
WELSH STATUTORY INSTRUMENTS

2009 No. 793

The Eggs and Chicks (Wales) Regulations 2009

PART 1

General

Title, commencement and application

- 1.—(1) The title of these Regulations is the Eggs and Chicks (Wales) Regulations 2009.
- (2) These Regulations come into force on 17 April 2009.
- (3) These Regulations apply in relation to Wales.
- (4) These Regulations apply—
 - (a) to eggs for hatching and chicks to which point I(1) of Part C of Annex XIV to the Single CMO Regulation and Commission Regulation (EC) No. 617/2008 apply; and
 - (b) to eggs to which point I(1) of Part A of Annex XIV to the Single CMO Regulation and Commission Regulation (EC) No. 589/2008 apply (eggs in shell produced for consumption by hens of the species *Gallus gallus*).
- (5) These Regulations do not apply—
 - (a) to establishments and hatcheries of the type mentioned in point I(2) of Part C of Annex XIV to the Single CMO Regulation.
 - (b) to the sale of eggs to which point I(1) of Part A to the Single CMO Regulation and Commission Regulation (EC) No. 589/2008 apply, where the eggs are sold, without any quality or weight grading, directly to the final consumer by the producer —
 - (i) on the production site;
 - (ii) by door-to-door selling in the region of production; or
 - (c) except insofar as they relate to the requirement imposed by point III(3) of Part A of Annex XIV to the Single CMO Regulation, to the sale of eggs to which point I(1) of Part A of Annex XIV to that Regulation and Commission Regulation (EC) No. 589/2008 apply, where the eggs are sold, without any quality or weight grading, directly to the final consumer by the producer in a local public market in the region of production.
- (6) In paragraph (5) (b) (ii) “door-to-door selling” (“*gwerthu o dŷ i dŷ*”) means a sale which is made during an unsolicited visit by a producer to the final consumer’s home, or to the home of another person, or to the final consumer’s place of work.

Revocation

2. The Regulations specified in Schedule 1 are revoked in so far as they apply to Wales.

Interpretation

- 3.—(1) In these Regulations—

“the Act” (“*y Ddeddf*”) means the Food Safety Act 1990;

“authorised officer” (“*swyddog awdurdodedig*”) means any person who has written authority from an enforcement authority to act in matters arising under or in relation to the Act or these Regulations;

“breeding establishment” (“*sefydliad bridio*”) has the meaning given by Article 1(3)(b) of Commission Regulation (EC) No. 617/2008;

“chicks” (“*cywion*”) has the meaning given by Article 1(2) of Commission Regulation (EC) No. 618/2008;

“Commission Regulation (EC) No. 589/2008” (“*Rheoliad y Comisiwn (EC) Rhif 589/2008*”) means Commission Regulation (EC) No. 589/2008 laying down detailed rules for implementing Regulation (EC) No. 1234/2007 as regards marketing standards for eggs, as adopted by the Commission on 23 June 2008;

“Commission Regulation (EC) No. 617/2008” (“*Rheoliad y Comisiwn (EC) Rhif 617/2008*”) means Commission Regulation (EC) No. 617/2008 laying down detailed rules for implementing Regulation (EC) No. 1234/2007 as regards marketing standards for eggs for hatching and farmyard poultry chicks, as amended from time to time;

“Council Directive 1999/74/EC” (“*Cyfarwyddeb y Cyngor 1999/74/EC*”) means Council Directive 1999/74/EC(1) laying down minimum standards for the protection of laying hens;

“Directive 2000/13/EC” (“*Cyfarwyddeb 2000/13/EC*”) means Directive 2000/13/EC of the European Parliament and of the Council on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs;

“eggs” (“*wyau*”) has the meaning given by sub-paragraph (k) of the second paragraph of Article 1 of Commission Regulation (EC) No. 589/2008;

“eggs for hatching” (“*wyau deor*”) has the meaning given by Article 1(1) of Council Regulation (EC) No. 617/2008;

“enforcement authority” (“*awdurdod gorfodi*”) means an authority exercising a function conferred on it by regulation 16;

“final consumer” (“*defnyddiwr terfynol*”) has the meaning given by sub-paragraph (r) of the second paragraph of Article 1 of Commission Regulation (EC) No. 589/2008;

“food authority” (“*awdurdod bwyd*”) means a county council or a county borough council;

“hatchery” (“*deorfa*”) has the meaning given by Article 1(3)(c) of Commission Regulation (EC) No. 617/2008;

“packing centre” (“*canolfan becynnu*”) has the meaning given by sub-paragraph (q) of the second paragraph of Article 1 of Commission Regulation (EC) No. 589/2008;

“pedigree breeding establishment” (“*sefydliad bridio pedigri*”) has the meaning given by Article 1(3)(a) of Commission Regulation (EC) No. 617/2008;

“production site” (“*safle cynhyrchu*”) has the meaning given by sub-paragraph (p) of the second paragraph of Article 1 of Commission Regulation (EC) No. 589/2008; and

“Single CMO Regulation” (“*y Rheoliad Sengl CMO*”) means Council Regulation (EC) No. 1234/2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation), as amended from time to time.

(2) Any expression which is not defined in paragraph (1), but is used in Part 2 of, or Schedule 2 to, these Regulations, and in Part C of Annex XIV to the Single CMO Regulation has the same meaning in those provisions of these Regulations as it does in the Single CMO Regulation.

(1) OJ No. L203, 3.8.1999, p.53, last amended by Council Regulation (EC) No. 806/2003 (OJ No. L122, 16.5.2003, p.1).

(3) Any expression which is not defined in paragraph (1), but is used in regulation 1(5) or Part 3 of, or Schedule 3 to, these Regulations and in Part A of Annex XIV to the Single CMO Regulation or Commission Regulation (EC) No. 589/2008, has the same meaning in those provisions of these Regulations as it does in the EC Regulation in which it is used.

(4) Any reference to a contravention of, or failure to comply with, any provision mentioned in Schedule 2 means a contravention of or failure to comply with—

- (a) any provision of the Single CMO Regulation mentioned in column 1 of Part 1 of Schedule 2, as read with any provision mentioned in any corresponding entry in column 2 of that Part; or
- (b) any provision of Commission Regulation (EC) No. 617/2007 mentioned in column 1 of Part 2 of Schedule 2, as read with any provision mentioned in any corresponding entry in column 2 of that Part.

(5) Any reference to a contravention of or failure to comply with any provision mentioned in Schedule 3 means a contravention of or failure to comply with—

- (a) any provision of the Single CMO Regulation mentioned in column 1 of Part 1 of Schedule 3, as read with any provision mentioned in any corresponding entry in column 2 of that Part; or
- (b) any provision of Commission Regulation (EC) No. 589/2008 mentioned in column 1 of Part 2 of Schedule 3, as read with any provision mentioned in any corresponding entry in column 2 of that Part.

PART 2

Eggs for hatching and chicks

Compliance with Community provisions

4. A person is guilty of an offence if that person contravenes, or fails to comply with, any provision mentioned in Schedule 2.

Registration of pedigree breeding establishments, breeding establishments and hatcheries

5.—(1) The Welsh Ministers are designated as the competent authority for the purpose of Article 2(1) of Commission Regulation (EC) No. 617/2008 (registration of pedigree breeding establishments, other breeding establishments and hatcheries).

(2) Where an application is made to the Welsh Ministers pursuant to Article 2(1) of Commission Regulation (EC) No. 617/2008, they must notify the applicant of the matters specified in paragraph (3) within 28 days.

(3) The matters are—

- (a) the decision of the Welsh Ministers on the application;
- (b) the reasons for any refusal to grant the application; and
- (c) in the case of any refusal to grant the application, the right of appeal conferred by regulation 18.

(4) Where the Welsh Ministers are not satisfied that an application should be granted, they may (instead of refusing the application) notify the applicant of the reason for this, and—

- (a) where the Welsh Ministers are not satisfied with the sufficiency of the data provided in support of the application, they may ask the applicant to provide further data;

- (b) where the Welsh Ministers are not satisfied that all of the provisions mentioned in Schedule 2 that are relevant to the type of establishment to be registered will be complied with following the registration of that establishment, they may ask the applicant to take steps to ensure that those provisions will be complied with; and
 - (c) the Welsh Ministers may give the applicant an opportunity to provide oral or written explanations to them in respect of the application.
- (5) Where the Welsh Ministers decide to withdraw a registration of a pedigree breeding establishment, other breeding establishment or hatchery because of the establishment or hatchery's contravention of, or failure to comply with, any provision mentioned in Schedule 2, they must notify the person carrying on business at the establishment concerned ("the operator") of the matters specified in paragraph (6) within 28 days.
- (6) The matters are—
- (a) the decision of the Welsh Ministers to withdraw the registration;
 - (b) the date on which the withdrawal of the registration is to take effect;
 - (c) the reasons for the withdrawal; and
 - (d) the right of appeal conferred by regulation 18.
- (7) Where the Welsh Ministers are minded to withdraw a registration of a pedigree breeding establishment, other breeding establishment or hatchery because of the establishment or hatchery's contravention of, or failure to comply with, any provision mentioned in Schedule 2, they may (instead of withdrawing the registration) notify the operator that they are minded to withdraw the registration, and the reasons for this, and—
- (a) where the contravention of, or failure to comply with, any provision mentioned in Schedule 2 is continuing, they may ask the operator to take steps to ensure that that provision is complied with; and
 - (b) they may give the operator an opportunity to provide oral or written explanations to them in respect of the matter.
- (8) Where the Welsh Ministers give a notice to an applicant under paragraph (4), or to an operator under paragraph (7), the Welsh Ministers must specify a deadline in the notice by which any action specified in the notice must be taken.
- (9) Any deadline given by the Welsh Ministers under this regulation may be extended on one or more occasions.
- (10) Any notice given by the Welsh Ministers under this regulation must be in writing.
- (11) For the purposes of calculating the 28-day time limit specified in paragraph (2), the clock is stopped during any period that the Welsh Ministers give to an applicant to take any action specified in a notice under paragraph (4).

Derogation relating to the marking of eggs for hatching

6. Eggs for hatching may be marked in a different manner from that specified in Article 3(2) of Commission Regulation (EC) No. 617/2008 if the marking of the eggs—
- (a) is in black, indelible, clearly visible and at least 10mm² in area ; and
 - (b) is carried out prior to insertion into the incubator, either at the producer establishment or at a hatchery.

PART 3

Eggs in shell for consumption

Compliance with Community provisions

7. A person is guilty of an offence if that person contravenes, or fails to comply with, any provision mentioned in Schedule 3.

Authorisation of packing centres to grade eggs

8.—(1) The Welsh Ministers are designated as the competent authority for the purpose of the first sub-paragraph of Article 5(2) of Commission Regulation (EC) No. 589/2008 (authorisation of undertakings as packing centres to grade eggs).

(2) Where an application is made to the Welsh Ministers under the first sub-paragraph of Article 5(2) of Commission Regulation (EC) No. 589/2008 to authorise an undertaking as a packing centre to grade eggs they must notify the applicant of the matters specified in paragraph (3) within 28 days.

(3) The matters are—

- (a) the decision of the Welsh Ministers on the application;
- (b) the reasons for any refusal to grant an authorisation; and
- (c) in the case of any refusal to grant an authorisation, the right of appeal conferred by regulation 18.

(4) Where the Welsh Ministers are not satisfied that an authorisation should be granted, they may (instead of refusing the application) notify the applicant of the reason for this and—

- (a) where the Welsh Ministers are not satisfied with the sufficiency of the data provided in support of the application, they may ask the applicant to provide further data;
- (b) where the Welsh Ministers are not satisfied that all of the requirements laid down in the first sub-paragraph of Article 5(2) of Council Regulation (EC) No. 589/2008 that are relevant to the type of packing centre to be authorised have been met, they may ask the applicant to comply with any outstanding requirement; and
- (c) the Welsh Ministers may give the applicant an opportunity to provide oral or written explanations to them in respect of the application.

(5) Where the Welsh Ministers decide to withdraw an authorisation of a packing centre to grade eggs because of the centre's failure to comply with any of the requirements laid down in the first sub-paragraph of Article 5(2) of Commission Regulation (EC) No. 589/2008 they must notify the person carrying on business at the packing centre ("the operator") of the matters specified in paragraph (6) within 28 days.

(6) The matters are—

- (a) the decision of the Welsh Ministers to withdraw the authorisation;
- (b) the date on which the withdrawal of the authorisation is to take effect;
- (c) the reasons for the withdrawal; and
- (d) the right of appeal conferred by regulation 18.

(7) Where the Welsh Ministers are minded to withdraw the authorisation of a packing centre to grade eggs because of the centre's failure to comply with any of the requirements laid down in the first sub-paragraph of Article 5(2) of Commission Regulation (EC) No. 589/2008, they may (instead of withdrawing the authorisation) notify the operator that they are minded to withdraw the authorisation, and the reasons for this, and—

- (a) where the failure to comply with any of the requirements laid down in the first sub-paragraph of Article 5(2) of Commission Regulation (EC) No. 589/2008 is continuing, they may ask the operator to take steps to ensure that those requirements are met; and
- (b) the Welsh Ministers may give the operator an opportunity to provide oral or written explanations to them in respect of the matter.

(8) Where the Welsh Ministers give a notice to an applicant under paragraph (4), or to an operator under paragraph (7), the Welsh Ministers must specify a deadline in the notice by which any action specified in the notice must be taken.

(9) Any deadline given by the Welsh Ministers under this regulation may be extended on one or more occasions.

(10) Any notice given by the Welsh Ministers under this regulation must be in writing.

(11) For the purposes of calculating the 28-day time limit specified in paragraph (2), the clock is stopped during any period that the Welsh Ministers give to an applicant to take any action specified in a notice under paragraph (4).

Derogations relating to the marking of eggs

9.—(1) The provisions in the second sub-paragraph of point III (1) of Part A of Annex XIV to the Single CMO Regulation (requiring class B eggs to be marked) do not apply where class B eggs are to be marketed exclusively in the United Kingdom.

(2) The provisions in the first sub-paragraph of point III(3) of Part A of Annex XIV to the Single CMO Regulation (requiring eggs sold by a producer to a final consumer in a local public market in the region of production to be marked in accordance with point III (1) of Part A of Annex XIV to the Council Regulation) do not apply in the case of a producer keeping up to 50 laying hens if the name and address of the producer are indicated at the point of sale.

Livestock grazing on open-air runs

10. For the purpose of point 1 of Annex II to Commission Regulation (EC) No. 589/2008 (setting down the minimum requirements that need to be met in order for eggs to be marketed as free-range eggs), livestock grazing is authorised on open-air runs to which laying hens have access.

Derogation relating to free-range eggs

11.—(1) By way of derogation from the provisions of point 1 of Annex II to Commission Regulation (EC) No. 589/2008, eggs to which paragraph (2) applies may be marketed as free-range eggs although they have been produced in a system of production that does not comply with any one or more of the conditions specified in paragraph (3).

(2) This paragraph applies to eggs produced in an establishment with fewer than 350 laying hens or rearing breeding laying hens at the time the eggs are produced.

(3) The following conditions of Article 4(1) of Council Directive 1999/74/EC are specified for the purpose of paragraph (1)—

- (a) the second sentence of point 1(d);
- (b) point 1(e);
- (c) point 2;
- (d) point 3(a)(i); and
- (e) point 3(b)(i).

Derogation relating to barn eggs

12.—(1) By way of derogation from the provisions of point 2 of Annex II to Commission Regulation (EC) No. 589/2008, eggs to which paragraph (2) applies may be marketed as barn eggs although they have been produced in a system of production that does not comply with any one or more of the conditions specified in paragraph (3).

(2) This paragraph applies to eggs produced in an establishment with fewer than 350 laying hens or rearing breeding laying hens at the time the eggs are produced.

(3) The following conditions of Article 4(1) of Council Directive 1999/74/EC are specified for the purpose of paragraph (1)—

- (a) the second sentence of point 1(d);
- (b) point 1(e);
- (c) point 2;
- (d) point 3(a)(i); and
- (e) point 3(b)(i).

PART 4

Miscellaneous provisions

Powers of authorised officers

13.—(1) An authorised officer may direct any person to leave undisturbed, for so long as reasonably necessary for the purpose of any examination or investigation—

- (a) eggs;
- (b) eggs for hatching;
- (c) packs or other containers for eggs, eggs for hatching or chicks;
- (d) labels or documents relating to eggs, eggs for hatching or chicks; and
- (e) any premises on or in which any eggs, eggs for hatching or chicks, any packs or other containers for eggs, eggs for hatching or chicks, and any labels or documents relating to such eggs or chicks are found.

(2) If an examination or investigation will not be carried out immediately after a direction has been given under paragraph (1), an authorised officer may apply tape to the packs or other containers for eggs or eggs for hatching that are subject to that direction, or otherwise secure them pending the examination or investigation.

(3) An authorised officer may direct any person to ensure that any—

- (a) eggs;
- (b) eggs for hatching;
- (c) packs or other containers for eggs, eggs for hatching or chicks; or
- (d) labels or documents relating to eggs, eggs for hatching or chicks,

which do not comply in any respect with the requirements of any provision mentioned in Schedule 2 (as regards eggs for hatching and chicks) or 3 (as regards other eggs), comply with those requirements before being removed from any land, vehicle or trailer, except as may be otherwise directed in writing by an authorised officer.

(4) An authorised officer may seize any computer and associated equipment for the purpose of copying documents provided that they are returned as soon as practicable and, in any event, within 28 days.

(5) Where an authorised officer exercises the power under paragraph (4), the authorised officer must notify the person in charge of the premises from which the equipment is seized of the right of appeal conferred by regulation 18.

(6) Except as stated in paragraph (3), any direction given by an authorised officer under paragraph (1) or (3) can be given orally or in writing but any direction given orally must be confirmed in writing as soon as practicable and, in any event, within 24 hours.

(7) An authorised officer must not exercise the powers under paragraphs (1) to (4) except on the production, if so required, of a duly authenticated document showing the authority of the officer.

(8) A person is guilty of an offence if that person—

- (a) without reasonable excuse, fails to comply with any requirement imposed on that person by a direction given by an authorised officer under paragraph (1);
- (b) unless authorised to do so, in writing, by an authorised officer, interferes with any packs or containers that have been secured by an authorised officer under paragraph (2); or
- (c) without reasonable excuse, fails to comply with any requirement imposed on that person by a direction given by an authorised officer under paragraph (3).

Record-keeping requirements

14.—(1) The Welsh Ministers may direct any person carrying on any activity regulated by a provision mentioned in Schedule 2 or 3 to comply with any of the requirements specified in paragraph (2).

(2) The requirements are—

- (a) to keep, or cause to be kept, such records as the Welsh Ministers may reasonably require for the purposes of enforcing any such provision;
- (b) to provide the Welsh Ministers with such information derived from such records as the Welsh Ministers may require at the times specified in the notice; and
- (c) to retain such records for such period as the Welsh Ministers may reasonably require.

(3) But the Welsh Ministers must not give a direction under paragraph (1) unless the records to which the direction relates are of a type that are often kept by persons carrying on any activity regulated by a provision mentioned in Schedule 2 or 3 (whether or not kept by the person to whom the direction will be given) and—

- (a) the direction will be given on or before 17 October 2009 and the Welsh Ministers reasonably suspect that the person to whom the direction will be given has contravened, or failed to comply with, any provision mentioned in Schedule 2 or 3 since the coming into force of these Regulations;
- (b) the direction will be given on or before 17 October 2009, the person to whom the direction will be given has been convicted of an offence under regulation 4 or 7 of these Regulations since the coming into force of these Regulations, and the Welsh Ministers reasonably suspect that, since the conviction, that person—
 - (i) has continued to contravene, or fail to comply with, the provision mentioned in Schedule 2 or 3 to which the conviction relates; or
 - (ii) has contravened, or failed to comply with, some other provision mentioned in Schedule 2 or 3;

- (c) the direction will be given on or after 18 October 2009 and the Welsh Ministers reasonably suspect that the person to whom the direction will be given has contravened, or failed to comply with, any provision mentioned in Schedule 2 or 3 within the six month period immediately before the direction is given; or
 - (d) the direction will be given on or after 18 October 2009, the person to whom the direction will be given has been convicted of an offence under regulation 4 or 7 of these Regulations within the six month period immediately before the giving of the direction, and the Welsh Ministers reasonably suspect that, since the conviction, that person —
 - (i) has continued to contravene, or fail to comply with, the provision mentioned in Schedule 2 or 3 to which the conviction relates; or
 - (ii) has contravened, or failed to comply with, some other provision mentioned in Schedule 2 or 3.
- (4) Any direction given by the Welsh Ministers under paragraph (1) must be in writing.
- (5) A person is guilty of an offence if, without reasonable excuse, that person fails to comply with any requirement imposed on that person by a direction given by the Welsh Ministers under paragraph (1).

Obstruction

- 15.—**(1) A person is guilty of an offence if that person—
- (a) intentionally obstructs an authorised officer acting in the execution of these Regulations;
 - (b) without reasonable excuse, fails to give an authorised officer acting in the execution of these Regulations any assistance or information which is reasonably required for the performance of the authorised officer’s functions under these Regulations;
 - (c) gives to an authorised officer acting in the execution of these Regulations any information which that person knows, or ought reasonably to know, to be false or misleading; or
 - (d) fails to produce a record when required to do so by an authorised officer acting in the execution of these Regulations.
- (2) Nothing in paragraph (1)(b) is to be construed as requiring any person to answer any question or give any information if to do so might incriminate that person.

Enforcement

- 16.—**(1) Each food authority must—
- (a) enforce the provisions mentioned in Schedule 3, as read with regulation 7, insofar as they apply to—
 - (i) the retail sale of eggs within their area; and
 - (ii) the sale of eggs to a mass caterer in their area;
 - (b) enforce the provisions of regulation 13(8)—
 - (i) in the case of a direction given by an authorised officer who is authorised by the food authority; and
 - (ii) in the case of a pack or container secured by an authorised officer who is authorised by the food authority; and
 - (c) enforce the provisions of regulation 15(1) in the case of an obstruction of an authorised officer who is authorised by the food authority.
- (2) The Welsh Ministers may enforce the provisions mentioned in Schedule 3, as read with regulation 7, insofar as they apply to the retail sale of eggs or the sale of eggs to a mass caterer.

- (3) The Welsh Ministers must—
- (a) enforce the provisions mentioned in Schedule 2, as read with regulation 4;
 - (b) enforce the provisions mentioned in Schedule 3, as read with regulation 7, insofar as they do not apply to the retail sale of eggs or the sale of eggs to a mass caterer;
 - (c) enforce the provisions of regulation 13(8)—
 - (i) in the case of a direction given by an authorised officer who is authorised by the Welsh Ministers; and
 - (ii) in the case of a pack or container secured by an authorised officer who is authorised by the Welsh Ministers;
 - (d) enforce the provisions of regulation 14(5); and
 - (e) enforce the provisions of regulation 15(1) (a) to (d) in the case of an obstruction of an authorised officer who is authorised by the Welsh Ministers.
- (4) In this regulation—
- “retail sale” (“*manwerthu*”) means any sale other than a sale for use or resale in the course of a trade or business; and
- “sale” (“*gwerthu*”) includes possession for sale and offer, exposure and advertising for sale.

Duty to give assistance and provide information

17. Each enforcement authority must give such assistance and information to any other enforcement authority as that other authority may reasonably require for the purpose of their duties under these Regulations.

Appeals

- 18.—(1) Any person who is aggrieved by a decision specified in paragraph (2) may appeal against that decision to a magistrates' court.
- (2) A specified decision for the purpose of paragraph (1) is—
- (a) a decision by the Welsh Ministers to refuse to register an establishment as a pedigree breeding establishment, other breeding establishment or hatchery under Article 2(1) of Commission Regulation (EC) No. 617/2008, or to withdraw such a registration;
 - (b) a decision by the Welsh Ministers to refuse to authorise an undertaking as a packing centre to grade eggs under the first sub-paragraph of Article 5(2) of Commission Regulation (EC) No. 589/2008, or to withdraw such an authorisation; and
 - (c) a decision by an authorised officer to seize any computer or associated equipment under regulation 13(4).
- (3) Section 37(3), (5) and (6) of the Act has effect in relation to an appeal under this regulation as it has effect in relation to an appeal under that section, but with the omission—
- (a) in subsection (3), of the words “, or an appeal to such a court for which provision is made by regulations under Part II of this Act,”;
 - (b) of subsection (5)(b), and the word “or” immediately preceding it; and
 - (c) in subsection (6)(a), of the words “or to the sheriff”.
- (4) The withdrawal of an authorisation or registration referred to in paragraph (2) do not take effect until the time for appealing against it has expired, and, if an appeal is lodged, until the appeal is finally disposed of, withdrawn or struck out for want of prosecution.

Penalty

19. A person guilty of an offence specified in regulation 4, 7, 13(8), 14(5) or 15(1) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Extended period for bringing prosecutions

20.—(1) Proceedings for an offence under these Regulations may be commenced within the period of one year from the date on which evidence sufficient in the opinion of the prosecutor to warrant the proceedings came to the prosecutor’s knowledge.

(2) But no such proceedings are to be commenced by virtue of paragraph (1) more than three years after the commission of the offence.

(3) For the purposes of this regulation—

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

Application of various provisions of the Act

21.—(1) The following provisions of the Act apply for the purposes of these Regulations with the modifications specified in paragraph (2)—

- section 3 (presumptions that food intended for human consumption);
- section 20 (offences due to fault of another person);
- section 21(2) (defence of due diligence);
- section 29 (procurement of samples);
- section 30(8) (documentary evidence);
- section 32(1) to (8)(3) (powers of entry);
- section 36 (offences by bodies corporate);
- section 36A(4) (offences by Scottish partnerships);
- section 44 (protection of officers acting in good faith);
- section 46(1) (expenses of authorised officers); and
- section 50(5) (service of documents).

(2) The modifications are—

- (a) construe any reference in the provisions specified in paragraph (1) to the Act (or a Part of the Act) as a reference to these Regulations, and also, in relation to section 32(1)(a), construe the reference to “the provisions of this Act” as a reference to the provisions mentioned in Schedules 2 and 3;
- (b) construe any reference in the provisions specified in paragraph (1) to an authorised officer, or an officer of an enforcement authority or food authority, as a reference to an authorised officer as defined in regulation 3(1) of these Regulations;

(2) Section 21(2) was amended by S.I.2004/3279.

(3) Section 32 was amended by paragraph 18 of Schedule 2 to the Criminal Justice and Police Act 2001 (c. 16).

(4) Section 36A was inserted by paragraphs 7 and 16 of Schedule 5 to the Food Standards Act 1999.

(5) Section 50 was amended by paragraph 18 of Schedule 16 to the Deregulation and Contracting Out Act 1994.

- (c) in relation to section 20, construe the reference to the section as including a reference to that section as applied to these Regulations by paragraph (1);
- (d) in relation to section 21(2), replace the words “section 14 or 15 above” with the words “these Regulations”;
- (e) in relation to section 29—
 - (i) in paragraph (b)(ii), construe the reference to section 32 as including a reference to section 32 as applied to these Regulations by paragraph (1); and
 - (ii) in paragraph (d), omit the words “or of regulations or orders made under it”;
- (f) in relation to section 30(8)(a), omit the words “under subsection (6) above”;
- (g) in relation to section 32—
 - (i) in subsection(1)(a), omit the words “, or of regulations or orders made under it”;
 - (ii) in subsection (4), construe the reference to the section as including a reference to that section as applied to these Regulations by paragraph (1);
 - (iii) in subsection (5), construe the reference to the section as including a reference to that section as applied to these Regulations by paragraph (1) and construe the reference to “a food business” as including a hatchery;
 - (iv) in subsection (6)(a), omit the words “or of regulations or orders made under it”; and
 - (v) in subsection (7), construe the reference to the section as including a reference to that section as applied to these Regulations by paragraph (1); and
- (h) in relation to section 44, construe any reference to a food authority as a reference to an enforcement authority.

Transitional provision

22. Any written authority granted to any person to act in matters arising under or in relation to the Eggs (Marketing Standards) Regulations 1995(6) has effect as if it referred to these Regulations.

25 March 2009

Elin Jones
Minister for Rural Affairs, one of the Welsh
Ministers