application for entry in the register of food businesses or for entry in the register of feed businesses or an application for a food business approval or for a feed business approval (within the meaning of the Regulations revoked by paragraph (1)) that remains to be determined on commencement of these Regulations is, after the commencement of these Regulations considered to be an application for entry in the register of food businesses or an entry in the register of feed businesses or an application for a food business approval or a feed business approval and may be determined as if made under these Regulations.

(10) A person who engages in the transport of animals and is required to hold a food business registration is deemed to hold that registration if he or she is the holder of an animal transport authorisation (within the meaning of the European Communities (Animal Transport and control Post) Regulations 2006 (S.I. No. 675 of 2006).



GIVEN under my Official Seal,
28 October 2009.

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 a number of European Regulations concerning food and feed hygiene legislation, insofar as they relate to The Department of Agriculture, Fisheries and Food, revising and consolidating legislation in relation to the production, control and marketing of food and feed. The amendments take account of the transfer of fishery functions to this Department and clarify the role of authorised officers.

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