



STATUTORY INSTRUMENTS.

S.I. No. 363 of 2010

EUROPEAN COMMUNITIES (BEEF CARCASE CLASSIFICATION)
REGULATIONS 2010

(Prn. A10/1091)

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EUROPEAN COMMUNITIES (BEEF CARCASE CLASSIFICATION)
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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 Council Regulation (EC) No. 1234/2007 of 22 October 2007 (so far as that Regulation relates to the classification of beef carcasses)¹ and Commission Regulation (EC) No. 1249/2008 of 10 December 2008², hereby make the following regulations:

Citation

1. These Regulations may be cited as the European Communities (Beef Carcase Classification) Regulations 2010.

Interpretation

2. (1) In these Regulations—

“carcase” means the carcase of an adult bovine including bovines aged on slaughter 12 months or more;

“Classification Regulation” means Commission Regulation (EC) No. 1249/2008 of 10 December 2008;

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

“supervisory officer” means a person appointed under Regulation 12 or a person who, immediately before the making of these Regulations, was a supervisory officer within the meaning of the Regulations revoked by Regulation 19(1).

(2) A word or an expression that is used in these Regulations and is also used in the Classification Regulation has, unless the contrary intention appears, the same meaning in these Regulations that it has in the Classification Regulation.

Carcase classification licence

3. (1) A person shall not classify a carcase for the purposes of the Classification Regulation except in accordance with a licence granted for the purposes of Article 8 of the Classification Regulation (“carcase classification licence”).

(2) A person shall not cause or permit another person to classify a carcase for the purposes of the Classification Regulation unless the second mentioned person is the holder of a carcase classification licence.

¹O.J. L 299 of 16.11.2007, p. 1.

²O.J. L 337 of 16.12.2008, p. 3.

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 27th July, 2010.*

(3) An application for a carcass classification licence shall be in a form and contain any information that the Minister may require.

(4) The Minister may grant a carcass classification licence, attach conditions to a carcass classification licence, vary a condition, revoke a carcass classification licence or refuse an application.

(5) Without prejudice to the generality of paragraph (4), the Minister may revoke a carcass classification licence or refuse an application, if, in his or her opinion—

- (a) an act of the institutions of the European Communities or these Regulations has not, are not or will not be, complied with,
- (b) the applicant or holder of a carcass classification licence has committed an offence, relating to animals, animal or human health, animal welfare or the environment,
- (c) the applicant or holder of a carcass classification licence has failed to comply with a licence condition,
- (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) any plant or machinery to be used is inadequate for the purpose,
- (f) the applicant or holder of a carcass classification licence does not have the necessary qualifications or display the necessary skills,
- (g) the applicant or holder of a carcass classification licence is not a fit and proper person to be licensed,
- (h) there are an unacceptable number of incorrect classifications or identifications, or
- (i) it is necessary, ancillary or supplementary for an act of the institutions of the European Communities to have full effect.

(6) Other than in the case of paragraph (5)(i), if the Minister proposes to refuse an application or suspend or revoke a carcass classification licence, he or she shall—

- (a) notify the applicant or holder of a carcass classification licence of the proposal and the reasons for the proposal, and that he or she may make representations in relation to the proposal to the Minister 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 carcass classification licence of the decision and the reasons for the decision.

(7) If the Minister is of the opinion that it is necessary, ancillary or supplementary for an act of the institutions of the European Communities to have full effect, he or she may suspend or revoke a carcass classification licence in accordance with paragraph (8).

(8) If the Minister suspends or revokes a carcass classification licence in accordance with this paragraph, he or she shall-

- (a) notify the applicant or holder of a carcass classification licence of the decision and the reasons for the decision, and that he or she may make representations in relation to the decision to the Minister 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 a carcass classification licence of the decision and the reasons for the decision.

(9) This Regulation does not apply to a supervisory officer.

Automated grading licence

4. (1) A person shall not use an automated grading technique to classify a bovine carcass for the purposes of the Classification Regulation except in accordance with a licence granted for the purposes of Article 9 of the Classification Regulation (“automated grading licence”).

(2) A person shall not cause or permit another person to classify a carcass for the purposes of the Classification Regulation unless an automated grading licence exists in relation to the automated grading technique.

(3) An application for an automated grading licence shall be in a form and contain any information that the Minister may require.

(4) The Minister may grant a licence, attach conditions to a licence, vary a condition, revoke a licence or refuse an application.

(5) Without prejudice to the generality of paragraph (4), the Minister may revoke an automated grading licence or refuse an application, if, in his or her opinion—

- (a) an act of the institutions of the European Communities or these Regulations has not, are not or will not be, complied with,
- (b) the applicant or holder of an automated grading licence has committed an offence, relating to animals, animal or human health, animal welfare or the environment,

- (c) the applicant or holder of an automated grading licence has failed to comply with a licence condition,
 - (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) any plant or machinery to be used is inadequate for the purpose,
 - (f) the technique fails to satisfy Article 9 of the Classification Regulation,
 - (g) the technical specification of the automatic grading technique has been modified other than in accordance with Article 9(4) of the Classification Regulation,
 - (h) the technique in operation results in an unacceptable number of incorrect classifications or identifications,
 - (i) the applicant or holder of an automated grading licence is not a fit and proper person to be licensed, or
 - (j) it is necessary, ancillary or supplementary for an act of the institutions of the European Communities to have full effect.
- (6) Other than in the case of paragraph (5)(j), if the Minister proposes to refuse an application or suspend or revoke an automated grading licence, he or she shall—
- (a) notify the applicant or holder of the automated grading licence of the proposal and the reasons for the proposal, and that he or she may make representations in relation to the proposal to the Minister 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 the automated grading licence of the decision and the reasons for the decision.
- (7) If the Minister is of the opinion that it is necessary, ancillary or supplementary for an act of the institutions of the European Communities to have full effect, he or she may suspend or revoke an automated grading licence in accordance with paragraph (8).
- (8) If the Minister suspends or revokes an automated grading licence in accordance with this paragraph, he or she shall—
- (a) notify the applicant or holder of the automated grading licence of the decision and the reasons for the decision, and that he or she may make representations in relation to the decision to the Minister 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 automated grading licence of the decision and the reasons for the decision.

(9) A person shall give the Minister at least 5 days notice of his or her intention to use an automated grading technique.

(10) Notwithstanding Regulation 3, if a premises is equipped with an operational automatic grading technique, that technique must be used for the classification of carcasses on the premises.

(11) A person shall retain records produced by an automatic grading technique for two years and make them available, in legible form if so requested, on request to a supervisory officer.

Classification, weighing and prices

5. (1) A person who—

(a) classifies, identifies, weighs, marks or labels a carcase or causes or permits another person to classify, identify, weigh, mark or label a carcase, other than in accordance with Article 6,

(b) uses an automated grading technique, or causes or permits another person to use the technique, in contravention of Article 10,

(c) fails to record prices in contravention of Articles 15 or 16 or to make them available on request to a supervisory officer, or

(d) otherwise contravenes, or causes or permits another person to contravene, a provision (specified in this Regulation),

of the Classification Regulation commits an offence.

(2) The information required under paragraph (1)(c) shall be made available in a form that the Minister may determine.

Presentation of carcase

6. (1) A person who presents, or causes or permits another person to present, a carcase other than in accordance with Article 13(3) of the Classification Regulation commits an offence.

(2) If the presentation of a carcase does not comply with Article 13(3) of the Classification Regulation, the holder of a carcase classification licence or operator of an automated grading technique engaged in classification shall require the person in charge of the establishment where the carcase was slaughtered to rectify the presentation and, if the presentation is not rectified, he or she shall reject the carcase which shall be dealt with by the operator of the establishment in accordance with the directions of a supervisory officer.

(3) The owner or person in charge of an establishment where a carcass is slaughtered shall keep a record of every carcass to which paragraph (2) or (4) refers, in a form that the Minister may determine, recording—

- (a) the manner in which the carcass initially failed to satisfy Article 13(3) of the Classification Regulation, and
- (b) the final classification relating to the carcass.

(4) The holder of a carcass classification licence or a supervisory officer may review and amend the classification of a carcass made by another holder of a carcass classification licence and amend it where he or she believes the classification to be erroneous.

(5) A person shall not alter a classification derived from an automatic grading technique except with the prior written approval of a supervisory officer.

Weighing carcass

7. (1) The owner or person in charge of an establishment where a carcass is slaughtered shall—

- (a) record the weight of each carcass and the name of the person who was operating the weighing scales,
- (b) at the request of a supervisory officer prohibit a named person from operating a weighing scales, and
- (c) check and record the accuracy of the weighing scales used for the purposes of sub-paragraph (a) if requested by a supervisory officer.

(2) The holder of a carcass classification licence, or a supervisory officer, may review a determination of weight under paragraph (1)(a) and amend it if it is erroneous.

(3) For the purposes of enabling the accuracy of a weighing scales at an establishment used to slaughter animals to be checked, the owner or person in charge of the establishment shall keep at the premises and make available at the request of a supervisory officer a set of weights, totalling not less than 260 kg in weight, demonstrated to conform to the Metrology Act 1996 (No. 27 of 1996).

(4) The owner or person in charge of an establishment where a carcass is slaughtered shall produce evidence of compliance with conformity assessment procedures under section 14 of the Metrology Act 1996 at the request of a supervisory officer.

(5) A supervisory officer may by notice in writing suspend weighing operations—

- (a) if a person engaged in the slaughter of animals fails to comply with this Regulation or the Classification Regulation,

- (b) pending production of evidence requested under paragraph (3) or (4), or
- (c) if a supervisory officer has reasonable grounds to suspect that weighing equipment is defective.

(6) A notice under paragraph (5) shall state the duration of the suspension and its commencement.

(7) A person shall comply with a notice under paragraph (5).

Labelling

8. (1) A person, other than the holder of a carcass classification licence or a supervisory officer, shall not amend or otherwise interfere with a label placed on a carcass for the purposes of Article 6 of the Classification Regulation.

(2) If the holder of a carcass classification licence or a supervisory officer amends the weight or the classification of a carcass, he or she shall alter the mark or label made or attached for the purposes of Article 6 of the Classification Regulation and record the amendment in a manner determined by the Minister.

Daily classification sheet

9. (1) The owner or person in charge of an establishment where a carcass is slaughtered shall—

- (a) produce a record of the determination of classification and weight each day and the record (“daily classification sheet”) shall be made available to a supervisory officer on request,
- (b) forward two legible copies of the daily classification sheet to the Minister within 5 working days of slaughter, and
- (c) retain a copy of a daily classification sheet for two years from the date the daily classification sheet is produced.

(2) A daily classification sheet shall be produced in a format and design approved by the Minister and a person shall not alter the format or design of a daily classification sheet without the prior approval of the Minister.

Identification

10. (1) Subject to paragraphs (2) and (3), a person shall not identify a carcass with an identifying number for the purposes of Article 6 of the Classification Regulation unless the number is a sequential four digit number consecutively assigned commencing with number 0001.

(2) If a carcass is assigned an identifying number 9999 in accordance with paragraph (1), the next carcass at that premises shall be assigned the number 0001 and paragraph (1) applies to all other carcasses.

(3) On commencement of these Regulations, the Minister may permit an identifying number other than number 0001 to be used provided that sequential

four digit numbers are assigned consecutively from the identifying number permitted by the Minister.

(4) The owner or person in charge of an establishment where a carcass is slaughtered shall establish and operate a system that enables the—

- (a) identification of the carcass from the unique identifier of the live animal issued under the European Communities (Identification of Bovines) Regulations 2009 (S.I. No. 77 of 2009), and
- (b) identification of the live animal from the identifying number applied under paragraph (1).

Information to be supplied to vendor

11. (1) The owner or person in charge of an establishment where a carcass is slaughtered shall at the time of payment for the animal furnish the vendor with a statement of the weight and classification as required under the Classification Regulation and any other information that the Minister may determine in a format that the Minister may determine.

(2) The classification referred to under paragraph (1) shall include subclasses for conformation and fat cover and the classifier code 001, if classification is completed using a licensed automated grading technique.

(3) If classification of a carcass is carried out by the holder of a carcass classification licence, the Minister may direct that the classification include subclasses for conformation and fat cover, and a person shall comply with a direction.

(4) If classification of a carcass is carried out by the holder of a carcass classification licence, the unique classifier code assigned to that holder shall be included in the classification referred to in paragraph (1).

(5) Information referred to in this Regulation shall be given to the vendor in writing.

Appointment of supervisory officer

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

(2) The Minister may terminate the appointment of a supervisory officer appointed by him or her and the Minister may terminate an appointment under paragraph (1), whether or not the appointment was for a fixed period.

(3) An appointment as a supervisory 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 upon the person ceasing to be such an officer.

(4) Nothing in paragraph (3) is to be construed so as to prevent the Minister from reappointing as a supervisory officer a person to whom paragraph (3) relates.

(5) An officer of the Minister shall furnish a supervisory officer with a warrant of his or her appointment as a supervisory officer and, when exercising a power conferred on him or her, the officer, shall, if requested by a person affected, produce the warrant or evidence that he or she is such an officer to the person.

Functions of supervisory officer

13. (1) A supervisory officer may at all reasonable times—

- (a) enter a premises in which he or she has reasonable grounds for believing a carcass, daily classification sheet, record, including an electronic record, or other document in relation to slaughter or price paid for a bovine or extracts from such sheets, records or documents whether kept in legible form or otherwise, may be,
- (b) stop or regulate the use of any machinery, plant or equipment,
- (c) require a person to produce any carcass, book, record, including an electronic record, or other document which the supervisory officer believes is in possession or procurement or under the control of the person and require the person to give to the officer such information as may be required in relation to an entry or to reproduce an entry in a legible form,
- (d) inspect, take copies of or extracts from a daily classification sheet, record, including an electronic record, book or other document,
- (e) inspect a carcass,
- (f) seize and detain a carcass (for as long as is necessary), a record, including an electronic record, book or other document for such periods as may be required for the purpose of investigating whether these Regulations and the Classification Regulation are being, or have been, complied with,
- (g) inspect the operation of any weighing scales used to weigh a carcass and demand either that a person check the accuracy of the scales in the presence of the supervisory officer or permit the supervisory officer to check the accuracy of the scales,
- (h) inspect an automated grading technique,
- (i) examine the technical specifications of an automated grading technique, or

- (j) issue a notice in writing prohibiting a person from purporting to classify carcasses or prohibiting the use of an automated grading technique until such time as the automated grading technique has been examined and operating satisfactorily.

(2) The owner or person in charge of an establishment where a carcass is slaughtered shall provide such facilities for a supervisory officer as he or she may reasonably request.

Prohibition of forgery and giving false information

14. (1) A person shall not—

- (a) forge a daily classification sheet, record, including an electronic record, or document established under these Regulations or a document purporting to be an extract therefrom (hereafter in this Regulation referred to as “a forged record”),
- (b) alter with intent to defraud or deceive, or utter knowing it to be so altered any notice, daily classification sheet, record, including an electronic record, or document established under these Regulations or a document purporting to be an extract therefrom (hereafter in this Regulation referred to as “an altered record”), or
- (c) have, without lawful authority, in his or her possession a forged record or altered record, including an electronic record.

(2) A person, in purported compliance with these Regulations, shall not give information that he or she knows to be false or misleading.

Fees

15. (1) The Minister may, from time to time, set and charge a fee in respect of—

- (a) an application for a carcass classification licence or an automated grading licence, or
- (b) the performance by the Minister of a function under these Regulations,

and different fees (not exceeding the cost, estimated by the Minister, of performing the function to which the fee relates) may be set and charged having regard to the cost to the Minister of performing a particular function.

(2) The Minister shall not perform a function referred to in paragraph (1) unless the fee (if any) set in respect of that function is paid.

(3) Moneys received by the Minister under this Regulation or Regulation 17 shall be paid into or disposed of for the benefit of the Exchequer in accordance with the directions of the Minister for Finance.

Obstruction, etc.

16. A person shall not—

- (a) obstruct or impede a supervisory 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 a supervisory officer under Regulation 13,
- (c) in applying for a licence or in purporting to give information to a supervisory 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) aid or abet a contravention of an act of the institutions of the European Communities or these Regulations.

Offences

17. (1) A person who contravenes Regulation 3(1), (2), 4 (1), (2), (9), (10), (11), 5(2), 6(3), (5), 7 (1), (3), (4), (7), 8 (1), (2), 9 (1), (2), 10 (1), (2), (4), 11, 14 or 16 commits an offence

(2) A person who commits an offence under these Regulations is liable on summary conviction to a fine not exceeding €5,000 or to a term of imprisonment not exceeding 6 months or to both.

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

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

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

On-the-spot fine

18. (1) If a supervisory officer has reasonable grounds for believing 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 from the date of the notice make to the Minister a payment of €200 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 Minister at the address specified in the notice the payment specified in the notice accompanied by the notice;
 - (b) the Minister shall, on receipt of 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;
 - (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 shall lie on the defendant.

Revocations and saver

19. (1) The European Communities (Beef Carcase Classification) Regulations 2004 (S.I. No. 45 of 2004) and the European Communities (Beef Carcase Classification) (Amendment) Regulations 2007 (S.I. No. 195 of 2007) are revoked.

(2) A licence granted under Regulation 3 of the European Communities (Beef Carcase Classification) Regulations 2004 is considered to be a carcase classification licence and may be dealt with as if granted under Regulation 3 of these Regulations.

(3) An automated grading technique authorised in accordance with the European Communities (Beef Carcase Classification) Regulations 2004 is considered to be subject to an automated grading licence and may be dealt with as if licensed under Regulation 4 of these Regulations.

(4) All instruments, documents, appointments and letters or notices made or issued under the European Communities (Beef Carcase Classification) Regulations 2004 (S.I. No. 45 of 2004) and in force immediately before the commencement of these Regulations continue in force as if made or issued under these Regulations.



GIVEN under my Official Seal,
20 July 2010.

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 provide for the dressing, classification, weighing and labelling of carcasses of adult bovine animals. They also contain provisions relating to the use of automated classification techniques, the communication of classification results and market price reporting.

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
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CONTAE MHAIGH EO,
(Teil: 01 - 6476834 nó 1890 213434; Fax: 094 - 9378964 nó 01 - 6476843)
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