

S.I. No. 112 of 2004.

European Communities (Organic Farming) Regulations 2004

I, Joe Walsh, Minister for Agriculture and Food, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972), for the purposes of giving full effect to Council Regulation (EEC) No. 2092/91 of 24 June 1991¹ as amended by Commission Regulation (EEC) No. 1535/92 of 15 June 1992², Council Regulation (EEC) No. 2083/92 of 14 July 1992³, Commission Regulation (EEC) No. 207/93 of 29 January 1993⁴, Commission Regulation (EEC) No. 2608/93 of 23 September 1993⁵, Commission Regulation (EC) No. 468/94 of 2 March 1994⁶, Council Regulation (EC) No. 1468/94 of 20 June 1994⁷, Commission Regulation (EC) No. 2381/94 of 30 September 1994⁸, Commission Regulation (EC) No. 1201/95 of 29 May 1995⁹, Commission Regulation No. 1202/95 of 29 May 1995¹⁰, Council Regulation (EC) 1935/95 of 22 June 1995¹¹, Commission Regulation (EC) No. 418/96 of 7 March 1996¹², Commission Regulation (EC) No. 1488/97 of 29 July 1997¹³, Commission Regulation (EC) No. 1900/98 of 4 September 1998¹⁴, Commission Regulation (EC) No. 330/1999 of 12 February 1999¹⁵, Council Regulation (EC) No. 1804/1999 of 19 July 1999¹⁶, Commission Regulation (EC) No. 331/2000 of 17 December 1999¹⁷, Commission Regulation (EC) No. 1073/2000 of 19 May 2000¹⁸, Commission Regulation (EC) No. 1437/2000 of 30 June 2000¹⁹, Commission Regulation (EC) No. 2020/2000 of 25 September 2000²⁰, Commission Regulation (EC) No. 436/2001 of 2 March 2001²¹, Commission Regulation (EC) No. 1788/2001 of 7 September 2001²², Commission Regulation (EC) No. 2491/2001 of 19 December 2001²³, Commission Regulation (EC) No.

¹ OJ No. L198, p1, 22.7.1991.

² OJ No. L162, p15, 16.6.1992.

³ OJ No. L208, p15, 24.7.1992.

⁴ OJ No. L25, p5, 2.2.1993.

⁵ OJ No. L239, p10, 24.9.1993.

⁶ OJ No. L58, p1, 3.3.1994.

⁷ OJ No. L159, p11, 28.6.1994.

⁸ OJ No. L255, p84, 1.10.1994.

⁹ OJ No. L119, p9, 30.5.1995.

¹⁰ OJ No. L119, p11, 30.5.1995.

¹¹ OJ No. L186, p1, 5.8.1995.

¹² OJ No. L59, p10, 8.3.1996.

¹³ OJ No. L202, p12, 30.7.1997.

¹⁴ OJ No. L247, p6, 5.9.1998.

¹⁵ OJ No. L40, p23, 13.2.1999.

¹⁶ OJ No. L222, p1, 24.8.1999.

¹⁷ OJ No. L48, p1, 19.2.2000.

¹⁸ OJ No. L119, p27, 20.5.2000.

¹⁹ OJ No. L161, p62, 1.7.2000.

²⁰ OJ No. L241, p39, 26.9.2000.

²¹ OJ No. L63, p16, 3.3.2001.

²² OJ No. L243, p3, 13.9.2001.

²³ OJ No. L337, p9, 20.12.2001.

473/2002 of 15 March 2002²⁴, Commission Regulation (EC) No. 1113/2002²⁵, Commission Regulation (EC) No. 1918/2002 of 25 October 2002²⁶, Commission Regulation (EC) No. 223/2003 of 5 February 2003²⁷, Commission Regulation (EC) No. 599/2003 of 1 April 2003²⁸, Council Regulation (EC) No. 806/2003 of 14 April 2003²⁹, Commission Regulation (EC) No. 1452/2003 of 14 August 2003³⁰, Commission Regulation (EC) No. 2277/2003 of 22 December 2003³¹ and Council Regulation (EC) No. 392/2004³² hereby make the following Regulations,

Citation

1. These Regulations may be cited as the European Communities (Organic Farming) Regulations 2004.

Interpretation

2 (1) In these Regulations-

“Annex” means an annex to the European Regulation;

“Authorised Officer” means

- (a) a person appointed under Regulation 8
- (b) a member of the Garda Síochána;

“European Regulation” means Council Regulation (EEC) No. 2092/91 of 24 June 1991 as amended by Commission Regulation (EEC) No. 1535/92 of 15 June 1992, Council Regulation (EEC) No. 2083/92 of 14 July 1992, Commission Regulation (EEC) No. 207/93 of 29 January 1993, Commission Regulation (EEC) No. 2608/93 of 23 September 1993, Commission Regulation (EC) No. 468/94 of 2 March 1994, Council Regulation (EC) No. 1468/94 of 20 June 1994, Commission Regulation (EC) No. 2381/94 of 30 September 1994, Commission Regulation (EC) No. 1201/95 of 29 May 1995, Commission Regulation No. 1202/95 of 29 May 1995, Council Regulation (EC) 1935/95 of 22 June 1995, Commission Regulation (EC) No. 418/96 of 7 March 1996, Commission Regulation (EC) No. 1488/97 of 29 July 1997, Commission Regulation (EC) No. 1900/98 of 4 September 1998, Commission Regulation (EC) No. 330/1999 of 12 February 1999, Council Regulation (EC) No. 1804/1999 of 19 July 1999, Commission Regulation (EC) No. 331/2000 of 17 December 1999, Commission Regulation (EC) No. 1073/2000 of 19 May 2000, Commission Regulation (EC) No. 1437/2000 of 30 June 2000, Commission Regulation (EC) No. 2020/2000 of 25 September 2000, Commission Regulation (EC) No. 436/2001 of 2 March 2001, Commission

²⁴ OJ No. L75, p21, 16.3.2002.

²⁵ OJ No. L168, p31, 27.6.2002

²⁶ OJ No. L 289, p15, 26.10.2002

²⁷ OJ No. L31, p3, 6.2.2003

²⁸ OJ No. L85, p15, 2.4.2003

²⁹ OJ No. L122, p1, 16.5.2003

³⁰ OJ No. L206, p17, 15.8.2003

³¹ OJ No. L336, p68, 23.12.2003

³² OJ No. L65, p1, 3.3.2004

Regulation (EC) No. 1788/2001, Commission Regulation (EC) No. 2491/2001 of 19 December 2001, Commission Regulation (EC) No. 473/2002 of 15 March 2002, Commission Regulation (EC) No. 1113/2002, Commission Regulation (EC) No. 1918/2002 of 25 October 2002, Commission Regulation (EC) No. 223/2003 of 5 February 2003, Commission Regulation (EC) No. 599/2003 of 1 April 2003, Council Regulation (EC) No. 806/2003 of 14 April 2003, Commission Regulation (EC) No. 1452/2003 of 14 August 2003, Commission Regulation (EC) No. 2277/2003 of 22 December 2003 and Council Regulation (EC) No. 392/2004;

“Member State” means a state which is a member of the European Community;

“Minister” means Minister for Agriculture and Food;

“Private Body” means a private body approved by the Minister pursuant to Article 9 (1) of the European Regulation.

(2) A word or an expression that is used in these Regulations and is also used in the European Regulation has, unless the contrary intention appears, the same meaning in these Regulations that it has in the European Regulation.

(3) In these Regulations –

(a) a reference to a Regulation is a reference to a Regulation in these Regulations unless it is indicated that reference to some other Regulation is intended, and

(b) a reference to a paragraph or subparagraph is a reference to a paragraph or subparagraph in the provision where the reference occurs unless it is indicated that reference to some other provision is intended.

Poultry

3 (1). Subject to Regulation 3 (2) and having regard to Article 12 of the European Regulation and indent 5 of paragraph 8.4.3 of Annex 1B each poultry house must not contain more than:

1,000 chickens,
2,000 laying hens,
1,000 guinea fowl,
1,000 female Muscovy or Peking ducks or 1,000 male Muscovy or Peking ducks or other ducks, or
1,000 capons, geese or turkeys

(2). The Minister or a Private Body may approve a poultry house containing greater numbers of poultry than those set out at paragraph (1) if the Minister or the Private Body is satisfied that those greater numbers may be contained in the poultry house without risk to the welfare of the poultry.

Dairy Mastitis Control Treatment

4. Having regard to Article 12 of the European Regulation and paragraph 5.7 of Annex 1B the withdrawal period between the last administration of a dairy mastitis control treatment to an animal, under normal conditions of use, and the production of organically produced foodstuff from such animal is to be three times the legal withdrawal period.

Veterinary Treatment

5. Having regard to Article 12 of the European Regulation and paragraph 5.8 of Annex 1B with the exception of vaccinations, treatments for parasites and any compulsory eradication schemes established by Member states where:

- (a) animals reared for meat consumption receive more than one course of treatment with chemically-synthesised allopathic veterinary medicinal products or antibiotics within a twelve-month period
- (b) animals reared for breeding receive more than two courses of treatment with chemically-synthesised allopathic veterinary medical products or antibiotics within a twelve-month period
- (c) milk producing cows receive more than 2 courses of treatment for dairy mastitis control within a twelve-month period

the animals concerned, or product derived from them, may not be sold as being products produced in accordance with the European Regulation unless after the conclusion of treatment the animal is reared according to the rules laid down in the European Regulation for at least 15 months.

Minimum Conversion Period

6. Having Regard to Article 12 of the European Regulation and paragraph 2.1.2 of Annex 1B the conversion period shall not be less than one year.

Origin of animals

7. Having regard to Article 12 of the European Regulation and paragraph 2.2 of Annex 1B livestock products shall not be sold as organic products unless:

- (a) In the case of bovine livestock products the mother of any bovine (including the babalus and bison species) livestock reared for meat production was reared in accordance with the European Regulation for at least three months prior to the birth of the bovine livestock
- (b) In the case of livestock products other than bovine or poultry livestock products, the mother of the livestock was being reared in accordance with the European Regulation at the time the livestock was conceived.

Authorised officers

8. (1) The Minister may appoint in writing such and so many persons as he or she thinks fit to be authorised officers for the purposes of some or all of these Regulations as may be specified in the appointment.

(2) An authorised officer shall be issued with a warrant of appointment and shall, when exercising or seeking to exercise any power under these

Regulations, if requested by any person thereby affected, produce the warrant to that person for inspection.

(3) The Minister may terminate the appointment of an authorised officer appointed by him or her, whether or not the appointment was for a fixed period.

(4) An appointment as an authorised officer ceases-

- (a) where it is terminated pursuant to paragraph (3) or
- (b) where it is for a fixed period, on the expiry of that period.
- (c) where the authorised officer ceases to be employed by the Minister or ceases to be a member of the Garda Síochána as the case may be.

(5) Nothing in paragraph (4) shall be construed so as to prevent the Minister from reappointing as an authorised officer a person to whom that paragraph relates.

Powers of authorised officers

9. (1) An authorised officer may for the purpose of insuring that these Regulations are being complied with -

(a) at all reasonable times, enter any premises or place where he or she has reason to believe there are products or operations involving products to which the European Regulation applies and inspect the premises or place,

(b) require any person in charge of the premises or place or connected with any equipment or other device at that premises or place to produce to him or her any books, documents or records and in the case of such information in a non-legible form to reproduce it in permanent legible form relating to the products and to give to him or her such information as he or she may reasonably require in relation to the products,

(c) inspect and take copies of, or take extracts from, any such books, documents or records including in the case of information in a non-legible form a copy of or extract from such information in permanent legible form,

(d) at a premises or place where he or she has reason to believe there is an operation involving products to which the European Regulation applies or at any other place, carry out such examinations, inspections or tests of the products found on the premises or at the place as the officer considers appropriate and, if the officer so thinks fit, remove or have removed any product, equipment or other device and retain it for a reasonable period to facilitate such examination, testing or inspection,

(e) examine any procedure connected with the manufacture, placing on the market, processing, storage, usage or transportation of a product to which the European Regulation applies,

(f) take, without payment, such samples of any product or of any other substance as the officer may reasonably require and carry out or have carried out on such samples there or elsewhere such checks, analysis and inspections as he or she considers necessary,

(g) secure for later inspection the premises or place or part of it

(h) if accompanied by -

(i) a member of the Garda Síochána in uniform, or

(ii) an officer of the Revenue Commissioners in uniform authorised by them to exercise powers conferred by the Customs Acts or the statutes which relate to the duties of excise,

stop any vehicle which the authorised officer reasonably suspects to contain any product to which the European Regulation applies,

(i) take photographs of any thing.

(2) An authorised officer shall not, other than with the consent of the occupier, enter a private dwelling unless he or she has obtained a warrant from the District Court under paragraph (5) authorising such entry.

(3) An authorised officer, where he or she considers it necessary, may be accompanied by

- (i) a member of the Garda Síochána
- (ii) an agent or employee of a private body

when performing any powers conferred on an authorised officer by this Regulation.

(4) A member of the Garda Síochána not in uniform, when exercising any such power, shall, if so requested by any person affected, produce evidence in writing that he or she is such a member.

(5) If a Judge of the District Court is satisfied, on the sworn information of an authorised officer that there are reasonable grounds for suspecting that there is a product to which the European Regulation applies on any premises or at any place or that there is any apparatus or other equipment required by him or her for inspection or tests, under this Regulation held in any premises or at any place, the Judge may issue a warrant authorising an authorised officer, accompanied, if appropriate, by other authorised officers or by a member or members of the Garda Síochána at any time or times within one month from the date of issue of the warrant, on production of the warrant requested, to enter those premises or part of it, if need be by reasonable force, and exercise all or any of the powers conferred on an authorised officer under this Regulation.

Offences

10. A person who

- (a) (i) contravenes Regulation 3, 4, 5, 6 or 7 or
(ii) Article 5, 6, 6a, 7, 8, 9, 10 or 11, of the European Regulation,
 - (b) obstructs or impedes an authorised officer in the exercise of any of his or her powers under Regulation 9,
 - (c) fails, without reasonable excuse, to comply with a requirement or direction made by an authorised officer under Regulation 9,
 - (d) in purporting to give information required by an authorised officer for the performance of the officer's powers under Regulation 9 -
 - (i) makes a statement to an authorised officer which he or she knows to be false in a material particular or recklessly makes a statement which is false in a material particular, or
 - (ii) fails to disclose any material particular to an authorised officer,
- is guilty of an offence.

Penalties

11. A person guilty of an offence under these Regulations is liable on summary conviction to a fine not exceeding €3,000 or to a term of imprisonment not exceeding 6 months or to both.

Sampling Procedures

12. (1) Where a sample of a product is taken pursuant to these Regulations, the authorised officer concerned shall divide the sample into not more than 3 approximately equal parts each of which shall be marked in such a way as to identify it as part of the sample taken and he or she shall send or cause to be sent one or more of such parts for examination and testing.

(2) In proceedings for an offence under these Regulations, the result of any test, examination or analysis of, or report on a sample taken pursuant to paragraph (1) shall not be adduced unless one of the parts into which the sample was divided pursuant to this Regulation was, at the time it was divided left with or transmitted to the defendant.

Prosecution

13. (1) An offence under these Regulations may be prosecuted by the Minister.

(2) Where an offence is committed under these Regulations by a body corporate and is proved to have been committed with the consent, connivance or approval of or to have been attributable to the wilful neglect on the part of any person being a director, manager, secretary or other officer of the body corporate or a person who was purporting to act in any such capacity; that

person, as well as the body corporate, is guilty of an offence and is liable to be proceeded against and punished as if he or she was guilty of the offence.

Given under my Official Seal, this 23 day of March 2004

Joe Walsh,
Minister for Agriculture and Food.

EXPLANATORY NOTE

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

These Regulations give full effect to Council Regulation (EEC) No. 2092/91 as amended and specify more stringent rules for the production of livestock and livestock products in Ireland in accordance with Article 12. They also give the Department of Agriculture and Food powers to prosecute contraventions of Council Regulation (EEC) No. 2092/91 as amended.