

1982 No. 386

FOOD AND DRUGS

Poultry Meat (Water Content) Regulations
(Northern Ireland) 1982

Made 24th November 1982

Coming into operation 1st January 1983

The Department of Health and Social Services, being a designated Department(a) for the purposes of section 2(2) of the European Communities Act 1972(b) in relation to the common agricultural policy of the Economic Community, in exercise of the powers conferred on it by the said section 2(2) and sections 68 and 68A(c) of the Food and Drugs Act (Northern Ireland) 1958(d), and of every other power enabling it in that behalf and after consultation with such organisations as appear to it to be representative of interests substantially affected by these regulations, hereby makes the following regulations:

Citation and commencement

1. These regulations may be cited as the Poultry Meat (Water Content) Regulations (Northern Ireland) 1982 and shall come into operation on 1st January 1983.

Interpretation

2.—(1) In these regulations

“the Act” means the Food and Drugs Act (Northern Ireland) 1958;

“analysis” and “counter-analysis” mean analysis and counter-analysis respectively performed pursuant to Article 4 of the Council Regulation;

“authorised officer” means an authorised officer of a district council;

“Community provision” means any provision of the Council Regulation or the Commission Regulation;

“cutting premises” means premises used for the purpose of cutting or boning poultry meat intended for sale for human consumption, which is not subject to any preservation process on those premises other than chilling or freezing, but does not include any premises used for the purpose of catering or sales by retail;

“the Commission Regulation” means Commission Regulation (EEC) No. 2785/80(e) introducing detailed rules for implementing the Council Regulation;

(a) Designated by S.I. 1972/1811

(b) 1972 c. 68

(c) Added by S.R. & O. (N.I.) 1972 No. 363

(d) 1958 c. 27 (N.I.)

(e) O.J. No. L288, 31.10.80, p. 13; amended by Commission Regulation No. 3134/81 (O.J. No. L312, 31.10.81, p. 59)

“the Council Regulation” means Council Regulation (EEC) No. 2967/76(a), laying down common standards for the water content of frozen and deep-frozen chickens, hens and cocks;

“Department” means the Department of Health and Social Services;

“poultry carcasses” means frozen or deep-frozen whole eviscerated carcasses of chickens, hens or cocks, with or without edible offal;

“sell” includes offer or expose for sale or have in possession for sale.

(2) The Interpretation Act (Northern Ireland) 1954(b) shall apply to these regulations as it applies to a Measure of the Northern Ireland Assembly.

Enforcement authorities

3. Each district council is hereby designated as the responsible authority in its district for the purposes of Article 6 of the Council Regulation and as such shall secure the enforcement and execution of the Community provisions and the provisions of these regulations in its district.

Powers of authorised officers

4.—(1) For the purpose of enforcing or executing any Community provision or any provision of these regulations, an authorised officer shall, on producing, if so required, some duly authenticated document showing his authority, have a right—

- (a) to enter at all reasonable hours any premises (other than premises used only as a dwelling) where any activity regulated by a Community provision is being, or is reasonably suspected of being, carried on;
- (b) to conduct on such premises such tests and checks as may reasonably be necessary;
- (c) to require any person not to remove or cause to be removed from such premises such number of poultry carcasses as may be reasonable in the circumstances, pending the result of any test, check, analysis or counter-analysis;
- (d) to detain or cause to be detained at any place suitable for the purpose such number of poultry carcasses as may be reasonable in the circumstances, pending the result of any test, check, analysis or counter-analysis;
- (e) notwithstanding anything in section 34(1) of the Act, to carry out initial checks on the water content of any poultry carcass in accordance with the rapid detection method described in Annex II to the Council Regulation, as provided in Article 4(1) of that Regulation;
- (f) to require the production of the register which slaughterhouses are required to keep by virtue of Article 2(1) of the Council Regulation.

(2) The provisions of paragraph (1) shall apply in relation to any vehicle, land or place other than premises (other than any vehicle, land or place used only as a dwelling) as they apply in relation to premises.

(3) An authorised officer entering any premises, vehicle, land or other place by virtue of this regulation may take with him such other persons and such equipment as are reasonably necessary.

(a) O.J. No. L339, 8.12.76, p. 1; relevant amending instruments are Council Regulations (EEC) Nos. 1691/77 (O.J. No. L188, 28.7.77, p. 10), 641/79 (O.J. No. L82, 31.3.79, p. 4) and 2835/80 (O.J. No. L292, 1.11.80, p. 75) and Commission Regulation (EEC) No. 2632/80 (O.J. No. L270, 15.10.80, p. 14) Council Regulation (EEC) No. 2835/80, as published in the Official Journal, is to be read with the corrigendum published at O.J. No. L299, 8.11.80, p. 28

(b) 1954 c. 33 (N.I.)

Identification of slaughterhouse from which poultry carcase originates

5.—(1) There shall be made on, or visibly beneath, the wrapper of every poultry carcase, or on a ticket or notice attached to it, a marking sufficient to identify to an authorised officer the slaughterhouse from which the carcase originates:

(2) Poultry carcasses sent in large sealed packages—

- (a) from a slaughterhouse to cutting premises for cutting or boning therein, or
- (b) from a slaughterhouse or cutting premises to a manufacturer for the purposes of his manufacturing business, or
- (c) from a slaughterhouse or cutting premises to a caterer for the purposes of his catering business,

shall be exempt from the requirement to be individually marked in accordance with paragraph (1), if there is made on the external surface of each large package a marking sufficient to identify to an authorised officer the slaughterhouse from which the poultry carcasses in that package originate.

(3) A person shall not sell any poultry carcase which does not comply with this regulation.

Notice of intended prosecution

6. Where a district council intends to bring proceedings against any person for an offence under these regulations in respect of a contravention of Article 1(1) of the Council Regulation, the council shall, not less than 14 days before the institution of proceedings, cause to be served on the person to be charged a notice of intended prosecution.

Analysis

7.—(1) An authorised officer who procures a sample of poultry carcasses shall, unless either—

- (a) the poultry carcasses originate from a slaughterhouse outside the United Kingdom, or
- (b) he decides not to have an analysis made,

within 7 days of procuring the sample serve on the occupier of the slaughterhouse from which the poultry carcasses originate a notice stating that the sample has been procured by the officer and specifying where the sample was taken or, as the case may be, from whom it was purchased.

(2) If the authorised officer has an analysis made, he shall, within 7 days of receipt by him of the certificate of the public analyst specifying the result of the analysis, serve a copy of the certificate on the occupier of the slaughterhouse from which the poultry carcasses originate, unless the slaughterhouse is outside the United Kingdom, and on the person from whom the sample was taken or purchased, if it was not taken or purchased from that slaughterhouse.

(3) If a district council intends to bring proceedings for an offence under these regulations in respect of a contravention of Article 1(1) of the Council Regulation against any person who has not already been served with a copy of the certificate of the public analyst specifying the result of the analysis under paragraph (2), the council shall, not less than 14 days before the institution of proceedings, cause to be served on the person to be charged a copy of that certificate.

(4) Section 35 of the Act (which contains provisions as to samples taken for analysis) shall not apply to a sample of poultry carcasses procured for the purpose of enforcing the Community provisions or the provisions of these regulations.

Counter-analysis

8.—(1) Any request for a counter-analysis pursuant to Article 4(2) of the Council Regulation shall—

- (a) be made in writing to the district council whose officer took or purchased the sample,
- (b) specify either that the counter-analysis is to be performed by a public analyst or that the counter-analysis is to be performed by the Government Chemist, and
- (c) be made within 14 days of the date on which a copy of the certificate of the public analyst specifying the result of the analysis was served on the person making the request, except that, in the case of a person against whom proceedings are brought for an offence under these regulations in respect of a contravention of Article 1(1) of the Council Regulation, a request may be made within 14 days of the date on which a notice of intended prosecution was served on him.

(2) If a request for a counter-analysis is made, the authorised officer shall submit the poultry carcasses which are to be subjected to counter-analysis either to a public analyst or to the Government Chemist in accordance with the choice made in the request pursuant to paragraph (1)(b). The poultry carcasses shall not be submitted to the public analyst who performed the analysis.

(3) The public analyst or the Government Chemist, as the case may be, shall analyse as soon as practicable any poultry carcasses submitted to him in pursuance of paragraph (2) and shall transmit to the authorised officer who submitted the poultry carcasses a certificate specifying the result of the counter-analysis.

(4) The authorised officer shall, within 7 days of receipt by him of the certificate specifying the result of the counter-analysis, serve a copy of the certificate on—

- (a) the occupier of the slaughterhouse from which the poultry carcasses originate, unless the slaughterhouse is outside the United Kingdom,
- (b) the person who requested a counter-analysis, if the request was not made by or on behalf of the occupier of the slaughterhouse from which the poultry carcasses originate, and
- (c) any other person against whom proceedings have been brought for an offence under these regulations in respect of a contravention of Article 1(1) of the Council Regulation relating to those poultry carcasses.

(5) If, in a case where a counter-analysis has been made, a district council intends to bring proceedings for an offence under these regulations in respect of a contravention of Article 1(1) of the Council Regulation against any person who has not already been served with a copy of the certificate specifying the result of the counter-analysis under paragraph (4), the district council shall, before the institution of proceedings, cause to be served on that person a copy of that certificate.

(6) In this regulation, references to the public analyst include—

- (a) reference to a public analyst within the meaning of the Food and Drugs Act 1955(a) and the Food and Drugs (Scotland) Act 1956(b); and
- (b) the Director, Industrial Science Division, Department of Economic Development.

Method of analysis and counter-analysis

9. In accordance with Article 4(2) of the Council Regulation any determination of the water content of poultry carcasses by chemical analysis shall be carried out according to the method described in Annex III to the Council Regulation.

(a) 1955 c. 16 (4 & 5 Eliz. 2)

(b) 1956 c. 30 (4 & 5 Eliz. 2)

Offences and penalties

10.—(1) Any person who contravenes regulation 5 or any Community provision specified in paragraph (2) shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £100.

(2) The Community provisions referred to in paragraph (1) are:—

- (a) Article 1 of the Council Regulation (which permits the marketing of poultry carcasses only if the water content absorbed during preparation does not exceed a prescribed limit);
- (b) Article 2 of the Council Regulation (which requires slaughterhouses to carry out regular checks on water absorbed by poultry, to record the results of those checks and, in appropriate cases, to make the necessary technical adjustments to their processing methods);
- (c) Article 2 of the Commission Regulation (which contains requirements relating to poultry carcasses deemed not to comply with the Council Regulation);
- (d) Article 4 of the Commission Regulation (which contains requirements relating to the manner of marking or labelling).

(3) Any person who—

- (a) wilfully obstructs an authorised officer acting in execution of the Community provisions or of these regulations, or
- (b) wilfully fails to comply with any requirement properly made of him by such an officer under Article 2(3) of the Council Regulation,

shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £50.

Information to be provided by district councils

11. Each district council shall provide the Department with such information relating to the execution of its duties under these regulations as may from time to time be required.

Offences due to fault of other person

12. Where the commission by any person of an offence under these regulations is due to the act or default of some other person that other person may be charged with and convicted of the offence by virtue of this regulation whether or not proceedings are taken against the first mentioned person.

Defence of due diligence

13.—(1) In any proceedings for an offence under these regulations it shall be a defence for the defendant to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

(2) If in any case the defence provided by paragraph (1) involves the allegation that the commission of the offence was due to the act or default of another person or due to reliance on information supplied by another person, the defendant shall not, without leave of the court, be entitled to rely on that defence unless he has served on the prosecutor at least 7 days before the hearing, a notice in writing giving such information identifying or assisting in the identification of that other person as was then in his possession.

Failure to comply with requirement to serve notice or other document

14. A defendant in proceedings for an offence under these regulations in respect of a contravention of Article 1(1) of the Council Regulation shall not be convicted of the offence if he proves that any notice or other document required to be served on him by regulations 6, 7(1), (2) or (3) or 8(4) or (5) was not served on him in compliance with the appropriate requirement, unless the court is satisfied either—

- (a) that the district council or, as the case may be, the authorised officer could not with reasonable diligence have ascertained the name and address of the defendant in time for the notice or other document to be served on the defendant in compliance with the appropriate requirement, or
- (b) that the defendant by his own conduct or by the conduct of his employee contributed to the failure of the district council, or, as the case may be, the authorised officer to comply with the appropriate requirement.

Sealed with the Official Seal of the Department of Health and Social Services for Northern Ireland on 24th November, 1982.

(L.S.)

J. A. Wylie

Assistant Secretary

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These regulations come into operation on 1st January 1983. They supplement the provisions of Council Regulation (EEC) No. 2967/76, laying down common standards for the water content of frozen and deep-frozen chickens, hens and cocks, and Commission Regulation (EEC) No. 2785/80 introducing detailed rules for the implementation of the Council Regulation.

The regulations, which provide for the enforcement of Articles 1 and 2 of the Council Regulation and of Articles 2 and 4 of the Commission Regulation—

- (a) designate the authorities which are to enforce the Council Regulation and the Commission Regulation (regulation 3);
- (b) specify the powers of authorised officers of the enforcement authorities (regulation 4);
- (c) require poultry carcasses to be marked so as to identify the slaughterhouse from which they originate (regulation 5);
- (d) require a notice of intended prosecution to be served on proposed defendants in certain cases (regulation 6);
- (e) prescribe procedures for analysis and counter-analysis (regulations 7 and 8);
- (f) specify the method of analysis and counter-analysis (regulation 9);
- (g) prescribe offences and penalties (regulation 10);
- (h) require district councils to provide the Department of Health and Social Services with such information as may be required (regulation 11);
- (i) make ancillary provisions (regulations 12 to 14).