

2006 No. 105

EUROPEAN COMMUNITIES

ANIMALS

**The Animals and Animal Products (Import and Export)
(Amendment) Regulations (Northern Ireland) 2006**

Made - - - - - *10th March 2006*

Coming into operation - - - - - *1st April 2006*

The Department of Agriculture and Rural Development, being 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 in exercise of the powers conferred on it by section 56(1), (2) and (5) of the Finance Act 1973(c) and with the consent of the Department of Finance and Personnel, hereby makes the following Regulations.

Citation and commencement

1. These Regulations may be cited as the Animals and Animal Products (Import and Export) (Amendment) Regulations (Northern Ireland) 2006; and shall come into operation on 1st April 2006.

Interpretation

2. The Interpretation Act (Northern Ireland) 1954(d) shall apply to these Regulations as it applies to an Act of the Northern Ireland Assembly.

Amendment of the Animals and Animal Products (Import and Export) Regulations (Northern Ireland) 2005

3.—(1) The Animals and Animal Products (Import and Export) Regulations (Northern Ireland) 2005(e) shall be amended in accordance with these Regulations.

(2) In paragraph (1) of Regulation 2 (Interpretation) after “place of destination” there shall be inserted—

““re-inspection” in relation to the Northern Ireland Poultry Health Assurance Scheme means an additional inspection described in paragraph 8 of Part I of Schedule 6, and re-inspection fee” is the fee provided for in that paragraph;”

(a) S.I. 2000/2812
(b) 1972 c. 68
(c) 1973 c. 51
(d) 1954 c. 33 (N.I.)
(e) S.R. 2005 No. 78 amended by 2005 No. 446

4. In Regulation 5 (Exports) after paragraph (6) there shall be inserted—

“(7) A person shall not export to another member State any hatching eggs, day-old chicks or poultry to which Article 6 of Directive 90/539/EEC applies unless they originate from an establishment that—

(a) is a member of the monitoring scheme, known as the Northern Ireland Poultry Health Assurance Scheme, operated by the Department in accordance with Schedule 6 to these Regulations; and

(b) conforms with the requirements of Annex II to Directive 90/539/EEC.

(8) An establishment to which paragraph (7)(a) applies is to be considered an approved establishment for the purposes of Article 6(1)(a) of Council Directive 90/539/EEC.”

5. In Regulation 9 (Approval of bodies, institutes, centres and teams for the purpose of Directive 92/65/EEC and laboratories for the purposes of Directive 90/539/EEC) after paragraph (4) there shall be inserted—

“(5) The tests for Mycoplasma infections required under Chapter III of Annex II to Council Directive 90/539/EEC shall be carried out by laboratories approved by the Department in accordance with Schedule 7 to these Regulations for the purposes of the Northern Ireland Poultry Health Assurance Scheme.

(6) The Department may suspend or revoke the approval in accordance with the Schedule.”.

6. After Schedule 5 there shall be inserted Schedules 6 and 7 as set out in the Schedule to these Regulations.

Sealed with the Official Seal of the Department of Agriculture and Rural Development on 9th March 2006.



Liam McKibben

A senior officer of the Department of Agriculture and Rural Development

Sealed with the Official Seal of the Department of Finance and Personnel on 10th March 2006.



Jack Layberry

A senior officer of the Department of Finance and Personnel

SCHEDULE

“SCHEDULE 6 Regulations 5(7), 23 and 25(1)

THE NORTHERN IRELAND POULTRY HEALTH ASSURANCE SCHEME

For the purposes of this Schedule “audit inspection” is a supplementary check to verify application of hygiene measures and the operation of the establishment in accordance with the conditions laid down in Chapter II of Directive 1990/539.

PART I

MEMBERSHIP

1. Any reference to ‘the Directive’ in this Part of this Schedule is a reference to Council Directive 90/539/EEC (on animal health conditions governing intra-Community trade in, and imports from third countries, of poultry and hatching eggs)(a).

2. An application for an establishment to become a member of the Northern Ireland Poultry Health Assurance Scheme must be accompanied by the registration fee as set out in Part 2 of this Schedule.

3. The Department shall only grant membership of the Northern Ireland Poultry Health Assurance Scheme to an establishment if—

- (a) it is satisfied, following an inspection by a veterinary inspector directly employed by the Department, that—
 - (i) the establishment meets the requirements regarding facilities in Chapter II of Annex II to the Directive; and
 - (ii) the operator of the establishment will comply, and ensure that the establishment complies, with the requirements of point 1 of Chapter I of Annex II to the Directive; and
- (b) the operator of the establishment, having been notified that the Department is satisfied that the requirements in sub-paragraph (a) are met and has paid the registration fee, which includes the first year membership fee, as set out in Part II and Part III of this Schedule.

4. The disease surveillance programme referred to in paragraph (b) of point 1 of Chapter I of Annex II to the Directive shall consist of the disease surveillance measures specified in Chapter III of Annex II to the Directive, together with any additional testing requirements that a veterinary inspector notifies in writing to an establishment as being requirements that he believes are necessary to avoid the spreading of contagious disease through intra-Community trade, taking into account the particular circumstances at that establishment.

5. On acceptance of membership to the Northern Ireland Poultry Health Assurance Scheme the Department shall issue the establishment’s membership certificate which shall include the establishment’s membership number.

(a) O.J. No. L303, 30.10.90, P.6 as amended by and as read with the provisions listed in para. 6 of Part I of Schedule

6. The operator of an establishment that is a member of the Northern Ireland Poultry Health Assurance Scheme shall pay the annual membership fee each year and shall pay any re-inspection fee when it becomes due.

7. In order to ensure that operators and their establishments continue to meet the requirements for membership of the Northern Ireland Poultry Health Assurance Scheme, and generally to ensure compliance with the Directive, an Authorised Veterinary Inspector (AVI) shall carry out an annual inspection of the establishment, and any supplementary audit inspections to meet the requirements of Chapter I of Annex II to the Directive, will be carried out by a veterinary inspector directly employed by the Department. The number of supplementary audit inspections to be carried out each year shall be determined by the Department.

8. Without prejudice to any action which may be taken under paragraph 9, where, at the annual veterinary inspection of an operator's establishment, that operator or his establishment do not appear to the Department to meet the requirements either for membership of the Scheme or of the Directive, a veterinary inspector directly employed by the Department shall carry out such additional inspections ("re-inspections") as the Department considers necessary to ensure compliance on the part of that operator and his establishment with those requirements. In which case a re-inspection fee shall—

- (a) be charged for each such re-inspection; and
- (b) become due upon the receipt by the operator concerned of an invoice for that fee.

9. The Department—

- (a) shall suspend, revoke or restore membership in accordance with Chapter IV of Annex II to the Directive (references to 'withdrawal' in that Chapter shall be read as references to 'revocation' for the purposes of this paragraph);
- (b) may suspend or revoke membership if—
 - (i) an establishment is in breach of any of the requirements regarding facilities in Chapter II of Annex II to the Directive;
 - (ii) the operator or the establishment is in breach of any of the requirements in point 1 of Chapter I of Annex II to the Directive;
 - (iii) if ownership or control of an establishment changes; or
 - (iv) if the operator has not paid the registration fee, the annual membership fee or if a re-inspection fee remains unpaid 30 days after becoming due.

PART II

REGISTRATION FEE

1. The Department shall—

- (a) determine the registration fee on the basis of the cost of inspection by a Departmental veterinary inspector and associated administrative costs; and
- (b) publish the current registration fee on the website of the Department of Agriculture and Rural Development^(a).

2. The registration fee shall be payable to the Department in respect of each establishment for which an application is made and shall be non-refundable.

(a) www.dardni.gov.uk

PART III

ANNUAL MEMBERSHIP FEE

1. For first time applicants the registration fee will include the first year membership fee.
2. For subsequent annual inspections members inspections will be carried out by an AVI.
3. For inspections carried out by an AVI not directly employed by the Department of Agriculture and Rural Development—
 - (a) the cost of the inspection is payable directly to the inspector by the operator;
 - (b) the Department shall determine the administration fee and the supplementary audit inspection fee associated with an inspection by an AVI; and
 - (c) publish the current administration fee and the supplementary audit inspection fee associated with an inspection by an authorised veterinary inspector on the website of the Department.
4. The administration fee and the supplementary audit inspection fee (referred to in para.3(b)) shall be payable to the Department in respect of each establishment and shall be non-refundable.

PART IV

RE-INSPECTION FEE

The Department shall—

- (a) determine the re-inspection fee on the basis of the cost of re-inspection by a Departmental veterinary inspector and associated administrative costs; and
- (b) publish the current re-inspection fee on the website of the Department of Agriculture and Rural Development.

PART V

SUPPLEMENTARY AUDIT INSPECTION FEE

1. In order to meet the requirement of Chapter I of Annex II to the Directive supplementary audit inspections will be carried out by a veterinary inspector directly employed by the Department.
2. The Department shall—
 - (a) determine the supplementary audit inspection fee on the basis of the cost of a supplementary audit inspection by a veterinary inspector directly employed by the Department and associated administrative costs;
 - (b) include the cost of a supplementary audit inspection with the annual membership fee; and
 - (c) publish the current supplementary audit inspection fee on the website of the Department of Agriculture and Rural Development.

APPROVAL OF LABORATORIES UNDER THE NORTHERN IRELAND POULTRY HEALTH ASSURANCE SCHEME

PART I

APPROVAL

1. The Department may approve any laboratory that it considers to be suitable for the purposes of carrying out Mycoplasma testing under the Northern Ireland Poultry Health Assurance Scheme.
2. The operator of a laboratory approved under paragraph 1 shall pay the annual approval fee each year as set out in Part II of this Schedule.
3. In order to ensure that approved laboratories remain suitable for approval, an inspector shall carry out inspections and quality assurance testing as the Department considers necessary.
4. The Department may suspend or revoke an approval granted to a laboratory under regulation 9(5) and paragraph 1 of this Part where it considers that the laboratory cannot meet the conditions on which the approval was granted, or if in its opinion the laboratory otherwise appears no longer suitable for the purposes of carrying out Mycoplasma testing under the Northern Ireland Poultry Health Assurance Scheme.
5. The Department may end a suspension of an approval imposed under regulation 9(5) and paragraph 4 of this Part if it is satisfied that the laboratory concerned has taken adequate measures to enable it to fulfill the conditions of approval and is suitable for the purposes of carrying out Mycoplasma testing under the Northern Ireland Poultry Health Assurance Scheme.

PART II

ANNUAL APPROVAL FEE

1. The Department shall—
 - (a) determine the annual approval fee on the basis of the cost of inspection and associated administration costs; and
 - (b) publish the current annual approval fee on the website of the Department of Agriculture and Rural Development.
2. The annual approval fee shall be payable to the Department in respect of each approved laboratory and shall be non-refundable.”

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Animals and Animal Products (Import and Export) Regulations (Northern Ireland) 2005 S.R. 2005 No. 78.

The Regulations provide a statutory basis for the Northern Ireland Poultry Health Assurance Scheme, which is implemented by the Department in order to ensure compliance with the rules set out in Annex II to Council Directive 90/539/EEC (on animal health conditions governing intra-Community trade in, and imports from third countries of, poultry and hatching eggs) (O.J. No. L303, 31.10.90, p. 6).

Regulation 4 provides that hatching eggs, day-old chicks and poultry to which Article 6 of that Directive applies may only be exported to another member State if they come from an establishment that is a member of the Northern Ireland Poultry Health Assurance Scheme.

Applications for establishments to join the Scheme must be accompanied by a registration fee and members of the Scheme must pay an annual membership fee.

The arrangements for the approval of laboratories to undertake Mycoplasma testing under the Northern Ireland Poultry Health Assurance Scheme, including the annual approval fee, are set out in regulation 5 and the Schedule.

Regulation 6 inserts Schedules 6 and 7 into the Animals and Animal Products (Import and Export) Regulations (Northern Ireland) 2005 specifying details of the Northern Ireland Poultry Health Assurance Scheme and the approval of laboratories for the purposes of Mycoplasma testing under the Northern Ireland Poultry Health Assurance Scheme.