



STATUTORY INSTRUMENTS

S.I. No. 163 of 2008



EUROPEAN COMMUNITIES (CLASSICAL SWINE FEVER)
(RESTRICTION ON IMPORTS FROM SLOVAKIA) (No. 2)
REGULATIONS 2008

(Prn. A8/0728)

EUROPEAN COMMUNITIES (CLASSICAL SWINE FEVER)
(RESTRICTION ON IMPORTS FROM SLOVAKIA) (No. 2)
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I, BRENDAN SMITH, Minister for Agriculture, Fisheries and Food, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972) and for the purpose of giving full effect to Commission Decision No. 2008/377/EC of 8 May 2008¹, hereby make the following regulations:

1. These Regulations may be cited as the European Communities (Classical Swine Fever) (Restriction on Imports from Slovakia) (No. 2) Regulations 2008.

2. (1) In these Regulations—

“authorised officer” means—

(a) an officer authorised pursuant to section 17A (inserted by section 2 of the Diseases of Animals (Amendment) Act 2001 (No. 3 of 2001)) of the Diseases of Animals Act 1966 (No. 6 of 1966),

(b) a member of the Garda Síochaná, or

(c) an officer of Customs and Excise;

“Commission Decision” means Commission Decision No. 2008/377/EC of 8 May 2008;

“Minister” means Minister for Agriculture, Fisheries and Food;

“pig” means an animal of the porcine species;

“restricted area” means that part of the Community described in the Annex to the Commission Decision.

(2) A word or expression that is used in the Commission Decision and is also used in these Regulations has, in these Regulations, the same meaning as in the Commission Decision.

3. A person shall not import from an area mentioned in the Annex to the Commission Decision-

(a) a pig unless it complies with Article 2,

(b) boar semen unless it complies with Article 3(1),

¹O.J. No. L 130 of 20.5.2008, p.18

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 10th June, 2008.*

(c) ova or the embryo of a pig unless it complies with Article 3(2),
of the Commission Decision.

4. A person shall not have in his or her possession or under his or her control, sell or supply a pig, porcine semen or the ova or embryos of a pig that have been imported in contravention of Regulations 3.

5. If an authorised officer has reasonable cause to suspect that—

- (a) an animal of a species susceptible to classical swine fever or the semen, ova or embryo of an animal susceptible to classical swine fever from the restricted area are present, were present or may be present on a premises,
- (b) a document relating to such an animal, semen, ova or embryo is present, was present or may be present on a premises,
- (c) a person is refusing or has refused to comply with a requirement, request or direction of an authorised officer under subparagraph (viii), (x), (xi), (xii) or (xiii),
- (d) land, a premises, vehicle or container contains or has recently contained such an animal, semen, ova or embryo, and
- (e) an offence is being or has been committed under these Regulations,

the officer may—

- (i) enter and search any land, vehicle, premises or container,
- (ii) stop any person,
- (iii) board and search any vehicle or container,
- (iv) search a person, where the authorised officer considers it necessary,
- (v) examine such an animal, semen, ova or embryo, vehicle or container,
- (vi) take such specimens from such an animal, semen, ova or embryo, vehicle or container as the authorised officer considers appropriate,
- (vii) seize and detain (for so long as is necessary) any such animal, semen, ova or embryo, vehicle or container,
- (viii) require the production of any relevant document or thing relating to such an animal, semen, ova or embryo, vehicle or container,
- (ix) retain any such document or thing (for so long as is necessary),

- (x) dispose of, or require the owner or person in charge of or in possession of such an animal, semen, ova or embryo, vehicle or container, to dispose of them in such manner as the authorised officer sees fit,
- (xi) give such directions to, or request such information of, such person regarding the animal, semen, ova or embryo, vessel, vehicle, aircraft or container as he or she considers necessary,
- (xii) require the name and address of a person and the name and address of any other relevant person including the person to whom the animal, semen, ova or embryo is being delivered or who is causing it to be delivered,
- (xiii) mark or otherwise identify such an animal, semen, ova or embryo or a specimen taken under subparagraph (vi).

(2) An authorised officer shall not enter, other than with the consent of the occupier, a private dwelling, unless he or she has obtained a search warrant under Regulation 6.

(3) An authorised officer when exercising any powers under this Regulation or Regulation 6 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 those powers.

(4) An authorised officer shall not be liable in any proceedings for anything done in the purported exercise of his or her powers under this section if the court is satisfied that the act was done in good faith and that there were reasonable grounds for doing it.

(5) If a member of the Garda Síochána has reasonable cause to suspect that a person has committed an offence under these Regulations, the member may without warrant arrest the person.

6. (1) If a judge of the District Court is satisfied by information on oath of an authorised officer that there are reasonable grounds for suspecting—

- (a) that there is on any land or in any premises, vehicle, vessel, aircraft or container an animal, semen, ova or embryo that have been, may have been or may be imported in contravention of these Regulations, or
- (b) that there is evidence of an offence under these regulations relating to such an animal, semen, ova or embryo therein or thereon,

the judge may issue a search warrant.

(2) A search warrant issued under this Regulation shall be expressed and operate to authorise a named authorised officer, accompanied by such authorised officers, members of the Garda Síochána, officers of Customs and Excise and other persons as the named officer thinks necessary, at any time or times,

within one month from the date of issue of the warrant, on production if so requested of the warrant, to enter (if necessary by force) the land, premises or vehicle, vessel, aircraft or container named in the warrant.

(3) If a premises, land or vehicle, vessel, aircraft or container is entered pursuant to a warrant issued under this Regulation, an authorised officer so entering may exercise all or any of the powers conferred on an authorised officer under these Regulations.

7. A person shall not—

- (a) obstruct or impede an authorised officer in the exercise of any of his or her powers under Regulation 5 or 6,
- (b) fail, without reasonable excuse, to comply with a requirement or direction made by an authorised officer under Regulation 5, or
- (c) in purporting to give information required by an authorised officer
 - (i) make a statement which he or she knows to be false in a material particular, or
 - (ii) fail to disclose any material particular.

8. (1) A person who contravenes Regulation 3, 4 or 7 commits an offence and is liable on conviction to a fine not exceeding €5,000 or to a term of imprisonment not exceeding 6 months, or to both such fine and such imprisonment.

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

(3) 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 was committed, was 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, commits an offence and is liable to be proceeded against and punished as if guilty of the first-mentioned offence.

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

9. The European Communities (Classical Swine Fever) (Restriction on imports from Slovakia) Regulations 2008 (S.I. No 147 of 2008) are revoked.



GIVEN under my Official Seal,
4 June 2008

BRENDAN SMITH.
Minister for Agriculture, Fisheries and Food.

EXPLANATORY NOTE

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

These Regulations provide for controls on imports of pigs and products derived from pigs in the context of an outbreak of classical swine fever in Slovakia.

BAILE ÁTHA CLIATH
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CONTAE MHAIGH EO,
(Teil: 01 - 6476834/37 nó 1890 213434; Fax: 01 - 6476843 nó 094 - 9378964)
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