
STATUTORY INSTRUMENTS

1992 No. 3294

AGRICULTURE

The Bananas (Interim Measures) Regulations 1992

Made - - - - - *23rd December 1992*
Laid before Parliament *30th December 1992*
Coming into force - - *1st January 1993*

The Minister of Agriculture, Fisheries and Food and the Secretary of State, being Ministers designated⁽¹⁾ for the purposes of section 2(2) of the European Communities Act 1972⁽²⁾ in relation to the common agricultural policy of the European Economic Community, acting jointly in exercise of the powers conferred upon them by the said section 2(2) and of all other powers enabling them in that behalf, hereby make the following Regulations:

Title, commencement and extent

1.—(1) These Regulations may be cited as the Bananas (Interim Measures) Regulations 1992 and shall come into force on 1st January 1993.

(2) These Regulations apply to the United Kingdom.

Interpretation

2.—(1) In these Regulations—

“bananas” means the fruit which falls within category 0803 0010 of the combined nomenclature subheadings of Council Regulation (EEC) No. 2658/87⁽³⁾ as amended⁽⁴⁾ but does not include plantains, apple bananas or red macabu bananas;

“consignment document” means a document in the form set out in Schedule 1 relating to a specific quantity of dollar bananas;

“dollar bananas” means bananas which originate in any country listed in Schedule 2;

“import licence” means a licence which relates to the import of dollar bananas issued by the Secretary of State under Article 2 of the Import of Goods (Control) Order 1954⁽⁵⁾;

“ripening premises” means premises used for the commercial ripening of bananas.

(1) S.I. 1972/1811.

(2) 1972 c. 68.

(3) OJ No. L256, 7.9.87, p.1.

(4) The relevant amendment is Council Regulation (EEC) No. 2505/92 (OJ No. L267, 14.9.92, p.1).

(5) S.I. 1954/23, amended by S.I. 1954/627, S.I. 1975/2117 and S.I. 1978/806.

(2) In these Regulations any reference to a numbered regulation or Schedule shall be a reference to the regulation or Schedule so numbered in these Regulations.

Requirement to furnish information about ripening premises

3.—(1) Any person who ripens bananas commercially shall furnish to the Minister in writing the particulars specified in Schedule 3 to these Regulations.

(2) The particulars referred to in paragraph (1) above shall be furnished to the Minister within 14 days of the date on which these Regulations come into force, or the date on which the said person commences the ripening of bananas commercially, whichever shall be the later.

(3) Where any change occurs in the particulars required to be furnished by a person under paragraph (1) above he shall within 14 days of the change furnish amended particulars in writing to the Minister.

(4) For the purposes of this regulation “the Minister” shall mean—

- (a) in respect of England, Wales and Northern Ireland, the Minister of Agriculture, Fisheries and Food; and
- (b) in respect of Scotland, the Secretary of State.

Requirements concerning consignment documents

4.—(1) No person shall ripen commercially any dollar bananas unless they are accompanied on arrival at the ripening premises by the consignment document relating thereto with Part A completed by the importer of the bananas.

(2) Any person who ripens commercially any dollar bananas shall—

- (a) complete Part B of the consignment document relating thereto when those bananas leave the ripening premises; and
- (b) retain the consignment document relating thereto until the expiry of 28 days after the import licence relating to those bananas ceases to be valid.

Inspection of premises and documents

5.—(1) Where an authorised officer has reasonable cause to believe that any premises are being used as ripening premises he may, on producing (if so required) written evidence of his authority, at any reasonable time enter and inspect those premises and inspect any bananas therein and the packing or containers in which they are packed.

(2) Any person in charge of premises referred to in paragraph (1) above shall assist the authorised officer in the exercise of the rights conferred on him by this regulation.

(3) Where an authorised officer has reasonable cause to believe that any person is ripening, or has ripened, dollar bananas commercially, he may require that person to produce for inspection any consignment document, or any bill, account, record or other document relating to bananas, in the possession or under the control of that person; and may take away, and retain for a reasonable time, any document so produced.

(4) Where, by virtue of paragraph (3) above, an authorised officer has power to require production of any document from a person to whom that paragraph applies, he shall have a like power to require production from any person whom he reasonably believes to be in possession of it and a like power to take away and retain the same.

(5) No obligation as to secrecy or other restriction upon the disclosure of information imposed by the statute or otherwise shall prevent the disclosure to the Commissioners of Customs and Excise

or any Officer of Customs and Excise of any information or document obtained in exercise of the powers conferred by paragraphs (3) and (4) above.

- (6) For the purposes of this regulation “authorised officer” means—
- (a) in relation to England a person authorised by the Minister of Agriculture, Fisheries and Food, and
 - (b) in relation to Wales, Scotland or Northern Ireland, a person authorised by the Secretary of State.

False documentation

6. Any person who—
- (a) ripens commercially any dollar bananas knowing that an entry in Part A of the consignment document relating thereto is false in a material respect or being reckless as to its veracity in a material respect; or
 - (b) knowingly or recklessly makes an entry in Part B of a consignment document which is false in a material respect; or
 - (c) produces for inspection by an authorised officer any consignment document, bill, account, record or other document, knowing it to be false in any material respect or being reckless as to its veracity in a material respect,

shall be guilty of an offence and shall be liable on summary conviction in England, Wales and Scotland to a fine not exceeding level 5 on the standard scale and in Northern Ireland to a fine not exceeding £2000.

Other offences and penalties

7. Any person who without reasonable excuse contravenes or fails to comply with paragraph (1), (2) or (3) of regulation 3, any provision of regulation 4 or paragraph (2) of regulation 5, or fails to comply with a requirement made pursuant to paragraph (3) or (4) of regulation 5, shall be guilty of an offence and shall be liable on summary conviction in England, Wales and Scotland to a fine not exceeding level 3 on the standard scale and in Northern Ireland to a fine not exceeding £1000.

Offences by bodies corporate

8.—(1) Where a body corporate is guilty of an offence under these Regulations, and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of—

- (a) any director, manager, secretary or similar officer of the body corporate, or
- (b) any person who was purporting to act in any such capacity,

he, as well as the body corporate, shall be guilty of the offence and be liable to be proceeded against and punished accordingly.

(2) For the purposes of paragraph (1) above, “director”, in relation to a body corporate whose affairs are managed by its members, means a member of that body corporate entrusted with the management of its affairs or any part of its affairs.

(3) Where an offence under these Regulations is committed in Scotland by a Scottish partnership and is proved to have been committed with the consent or connivance of, or be attributable to any neglect on the part of, a partner, he as well as the partnership shall be guilty of the offence and be liable to be proceeded against and punished accordingly.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

In witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 22nd December 1992.

John Selwyn Gummer
Hector Monro
Minister of Agriculture, Fisheries and
FoodParliamentary Under Secretary of State for
Scotland

23rd December 1992

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SCHEDULE 1

Regulation 2(1) and Regulation 4

CONSIGNMENT DOCUMENT

PART A – TO BE COMPLETED BY THE IMPORTER

Import details

Importer:

Date of import:

Country of origin:

DTI import licence number(s):

Quantity of consignment(s) (kgs):

Ripening details

Name of ripener:
(if different from importer)

Address where consignment ripened:

Official stamp of importer:
(if consignment has been sold by importer to a ripener)

PART B – TO BE COMPLETED BY THE RIPENER

Date consignment entered ripening room:

Date consignment left ripening room for retail:

SCHEDULE 2

Regulation 2(1)

DOLLAR BANANA COUNTRIES

Bolivia
Canada
Colombia
Costa Rica
Cuba
Ecuador
El Salvador
Guatemala
Honduras
Mexico
Nicaragua
Panama
Philippines
United States of America
Venezuela

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SCHEDULE 3

Regulation 3

INFORMATION TO BE FURNISHED CONCERNING RIPENING PREMISES

1. The address of the premises
 2. The name of the person who ripens bananas on the premises
 3. The business address of that person, if different from the address of the premises
 4. The name of the individual who manages the premises (if different from the person referred to in point 2 above)
 5. The number of ripening rooms at the premises and their capacity in metric tonnes
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EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which apply to the United Kingdom, come into force on 1st January 1993.

The Regulations provide for controls on commercial banana ripening operations in order to verify compliance with import restrictions on bananas from the dollar area. The controls are introduced on an interim basis pending the adoption of a Community common organisation of the agricultural market in bananas. They give effect to the obligation in Protocol 5 to the Fourth ACP-EEC Convention (signed in Lome on 15th December 1989) to ensure preferential market access for bananas from ACP states which are traditional suppliers. The Fourth ACP-EEC Convention has been specified as one of the Community Treaties by the European Communities (Definition of Treaties) (Fourth ACP-EEC Convention of Lome) Order 1991 (S.I.1991/758) under section 1(3) of the European Communities Act 1972 (1972 c. 68).

The Regulations provide for:

- (a) the furnishing of information about ripening premises (regulation 3);
- (b) the completion, retention and production of certain documents by persons who carry out the commercial ripening of bananas (regulation 4);
- (c) inspection of ripening premises and documents relating to bananas (regulation 5).