



STATUTORY INSTRUMENTS.

S.I. No. 49 of 2016



EUROPEAN UNION (BEEF PRODUCER ORGANISATIONS)
REGULATIONS 2016

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I, SIMON COVENEY, Minister for Agriculture, Food and the Marine, in exercise of the powers conferred on me by section 3 of the European Communities Act, 1972 (No. 27 of 1972) for the purpose of giving effect to Chapter III of Title II of Part II of Regulation (EU) No. 1308/2013 of the European Parliament and of the Council of 17 December 2013¹ in so far as it relates to beef and veal, hereby make the following regulations:

1. These Regulations may be cited as the European Union (Beef Producer Organisations) Regulations 2016.

2. (1) In these Regulations—

“active beef supplier” means a farmer who has supplied cattle for beef or veal to a beef purchaser in the preceding year;

“authorised officer” means—

(a) a person appointed under Regulation 8, or

(b) an authorised officer within the meaning of the European Communities (Food and Feed) Regulations 2009 (S.I. No. 432 of 2009) as amended by European Communities (Food and Feed Hygiene) (Amendment) Regulations 2015 (S.I. No. 68 of 2015);

“beef purchaser” means a person who purchases cattle for the production of beef or veal,

“Council Regulation” means Regulation (EU) No. 1308/2013 of the European Parliament and of the Council of 17 December 2013.

(2) A reference to a producer organisation in these Regulations includes associations of producer organisations.

(3) A word or expression which is used in these Regulations and is also used in the Council Regulation, has, unless the context otherwise requires, the same meaning in these Regulations as it has in the Council Regulation.

3. The Minister shall establish a register of recognised producer organisations in the beef and veal sector.

4. (1) The Minister may recognise a producer organisation that—

¹OJ L 347, 20.12.2013, p. 671

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 5th February, 2016.*

- (a) consists exclusively of active beef suppliers,
- (b) subject to Regulation 5, has at least 20 active beef suppliers as members,
- (c) satisfies Articles 152, 153, 154, 155 and 170 of the Council Regulation, and
- (d) is democratically constituted and has legal personality.

(2) The Minister may from time to time publish the register established under paragraph (1) or such extract as the Minister considers appropriate.

(3) A producer organisation wishing to apply for recognition under the Council Regulation shall apply to the Minister in a format as determined by the Minister providing such information as the Minister may request.

(4) The Minister may attach such conditions to a recognition as appears necessary to the Minister to give effect to the Council Regulation.

(5) A producer organisation shall provide such information to the Minister within 30 days of such request.

(6) The Minister may carry out such checks as the Minister considers necessary to verify that a recognised producer organisation is complying with the Council Regulation, these Regulations or a condition of a recognition.

(7) Where the Minister proposes to refuse an application for recognition or withdraw recognition, he or she shall—

- (a) notify the applicant for, or holder of, the recognition, in writing of the proposal and of the reasons for the proposal, and that applicant or holder may make representations to the Minister in relation to the proposal within 21 days of the notification,
- (b) consider any representation duly made before deciding whether to proceed with, modify or annul the proposal, and
- (c) notify the applicant for, or holder of, the recognition, in writing of the decision and the reasons for the decision.

5. An active beef supplier may not be a member of more than one producer organisation unless the Minister is satisfied that Article 153.1(b) of the Council Regulation applies and the producer organisations are in different geographic or production areas.

6. The Minister may recognise a Producer Organisation with less than 20 active beef suppliers where it operates in a specific production area or, in a particular geographic area.

7. The Minister may permit a recognised producer organisation to outsource any of its activities other than production in accordance with Article 155 of the Council Regulation.

8. The Minister may recognise a producer organisation with members who are active farmers outside the State where—

- (a) the producer organisation's headquarters is located in the State, and
- (b) the majority of the members are resident in the State.

9. (1) The Minister may, appoint in writing, such persons or classes of persons as he or she considers appropriate to be authorised officers for the exercise of all or any of the functions conferred on an authorised officer under these Regulations, specified in the appointment.

(2) 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 or specified purpose.

(3) An appointment as an authorised officer ceases—

- (a) if it is terminated in accordance with paragraph (2),
- (b) if it is for a fixed period, on the expiration of that period,
- (c) if it is for a specified purpose, on the completion of that purpose, or
- (d) if the person appointed is an officer of the Minister upon the person ceasing to be such an officer or class of person.

(4) Nothing in paragraph (3) is to be construed so as to prevent the Minister from re-appointing as an authorised officer a person to whom paragraph (3) relates.

(5) An authorised officer appointed under this Regulation shall be furnished with a warrant of his or her appointment and, when exercising a function conferred on him or her as an authorised officer, the officer shall, if requested by a person affected, produce the warrant, or other evidence (including an identity document relating to the officer under section 17 of the Animal Remedies Act 1993) that he or she is such an officer, for inspection.

10. (1) For the purposes of ensuring compliance with these Regulations or the Council Regulation, an authorised officer may—

- (a) enter and inspect, at all reasonable times, any premises, land, vehicle, container or vessel if he or she is carrying out checks for the purposes of the Council Regulation or where he or she has reasonable grounds for believing that—
 - (i) cattle, beef or beef products or other thing to which these Regulations relate is, may be or has been present,

- (ii) a record relating to cattle, beef or beef products or other thing to which these Regulations or the Council Regulation relate is, may be or has been present, or
 - (iii) equipment, machinery, a container, a vehicle, a vessel or other thing used in connection with cattle, beef or beef products or other thing to which these Regulations or the Council Regulation relate is, may be or has been present,
- (b) examine equipment, machinery, a container, a vehicle, a vessel or other thing used in connection with cattle, beef or beef products or other thing to which these Regulations or the Council Regulation relate,
 - (c) require the name and address of the owner, operator or person in possession or control of equipment, machinery, a container, a vehicle, a vessel or other thing used in connection with cattle, beef or beef products or other thing to which these Regulations or the Council Regulation relate,
 - (d) require the owner, person in possession or control of any premises, equipment, machinery, a container, a vehicle, a vessel or other thing used in connection with cattle, beef or beef products or other thing to which these Regulations or the Council Regulation relate to, produce to the officer such records (and in the case of a record stored in non-legible form, produce to him or her a copy in a legible form) that are in the person's possession or procurement, or under the person's control, as the officer may reasonably require,
 - (e) inspect and take copies of any record (including a legible reproduction of one stored in non-legible form), or a record, document or extracts from the record or document that the officer finds or is produced to him or her during an inspection,
 - (f) take photographs, video recordings or other electronic recordings, and
 - (g) take, without making a payment, samples of beef or beef products or other thing to which these Regulations or the Council Regulation relate, or any article, substance or liquid as he or she may reasonably require and carry out or cause to be carried out on the samples such tests, analyses, examinations or inspections as he or she considers necessary or expedient and mark or otherwise identify it.

(2) An authorised officer may require a person to give information regarding the ownership and identity of equipment, machinery, a container, a vehicle, a vessel or other thing used in connection with cattle, beef or beef products or other thing to which these Regulations or the Council Regulation relate as is in the person's knowledge or procurement.

(3) An authorised officer, when exercising a function under this Regulation, may be accompanied by other persons and may take with him or her, or those

persons may take with them, any equipment or materials to assist the officer in the exercise of the function.

(4) An authorised officer may use reasonable force, if necessary, to exercise his or her functions under these Regulations.

(5) Nothing in section 17 of the Industrial and Provident Societies Act 1893 prevents an authorised officer from exercising a function conferred on him or her by these Regulations.

(6) A person who has—

- (a) cattle, beef or beef products, record, document or other thing to which these Regulations or the Council Regulation relate, or
- (b) equipment, machinery, a container, a vehicle, a vessel or other thing used in connection with cattle, beef or beef products or other thing to which these Regulations or the Council Regulation relate,

in his or her possession or under his or her control, or information or a record relating to any of them, shall give such—

- (i) assistance to an authorised officer, or person who accompanies the officer, and
- (ii) information to an authorised officer

on request being made, in that behalf by the officer, as the officer may reasonably require for the exercise of his or her functions under these Regulations.

(7) An authorised officer may require a person to give to the officer such information as is in the person's power or procurement or as regards any premises specified by the officer including—

- (a) whether or not the premises is used, either partly or wholly, for or in connection with cattle, beef or beef products or other thing to which these Regulations or the Council Regulation relate,
- (b) the name of the owner, occupier or person who is in charge of the premises, and
- (c) whether or not the premises is let and, if let, the name and address of the person to whom, and the period of time for which, it is let.

11. (1) A person who—

- (a) obstructs, interferes with or impedes an authorised officer, or any person who accompanies an authorised officer, in the course of exercising a function conferred on the officer under these Regulations,

- (b) fails or refuses, without reasonable cause, to comply with a requirement, of an authorised officer under Regulation 10,
- (c) fails, without reasonable cause, to give assistance or requested information to an authorised officer in accordance with these Regulations or the Council Regulation, or
- (d) in purporting to give information to an authorised officer for the exercise of the officer's functions under these Regulations—
 - (i) makes a statement that 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) intentionally fails to disclose a material particular,

commits an offence and is liable on summary conviction to a class A fine.

(2) A statement or admission made by a person pursuant to a requirement under Regulation 10(6) is not admissible in evidence in proceedings brought against the person for an offence (other than an offence under this Regulation for failing to give information or false information) under these Regulations.

12. (1) Where an authorised officer is of the opinion that a contravention of these Regulations or the Council Regulation may have taken place, may be taking place, the officer may serve a notice (“compliance notice”) stating that opinion on the person—

- (a) who appears to be the owner, occupier, or person in charge of the premises, vehicle, vessel or container, or
- (b) in possession or control of cattle, beef or beef products or other thing to which the notice relates.

(2) A compliance notice shall—

- (a) require the person to whom it is served to take such action as specified in the notice,
- (b) inform the person to whom it is served that he or she may appeal the notice in the District Court under Regulation 13, and
- (c) state that if the person to whom it is served fails to comply with the notice, he or she commits an offence and is liable to a penalty set out in paragraph (9).

(3) A compliance notice may—

- (a) require that cattle, beef or beef products or other thing to which these Regulations or the Council Regulation relate be detained, disposed of or destroyed in a manner and at a place (if any) specified in the notice,

- (b) prohibit or regulate any activity specified in the notice, including prohibiting or restricting entry onto the premises, vehicle, vessel or container specified in the notice,
- (c) require that the owner, or person in charge of any premises, vehicle, vessel or container dispose of a product or other thing to which these Regulations or the Council Regulation relate in a manner specified in the notice,
- (d) prohibit the transport or further transport of cattle, beef or beef products or other thing to which these Regulations or the Council Regulation relate, either absolutely or unless such conditions as may be specified in the notice are complied with,
- (e) require a person to undertake a specified type or level of sampling and analysis for a specified period,
- (f) require the removal or amendment of such labels as may be specified in the notice or re-label beef, beef products or other thing to which these Regulations or the Council Regulation relate, or
- (g) require a person to maintain such records as is specified in the notice and to produce any records, documents or other such information as the authorised officer specifies.

(4) A person to whom a compliance notice is served shall comply with it until the notice expires, is withdrawn under paragraph (6) or is annulled under Regulation 13, and not cause or permit another person to contravene the terms of the notice.

(5) A compliance notice may specify a time limit within which it is to be complied with.

(6) A compliance notice may be modified or withdrawn in a further notice and the earlier notice has effect subject to the modification or withdrawal.

(7) A compliance notice may require the owner, operator or person in charge of any premises, cattle, beef or beef products, vehicle, vessel, machinery, container, equipment or other thing to which these Regulations or the Council Regulation relate, to choose between two or more of the requirements specified in the notice.

(8) A compliance notice shall include an address for service of an appeal under Regulation 13.

(9) A person on whom a compliance notice is served who fails to comply with, or causes or permits another person to contravene, the notice commits an offence and is liable on summary conviction to a class A fine.

13. (1) A person to whom a compliance notice is served may, within 7 days from the date of service of the notice, appeal the notice to the judge of the District Court having jurisdiction in the District Court district—

- (a) where cattle, beef or beef products, premises, vehicle, machinery, container, equipment, vessel or other thing to which these Regulations or the Council Regulation relate, which is the subject of the notice, is situated, or
- (b) where the person bringing the appeal ordinarily resides or carries on business

on the grounds that the notice is unreasonable having regard to these Regulations or the Council Regulation.

(2) Notice of an appeal shall contain a statement on the grounds upon which it is alleged that the notice or any of the terms of the notice are unreasonable and shall be served on the authorised officer who served the compliance notice at the address included on the notice in accordance with Regulation 12(8) not later than 48 hours prior to the hearing of the appeal.

(3) A person bringing an appeal shall lodge a copy of the notice or appeal with the District Court Clerk concerned not later than 48 hours prior to the hearing of the appeal.

(4) On the hearing of an appeal a judge of the District Court may confirm, modify or annul a notice.

(5) A person, including a person on whom a compliance notice has been served, shall not—

- (a) pending the determination of an appeal, deal with cattle, beef or beef products, premises, vehicle, vessel, container, machinery, equipment or other thing to which the notice relates, other than in accordance with the terms of the compliance notice, or
- (b) if the notice is confirmed or modified on appeal, deal with cattle, beef or beef products or other thing to which these Regulations or the Council Regulation relate, any premises, vehicle, vessel, equipment, container, machinery or other thing to which the notice relates other than in accordance with the terms of the compliance notice as confirmed or modified.

(6) In this Regulation “appeal” means an appeal under paragraph (1).

14. (1) A person shall not forge or alter or utter knowing it to be forged or altered with intent to defraud or deceive a commercial document, a record or other document for the purposes of the Council Regulation or these Regulations or a document purporting to be an extract from such a document (hereafter in this Regulation referred to as “a forged or altered document”).

(2) A person shall not have, without lawful authority, in his or her possession or control a forged or altered document.

15. (1) The Minister may prosecute an offence under these Regulations in a summary manner.

(2) If an offence under these Regulations is committed by a body corporate and it is proved to have been so committed with the consent or connivance of or to be attributable to any neglect on the part of any person who, when the offence is committed, is a director, manager, secretary or other officer of the body corporate, or a person purporting to act in any such capacity, that person, as well as the body corporate, is guilty of an offence and liable to be proceeded against and punished as if guilty of the first-mentioned offence.

(3) If the affairs of a body corporate or unincorporated body are managed by its members, paragraph (2) applies in relation to the acts and defaults of a member in connection with functions of management as if the member is a director or manager of the body corporate.

16. (1) Where an officer of the Minister, authorised by the Minister in that behalf has reasonable grounds for believing that a person is committing or has committed an offence, he or she may serve a notice in writing (“fixed payment notice”) on that person stating that—

- (a) the person is alleged to have committed the offence,
- (b) the person may during the period of 28 days beginning on the date of the notice make to the Minister, at the address specified in the notice, a payment, accompanied by the notice, of €250,
- (c) the person is not obliged to make the payment, and
- (d) a prosecution in respect of the alleged offence will not be instituted during the period specified in the notice and, if the payment specified in the notice is made during that period, no prosecution in respect of the alleged offence will be instituted.

(2) Where a fixed payment notice is served under paragraph (1)—

- (a) the person to whom the notice applies may, during the period specified in the notice, make to the Minister at the address specified in the notice the payment specified in the notice accompanied by the notice,
- (b) the Minister may receive the payment, issue a receipt for it and retain the money so paid, and any payment so received shall not be recoverable in any circumstances by the person who made it, and
- (c) a prosecution in respect of the alleged offence shall not be instituted in the period specified in the notice, and if the payment so specified is made during that period, no prosecution in respect of the alleged offence shall be instituted.

(3) In proceedings for an offence referred to in paragraph (1)—

- (a) the onus of proving that a payment, in accordance with a fixed payment notice, has been made, lies on the person on whom the fixed payment notice was served, and
- (b) it is a defence for the accused to show that he or she has made a payment in accordance with this Regulation pursuant to a fixed payment notice issued in respect of that offence.



GIVEN under my Official Seal,
2 February 2016.

SIMON COVENEY,
Minister for Agriculture, Food and the Marine.

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