



STATUTORY INSTRUMENTS

S.I. No. 513 of 2008



EUROPEAN COMMUNITIES (CAT AND DOG FUR) (RESTRICTION
ON TRADE) REGULATIONS 2008

(Prn. A8/1930)

EUROPEAN COMMUNITIES (CAT AND DOG FUR) (RESTRICTION ON TRADE) 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), for the purpose of giving full effect to Regulation (EC) No. 1523/2007 of the European Parliament and of the Council of 11 December 2007¹, hereby make the following Regulations:

1. These Regulations may be cited as the European Communities (Cat and Dog Fur) (Restriction on Trade) Regulations 2008 and come into operation on 31 December 2008.

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 member of the Garda Síochána,
- (c) an officer of Customs and Excise, or
- (d) a person appointed under Regulation 5;

“EU Regulation” means Regulation (EC) No 1523/2007 of the European Parliament and of the Council of 11 December 2007;

“premises” includes land, with or without buildings;

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

3. (1) A person shall not import or export fur derived from a cat or dog or an article that consists of or contains fur derived from a cat or dog.

(2) Fur or an article to which paragraph (1) refers are deemed to be prohibited for the purposes of the Customs Consolidation Act 1876, the Customs Act 1956 and the Customs and Excise (Miscellaneous Provisions Act) 1988.

¹ O.J. No. L 343 of 27.12.2007, p. 1.

Notice of the making of this Statutory Instrument was published in “Iris Oifigiúil” of 5th December, 2008.

4. (1) A person shall not have in his or her possession or under his or her control fur derived from a cat or dog or any article that consists of or contains fur derived from a cat or dog.

(2) Paragraph (1) does not apply to a fur derived from a cat or dog before the commencement of these Regulations if the person in possession can prove it was derived from a cat or dog before the commencement.

5. (1) The Minister or the manager of a local authority 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 or manager of a local authority may terminate the appointment of an authorised officer appointed by him or her, whether or not the appointment was for a fixed period.

(3) An appointment as an authorised officer ceases—

- (a) if it is terminated pursuant to paragraph (2),
- (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 or a local authority, upon the person ceasing to be such an officer.

(4) Paragraph (3) does not prevent the Minister or manager of a local authority from reappointing as an authorised officer a person to whom that paragraph relates.

(5) An officer of the Minister or of a local authority shall furnish an authorised officer appointed under this Regulation 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 the 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.

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

- (a) fur derived from a cat or dog or any article that consists of or contains fur derived from a cat or dog is present, has been present or may be present on a premises, or
- (b) a document relating to fur derived from a cat or dog or any article that consists of or contains fur derived from a cat or dog is present, was present or may be present on a premises,

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) take, without payment, samples from fur that he or she has reasonable cause to suspect is derived from a cat or dog or any article that consists of or contains fur which he or she has reasonable cause to suspect is derived from a cat or dog, 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,
 - (v) require the production of a document or thing relating to fur that he or she has reasonable cause to suspect is derived from a cat or dog or any article that consists of or contains fur that he or she has reasonable cause to suspect is derived from a cat or dog or other thing,
 - (vi) retain a document or thing (for so long as is necessary),
 - (vii) give a direction to, or request information of, a person regarding fur that he or she has reasonable cause to suspect is derived from a cat or dog or any article that consists of or contains fur that he or she has reasonable cause to suspect is derived from a cat or dog or other thing as he or she considers necessary,
 - (viii) require the name and address of a person and the name and address of any other relevant person including the person to whom fur that he or she has reasonable cause to suspect is derived from a cat or dog or any article that consists of or contains fur that he or she has reasonable cause to suspect is derived from a cat or dog or other thing, is being delivered or who is causing it to be delivered,
 - (ix) require of a person the ownership, identity and origin of fur that he or she has reasonable cause to suspect is derived from a cat or dog or any article that consists of or contains fur that he or she has reasonable cause to suspect is derived from a cat or dog or other thing,
 - (x) make a record whether in writing, by photography or otherwise, or
 - (xi) mark or otherwise identify fur that he or she has reasonable cause to suspect is derived from a cat or dog or any article that consists of or contains fur that he or she has reasonable cause to suspect is derived from a cat or dog or other thing or a sample taken under subparagraph (iv).
- (2) If an authorised officer has reasonable cause to suspect that—
- (a) an offence is being or has been committed under these Regulations, or
 - (b) evidence of an offence or contravention may be, is or has been on a premises—

the authorised officer may, in addition to the powers exercisable by him or her under paragraph (1)—

- (i) search a person, where the authorised officer considers it necessary,
- (ii) seize and detain fur that he or she has reasonable cause to suspect is derived from a cat or dog or any article that he or she has reasonable cause to suspect consists of or contains fur derived from a cat or dog,
- (iii) dispose of, or require the owner or person in charge of or in possession of fur that he or she has reasonable cause to suspect is derived from a cat or dog or any article that consists of or contains fur that he or she has reasonable cause to suspect is derived from a cat or dog to deal with or dispose of it in a manner that the authorised officer sees fit.

(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 7.

(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) 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.

7. (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) that evidence of, or relating to, the commission or intended commission of an offence under these Regulations is to be found on a premises,
- (b) 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 pursuant to 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.

8. A person shall not—

- (a) obstruct or impede an authorised officer in the exercise of his or her functions under these Regulations,
- (b) fail, without reasonable cause, to comply with a requirement or direction of an authorised officer under Regulation 6,
- (c) in purporting to give information to an authorised officer for the performance of the officer's functions under Regulation 6—
 - (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 6, or
- (e) aid or abet a contravention of these Regulations.

Offences

9. (1) A person who contravenes—

- (a) Article 3 of the EU Regulation, or
- (b) Regulation 3, 4 or 8 of these Regulations,

commits an offence and is liable on summary conviction to a fine not exceeding €5,000 or to a term of imprisonment not exceeding 6 months or both.

(2) An offence under these Regulations may be prosecuted by—

- (a) the Minister, or
- (b) the local authority in whose functional area the alleged offence occurs.

(3) If an offence under these Regulations is committed by a body corporate or by a person purporting to act on behalf of a body corporate or on behalf of an unincorporated body of persons and it is proved to have been so committed with the consent or connivance of or to be attributable to any wilful neglect on the part of any other person who, when the offence was committed, was, or purported to act as, a director, manager, secretary or other officer (including a member of any committee of management or other controlling authority) of the body, such other person as well as the body, or the person so purporting to act on behalf of the body, commits an offence and is liable to be proceeded against and punished as if he or she were guilty of the first-mentioned 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 a prosecution for an offence under these Regulations, it is a defence for the defendant to show that the cat fur or dog fur that is the subject of the offence was derived from a cat or a dog before the commencement of these Regulations and, in the case of an article that consists of or contains cat fur or dog fur, that the article was manufactured, before the commencement of these Regulations.



GIVEN under my Official Seal,
27 November 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 Regulation (EC) No. 1523/2007 of the European Parliament and Council dated 11 December 2007 banning the marketing, import to or export from, the Community of cat and dog fur and products containing such fur.

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
Le ceannach díreach ón
OIFIG DHÍOLTA FOILSEACHÁN RIALTAIS,
TEACH SUN ALLIANCE, SRÁID THEACH LAIGHEAN, BAILE ÁTHA CLIATH 2,
nó tríd an bpost ó
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