

1994 No. 384

AGRICULTURE

Pig Carcase (Grading) Regulations (Northern Ireland) 1994

Made 10th October 1994

Coming into operation 14th November 1994

The Department of Agriculture, being a Department designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b) in relation to the common agricultural policy of the European Community, in exercise of the powers conferred on it by the said section 2(2) and of every other power enabling it in that behalf, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Pig Carcase (Grading) Regulations (Northern Ireland) 1994 and shall come into operation on 14th November 1994.

Interpretation

2.—(1) In these Regulations—

“authorised officer” means a person (whether or not an officer of the Department) authorised by the Department for the purposes of these Regulations;

“clean pig” means a pig which has not been used for breeding;

“the Commission Decision” means Commission Decision 88/234/EEC authorising methods for grading pig carcases in the United Kingdom(c) as amended by Commission Decision 88/478/EEC(d), Commission Decision 92/557/EEC(e), Commission Decision 93/445/EEC(f), Commission Decision 94/336/EC(g) and Commission Decision 94/567/EC(h);

“the Commission Regulation” means Commission Regulation (EEC) No. 2967/85 laying down detailed rules for the application of the Community scale for grading pig carcases(i);

(a) S.I. 1972/1811

(b) 1972 c. 68; section 2 is subject to Schedule 2 to that Act and is to be read with S.I. 1984/703 (N.I. 3) and S.R. 1984 No. 253

(c) O.J. No. L105, 26.4.88, p. 15

(d) O.J. No. L234, 24.8.88, p. 17

(e) O.J. No. L358, 8.12.92, p. 22

(f) O.J. No. L208, 19.8.93, p. 36

(g) O.J. No. L150, 16.6.94, p. 34

(h) O.J. No. L215, 20.8.94, p. 28

(i) O.J. No. L285, 25.10.85, p. 39

“Community provision” means any requirement as to weighing, grading, marking or identifying of pig carcasses or the making or keeping of any record in relation thereto under the Council Regulation, the Commission Regulation or the Commission Decision;

“the Council Regulation” means Council Regulation (EEC) No. 3220/84 determining the Community scale for grading pig carcasses(a), as amended by Council Regulation (EEC) No. 3530/86(b) and Council Regulation (EC) No. 3513/93(c);

“the Department” means the Department of Agriculture for Northern Ireland;

“exempt carcass” means the carcass of a pig—

(a) which has been used for breeding; or

(b) which has been obtained in a slaughterhouse in which there are slaughtered not more than 200 clean pigs per week on a yearly average basis;

“occupier” means a person carrying on the business of operating a slaughterhouse;

“pig carcass” has the meaning assigned to it by the first indent of Article 2(1) of the Council Regulation, except that, in pursuance of the derogations contained in Articles 2 and 2a of the Commission Decision, the carcass may include—

(a) the tongue;

(b) the flare fat, the kidneys and the diaphragm; or

(c) the tongue, the flare fat, the kidneys and the diaphragm;

“slaughterhouse” means a slaughterhouse in which pigs are slaughtered.

(2) The Interpretation Act (Northern Ireland) 1954(d), except section 20(2) and (3), shall apply to these Regulations as it applies to a Measure of the Northern Ireland Assembly.

Exemption

3. Regulation 6 shall not apply in relation to any exempt carcass.

Registration

4. —(1) Subject to paragraphs (3) and (4), every person who is or becomes an occupier on the day these Regulations come into operation shall within 28 days of that day serve written notice on the Department of the particulars specified in the Schedule.

(2) Every person who becomes an occupier on any day after the day these Regulations come into operation shall within 28 days of becoming an occupier serve written notice on the Department of the particulars specified in the Schedule.

(a) O.J. No. L301, 20.11.84, p. 1

(b) O.J. No. L326, 21.11.86, p. 8

(c) O.J. No. L320, 22.12.93, p. 5

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

(3) An occupier who—

(a) has notified particulars in compliance with paragraph (1) of regulation 3 of the Pig Carcase (Grading) Regulations (Northern Ireland) 1988(a) (whether or not he has notified a change in those particulars in compliance with paragraph (2) of that regulation); and

(b) on the day these Regulations come into operation continues to be the occupier of the slaughterhouse in relation to which he notified those particulars,

shall not be under any obligation to give particulars as required by paragraph (1).

(4) Notwithstanding paragraph (3), an occupier described in that paragraph shall, on being required by written notice served on him by the Department at any time, serve on the Department written notice of the particulars specified in the Schedule or such of those particulars as the Department may specify in its notice, within such period (not being less than 28 days) as shall also be specified in the Department's notice.

Special grading criterion

5. There shall be added to the grading scale which applies by virtue of Article 3(2) of the Council Regulation the additional grade referred to in Article 3(3) of that Regulation.

Weighing etc. of carcasses of pigs

6. An occupier shall—

(a) forthwith prepare each carcase of a pig slaughtered in his slaughterhouse so that it becomes a pig carcase;

(b) weigh each such pig carcase in accordance with the provisions of Article 2(2) of the Council Regulation, make a record of the weight of each such pig carcase and thereafter calculate the weight of the cold carcase by reference to the provisions of Article 3 of the Commission Decision;

(c) grade each such pig carcase in compliance with the requirements of Article 3(1) and (2) of the Council Regulation as read with regulation 5, by the application of one of the methods approved by the Commission Decision;

(d) in the case of each such pig carcase to be marketed whole in another Member State, mark it in the manner prescribed by Article 4(1) of the Council Regulation and Article 4(1) or (2) of the Commission Regulation; and

(e) in the case of each such pig carcase to be marketed whole or in cuts in the United Kingdom or in cuts in another Member State—

(i) mark it in the manner so prescribed; or

- (ii) make and keep a record relating to it in compliance with the requirements of Article 4(2) of the Council Regulation and identify it in accordance with Article 5 of the Commission Regulation.

Powers of authorised officers

7.—(1) An authorised officer may at all reasonable hours and on producing, if so required, a duly authenticated document showing his authority, for the purpose of ascertaining whether any Community provision or these Regulations have been or are being complied with—

- (a) enter any slaughterhouse or any other premises which he reasonably suspects to be a slaughterhouse;
- (b) inspect any pig carcase or part of such a carcase or any carcase or part of a carcase which he reasonably suspects to be a pig carcase or part of such a carcase in that slaughterhouse;
- (c) examine any records which an occupier is required to keep under regulation 6(e)(ii) and any other records in the possession or under the control of an occupier relating to the slaughter of pigs at any slaughterhouse of that occupier and where any such record is kept by means of a computer, have access to and inspect and check the operation of any computer and associated apparatus or material which is or has been in use in connection with that record;
- (d) require that copies of or extracts from any such record be produced and, where such record is kept by means of a computer, require it to be produced in a form in which it may be taken away;
- (e) retain any such record which he has reason to believe may be required as evidence in proceedings under these Regulations.

(2) An authorised officer entering any slaughterhouse or other premises by virtue of this regulation may take with him such other persons and such equipment as he considers necessary.

Assistance to authorised officers

8. An occupier shall give to an authorised officer such assistance as the authorised officer may reasonably request so as to enable the authorised officer to exercise any power conferred under regulation 7.

Offences and penalties

9.—(1) If any person—

- (a) intentionally obstructs an authorised officer in the exercise of the powers conferred by regulation 7; or
- (b) fails to comply with a notice served by the Department under regulation 4(4), a requirement made under regulation 7(1)(d) or a request made under regulation 8,

he shall be guilty of an offence and liable on summary conviction to a fine not exceeding £400.

(2) If any person fails to comply with any other requirement imposed on him under these Regulations he shall be guilty of an offence and liable on summary conviction to a fine not exceeding £2,000.

(3) If any person—

- (a) makes an entry which he knows to be false in any record which is required to be kept by virtue of regulation 6(e)(ii) or with intent to deceive, makes use of any entry which he knows to be false; or
- (b) with intent to deceive applies or as the case may be attaches to a pig carcase or part of such a carcase—
 - (i) a mark prescribed by Article 4(1) of the Council Regulation or Article 4(1) or (2) of the Commission Regulation, or
 - (ii) a label prescribed by Article 4(3) of the Commission Regulation; or
- (c) applies to a pig carcase or part of such a carcase a mark so closely resembling a mark prescribed by Article 4(1) of the Council Regulation or Article 4(1) or (2) of the Commission Regulation as to be calculated to deceive or applies to a label attached by virtue of Article 4(3) of the Commission Regulation an indication so closely resembling an indication prescribed by that Article as to be calculated to deceive,

he shall be guilty of an offence and liable on summary conviction to a fine not exceeding £2,000 or to imprisonment for a term not exceeding three months or both, or on conviction on indictment to a fine or to imprisonment for a term not exceeding two years or both.

(4) Any proceedings for an offence under paragraph (1) or (2) may, subject to paragraph (5), be commenced within a period of six months from the date on which evidence sufficient in the opinion of the prosecutor to warrant proceedings came to his knowledge.

(5) No such proceedings shall be commenced by virtue of paragraph (4) more than twelve months after the commission of the offence.

(6) For the purposes of paragraph (4)—

- (a) a certificate signed by or on behalf of the prosecutor and stating the date on which evidence sufficient in his opinion to warrant the proceedings came to his knowledge shall be conclusive evidence of that fact; and
- (b) a certificate stating that matter and purporting to be so signed shall be deemed to be so signed unless the contrary is proved.

(7) Where an offence under this regulation which has been committed by a body corporate is proved to have been committed with the consent or connivance, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he as well as the body corporate shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(8) Where the affairs of a body corporate are managed by its members, the provisions of paragraph (7) shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

Defence of due diligence

10. In any proceedings for an offence under these Regulations it shall be a defence for the accused to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

Revocation

11. The Pig Carcase (Grading) Regulations (Northern Ireland) 1988(a) are hereby revoked.

Sealed with the Official Seal of the Department of Agriculture for Northern Ireland on 10th October 1994.

(L.S.)

I. C. Henderson

Assistant Secretary

Particulars of the occupier of a slaughterhouse to be notified to the Department

1. (a) If an individual, his name and address;
(b) if a joint owner or a partnership, the full names and addresses of the joint owners or partners;
(c) if a company (as defined by Article 3(1) of the Companies (Northern Ireland) Order 1986(a)), the full name, registered office and registered number (allocated under Article 654(1) of that Order(b)) of the company;
(d) if any other body, the name and address of that body.
2. The address and telephone number of the slaughterhouse.
3. The principal place of business of the occupier, if different from item 2.
4. The name under which the slaughterhouse is operated, if different from item 1.
5. The date on which the occupier became occupier of the slaughterhouse.

(a) 1986/1032 (N.I. 6)

(b) The current Article 654(1) was substituted for the original Article 654(1) by paragraph 13 of Schedule 5 to the Companies (No. 2) (Northern Ireland) Order 1990, S.I. 1990/1504 (N.I. 10)

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations, which come into operation on 14th November 1994, revoke and re-enact with modifications the Pig Carcase (Grading) Regulations (Northern Ireland) 1988. They provide for the administration and enforcement of the Community system of grading pig carcasses established by Council Regulation (EEC) No. 3220/84 (O.J. No. L301, 20.11.84, p. 1), as amended, and the detailed rules for which are set out in Commission Regulation (EEC) No. 2967/85 (O.J. No. L285, 25.10.85, p. 39) and Commission Decision 88/234/EEC (O.J. No. L105, 26.4.88, p. 15) as amended.

The requirements as to that grading system do not apply to the carcasses of pigs which have been used for breeding or which have been obtained in slaughterhouses which do not slaughter more than 200 clean pigs (as defined) per week on a yearly average basis (regulation 3).

In addition to drafting changes the Regulations make the following changes of substance:—

- (a) they update the definition of the Commission Decision to take account of amending Decisions including Commission Decision 94/567/EC (O.J. No. L215, 20.8.94, p. 28) which authorises the use of an

additional method for grading pig carcasses in Northern Ireland and the use of new formulae for calculating the lean meat content of carcasses under existing grading methods applied in Northern Ireland (regulation 2(1));

- (b) they extend the powers of an authorised officer in relation to the premises he may enter, the carcasses he may inspect and the records he may examine and also allow him to take with him other persons and equipment (regulation 7); and
- (c) they require the giving of assistance to authorised officers (regulation 8).

The Regulations—

- (a) require occupiers of slaughterhouses to which the Regulations apply to give the Department of Agriculture specified particulars (regulation 4 and the Schedule);
- (b) add to the grading scale prescribed by Article 3(2) of Council Regulation (EEC) No. 3220/84, the additional grade described in paragraph (3) of that Article (regulation 5);
- (c) require occupiers of slaughterhouses to which the Regulations apply to weigh, grade, mark and identify pig carcasses and keep records in accordance with the requirements of the relevant Community legislation (regulation 6);
- (d) confer on authorised officers of the Department of Agriculture powers of entry and inspection for the purpose of ensuring compliance with the Community system and the Regulations and require that such assistance be given them for that purpose as they may reasonably request (regulations 7 and 8); and
- (e) create offences and penalties, and provide for a defence of due diligence (regulations 9 and 10).