



STATUTORY INSTRUMENTS.

S.I. No. 258 of 2024

EUROPEAN UNION (FOREIGN SUBSIDIES DISTORTING THE
INTERNAL MARKET) REGULATIONS 2024

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I, PETER BURKE, Minister for Enterprise, Trade and Employment, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972) and for the purpose of giving full effect to Regulation (EU) 2022/2560¹ of the European Parliament and of the Council of 14 December 2022 on foreign subsidies distorting the internal market, hereby make the following regulations:

Citation

1. These Regulations may be cited as the European Union (Foreign Subsidies Distorting the Internal Market) Regulations 2024.

Definitions

2. (1) In these Regulations -

“administrative inspector” means a person appointed under Regulation 3(1);

“Commission” means the European Commission;

“Commission inspector” means an official or other accompanying person authorised by the Commission to conduct an inspection under Article 14 of the Foreign Subsidies Regulation;

“enactment” has the same meaning as it has in the Interpretation Act 2005;

“Foreign Subsidies Regulation” means Regulation (EU) 2022/2560² of the European Parliament and of the Council of 14 December 2022 on foreign subsidies distorting the internal market;

“Minister” means the Minister for Enterprise, Trade and Employment.

(2) A word or expression which is used in these Regulations has, unless the contrary intention is shown, the same meaning in these Regulations as it has in the Foreign Subsidies Regulation.

Appointment of administrative inspectors

3. (1) The Minister may appoint the following persons in writing to be administrative inspectors for the purposes of an inspection under Article 14 of the Foreign Subsidies Regulation:

- (a) an authorised officer within the meaning of the Competition and Consumer Protection Act 2014;

¹ OJ No. L330, 23.12.2022, p.1

² OJ No. L330, 23.12.2022, p.1

- (b) any other person who the Minister considers necessary for the purpose of such inspections.

(2) An administrative inspector shall be furnished with a warrant of his or her appointment as an administrative inspector and where an administrative inspector participates in any inspection for the purposes of the Foreign Subsidies Regulation, he or she shall, if requested by a person affected, produce his or her warrant of appointment, or other like document of identity duly issued, to that person.

(3) An appointment under paragraph (1) may be revoked at any time by the Minister.

Powers of administrative inspectors

4. (1) For the purpose of -

- (a) actively assisting a Commission inspector conducting an inspection under Article 14(1) of the Foreign Subsidies Regulation at the request of the Minister, the Minister for Public Expenditure, National Development Plan Delivery and Reform, the Competition and Consumer Protection Commission or the Commission, or
- (b) undertaking inspections or other fact-finding measures considered necessary by, or ordered by, the Commission with which the Minister, the Minister for Public Expenditure, National Development Plan Delivery and Reform or the Competition and Consumer Protection Commission has been requested to assist in accordance with Article 14(7) of the Foreign Subsidies Regulation,

an administrative inspector may, on production of a warrant issued under paragraph (4) authorising him or her to exercise one or more specified powers under paragraph (2), exercise that power or those powers.

(2) The powers mentioned in paragraph (1) are the following:

- (a) to enter any premises, land or means of transport of the undertaking or association of undertakings;
- (b) to examine books and other business records, irrespective of the medium on which they are stored, access any information which is accessible to the entity subject to the inspection and take, or request copies or extracts from, those books or records;
- (c) to ask any representative or member of staff of the undertaking or association of undertakings for explanations of facts or documents relating to the subject matter and purpose of the inspection and to record the answers;
- (d) to seal any business premises and books or records for the period of time of, and to the extent necessary for, the inspection.

(3) Where a Commission inspector or an administrative inspector has reasonable grounds for believing that it is necessary in the performance of his or

her functions under the Foreign Subsidies Regulation or these Regulations, he or she may be accompanied by a member of the Garda Síochána when performing those functions.

(4) If a judge of the District Court is satisfied on the sworn information of a Commission inspector or an administrative inspector that there are reasonable grounds for suspecting that there is information required by a Commission inspector or an administrative inspector under the Foreign Subsidies Regulation held on any premises or any part of any premises or there is anything which a Commission inspector or an administrative inspector requires to inspect for the purposes of the Foreign Subsidies Regulation, the judge may issue a warrant authorising a Commission inspector and an administrative inspector, accompanied by other Commission inspectors, administrative inspectors or members of the Garda Síochána, at any time or times, within one month from the date of issue of the warrant, on production if so requested of the warrant, to enter, if necessary by reasonable force, the premises and to carry out an inspection for the purposes of the Foreign Subsidies Regulation.

(5) An application for a warrant issued under paragraph (4) shall be made to the judge of the District Court in whose district court district the premises is situated.

Offence

5. (1) A person who obstructs or impedes a Commission inspector or an administrative inspector in the exercise of a power under the Foreign Subsidies Regulation or Regulation 4, or, without reasonable excuse, does not comply with a requirement of a Commission inspector or an administrative inspector for the purposes of the Foreign Subsidies Regulation or the said Regulation 4, or who in purported compliance with such requirement, gives information to any such inspector that he or she knows to be false or misleading shall be guilty of an offence.

(2) A person who tampers or interferes with anything being checked or sampled under the Foreign Subsidies Regulation or Regulation 4 so as to procure that the thing being checked or of which a sample is taken is not properly represented shall be guilty of an offence.

(3) Where a member of the Garda Síochána is of the opinion that an offence under paragraph (1) or paragraph (2) is being or has been committed, then the member may arrest that person without warrant.

- (4) A person guilty of an offence under paragraph (1) or (2) shall be liable -
- (a) on summary conviction, to a class A fine or imprisonment for a term not exceeding 6 months, or both, or
 - (b) on conviction on indictment, to a fine not exceeding €50,000 or imprisonment for a term not exceeding 3 years, or both.

Offence by body corporate

6. Where an offence under these Regulations is committed by a body corporate or by a person acting on behalf of a body corporate and is proved to have been so committed with the consent, connivance or approval of, or to have been facilitated by any neglect on the part of any director, manager, secretary or any other officer of such body or a person who was purporting to act in any such capacity, such person shall also be guilty of an offence and shall be liable to be proceeded against and punished as if he or she were guilty of the first-mentioned offence.

Summary proceedings for offences

7. Summary proceedings for an offence under these Regulations may be brought and prosecuted by the Minister.

GIVEN under my Official Seal,
29 May 2024



PETER BURKE,
Minister for Enterprise, Trade and Employment.

EXPLANATORY NOTE

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

This Statutory Instrument (SI) gives full effect to Regulation (EU) 2022/2560 of the European Parliament and of the Council of 14 December 2022 on foreign subsidies distorting the internal market, referred to as the Foreign Subsidies Regulation.

The SI enables the Minister to appoint persons to be administrative inspectors for the purposes of an inspection under Article 14 of the Foreign Subsidies Regulation and sets out the powers of these administrative inspectors. It further sets out the offences related to obstructing or interfering with an investigation.

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