STATUTORY INSTRUMENTS

1982 No. 1602

FOOD

The Poultry Meat (Water Content) Regulations 1982

Made - - - -	*9th November* 1982
Laid before Parliament	*18th November* 1982
Coming into Operation	*1st January* 1983

The Minister of Agriculture, Fisheries and Food and the Secretary of State, being Ministers 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 Economic Community, acting jointly, in exercise of the powers conferred on them by the said section 2(2) and of all other powers enabling them in that behalf, and the Minister of Agriculture, Fisheries and Food, the Secretary of State for Social Services and the Secretary of State for Wales, acting jointly, in exercise of the powers conferred by section 123A of the Food and Drugs Act 1955 (**c**), and now vested in them (**d**), and of all other powers enabling them in that behalf, hereby make the following regulations:—

Title, commencement, extent and revocation

1.—(1) These regulations, which extend to England and Wales only, may be cited as the Poultry Meat (Water Content) Regulations 1982 and shall come into operation on 1st January 1983.

(2) The Poultry Meat (Slaughterhouse Checks on the Absorption of Water) Regulations 1977 (**e**) are hereby revoked.

Interpretation

2. In these regulations, unless the context otherwise requires—

"analysis" and "counter-analysis" mean analysis and counter-analysis respectively performed pursuant to article 4 of the Council regulation;

"authorised officer" means an authorised officer of a food and drugs authority;

"Community provision" means any provision of the Council regulation or the Commission regulation;

"the Commission regulation" means Commission Regulation (EEC) No. 2785/80 (**f**) introducing detailed rules for implementing the Council regulation, as amended (**g**);

(**a**) S.I. 1972/1811.
(**b**) 1972 c.68.
(**c**) 1955 c.16 (4 & 5 Eliz.2); section 123A was inserted by section 4(1) of, and paragraph 3(2)(*a*) of Schedule 4 to, the European Communities Act 1972.
(**d**) S.I. 1968/1699, 1978/272.
(**e**) S.I. 1977/1854.
(**f**) O.J. No. L288, 31.10.80, p.13.
(**g**) The amending instrument is Commission Regulation No. 3134/81 (O.J. No. L312, 31.10.81, p.59).

"the Council regulation" means Council Regulation (EEC) No. 2967/76 (**a**) laying down common standards for the water content of frozen and deep-frozen chickens, hens and cocks, as amended (**b**);

"food and drugs authority" has the meaning assigned to it by section 198 of the Local Government Act 1972 (**c**) ;

"poultry carcases" means frozen or deep-frozen whole eviscerated carcases of chickens, hens or cocks, with or without edible offal;

"sell" includes offer or expose for sale and includes have in possession for sale.

Enforcement authorities

3. Each food and drugs authority is hereby designated as the responsible authority in its area for the purposes of article 6 of the Council regulation and as such shall secure the enforcement and execution of the Community provisions and the provisions of these regulations in its area.

Powers of authorised officers

4.—(1) For the purpose of enforcing or executing any Community provision or any provision of these regulations, an authorised officer shall, on producing, if so required, some duly authenticated document showing his authority, have a right—

(a) to enter at all reasonable hours any premises (other than premises used only as a dwelling) where any activity regulated by a Community provision is being, or is reasonably suspected of being, carried on;

(b) to conduct on such premises such tests and checks as may reasonably be necessary;

(c) to require any person not to remove or cause to be removed from such premises such number of poultry carcases as may be reasonable in the circumstances pending the result of any test, check, analysis or counter-analysis;

(d) to detain or cause to be detained at any place suitable for the purpose such number of poultry carcases as may be reasonable in the circumstances pending the result of any test, check, analysis or counter-analysis;

(e) notwithstanding anything in section 92(1) of the Food and Drugs Act 1955, to carry out initial checks on the water content of any poultry carcase in accordance with the rapid detection method described in Annex II to the Council regulation, as provided in article 4(1) of that regulation;

(f) to require the production of the register which slaughterhouses are required to keep by virtue of article 2(1) of the Council regulation.

(2) The provisions of paragraph (1) of this regulation shall apply in relation to any ship, aircraft or vehicle and any land or place other than premises (other than any ship, aircraft, vehicle, land or place used only as a dwelling) as they apply in relation to premises.

(**a**) O.J. No. L339, 8.12.76, p.1.

(**b**) The relevant amending instruments are Council Regulations (EEC) Nos. 1691/77 (O.J. No. L188, 28.7.77, p.10), 641/79 (O.J. No. L82, 31.3.79, p.4) and 2835/80 (O.J. No. L292, 1.11.80, p.75) and Commission Regulation (EEC) No. 2632/80 (O.J. No. L270, 15.10.80, p.14). Council Regulation (EEC) No. 2835/80, as published in the Official Journal, is to be read with the corrigendum published at O.J. No. L299, 8.11.80, p.28.

(**c**) 1972 c.70.

(3) An authorised officer entering any premises, ship, aircraft, vehicle, land or other place by virtue of this regulation may take with him such other persons and such equipment as are reasonably necessary.

Identification of slaughterhouse from which poultry carcase originates

5.—(1) There shall be made on, or visibly beneath, the wrapper of every poultry carcase, or on a ticket or notice attached to it, a marking sufficient to identify to an authorised officer the slaughterhouse from which the carcase originates.

(2) Poultry carcases sent in large sealed packages—

(a) from a slaughterhouse to cutting premises for cutting or boning therein, or

(b) from a slaughterhouse or cutting premises to a manufacturer for the purposes of his manufacturing business, or

(c) from a slaughterhouse or cutting premises to a caterer for the purposes of his catering business,

shall be exempt from the requirement to be individually marked in accordance with paragraph (1) of this regulation, if there is made on the external surface of each large package a marking sufficient to identify to an authorised officer the slaughterhouse from which the poultry carcases in that package originate.

(3) In this regulation "cutting premises" means premises used for the purpose of cutting or boning poultry meat intended for sale for human consumption, which is not subject to any preservation process on those premises other than chilling or freezing, but does not include any premises used for the purpose of catering or sales by retail.

(4) No person shall sell any poultry carcase which does not comply with this regulation.

Notice of intended prosecution

6. Where a food and drugs authority intends to bring proceedings against any person for an offence under these regulations in respect of a contravention of article 1(1) of the Council regulation, the authority shall, not less than 14 days before the institution of proceedings, cause to be served on the person to be charged a notice of intended prosecution.

Analysis

7.—(1) An authorised officer who procures a sample of poultry carcases shall, unless either—

(a) the poultry carcases originate from a slaughterhouse outside the United Kingdom, or

(b) he decides not to have an analysis made,

within 7 days of procuring the sample serve on the occupier of the slaughterhouse from which the poultry carcases originate a notice stating that the sample has been procured by the officer and specifying where the sample was taken, or, as the case may be, from whom it was purchased.

(2) If the authorised officer has an analysis made, he shall, within 7 days of receipt by him of the public analyst's certificate specifying the result of the analysis, serve a copy of the certificate on the occupier of the slaughterhouse from which the poultry carcases originate, unless the slaughterhouse is

outside the United Kingdom, and on the person from whom the sample was taken or purchased, if it was not taken or purchased from that slaughterhouse.

(3) If a food and drugs authority intends to bring proceedings for an offence under these regulations in respect of a contravention of article 1(1) of the Council regulation against any person who has not already been served with a copy of the public analyst's certificate specifying the result of the analysis under paragraph (2) of this regulation, the authority shall, not less than 14 days before the institution of proceedings, cause to be served on the person to be charged a copy of that certificate.

(4) Section 93 of, and Part I of Schedule 7 to, the Food and Drugs Act 1955 (which contain provisions as to samples taken for analysis) shall not apply to a sample of poultry carcases procured for the purpose of enforcing the Community provisions or the provisions of these regulations.

Counter-analysis

8.—(1) Any request for a counter-analysis pursuant to article 4(2) of the Council regulation shall—

(a) be made in writing to the food and drugs authority whose officer took or purchased the sample,

(b) specify either that the counter-analysis is to be performed by a public analyst or that the counter-analysis is to be performed by the Government Chemist, and

(c) be made within 14 days of the date on which a copy of the public analyst's certificate specifying the result of the analysis was served on the person making the request, except that, in the case of a person against whom proceedings are brought for an offence under these regulations in respect of a contravention of article 1(1) of the Council regulation, a request may be made within 14 days of the date on which a notice of intended prosecution was served on him.

(2) If a request for counter-analysis is made, the authorised officer shall submit the poultry carcases which are to be subjected to counter-analysis either to a public analyst or to the Government Chemist in accordance with the choice made in the request pursuant to paragraph (1)*(b)* of this regulation. The poultry carcases shall not be submitted to the public analyst who performed the analysis.

(3) The public analyst or the Government Chemist, as the case may be, shall analyse as soon as practicable any poultry carcases submitted to him in pursuance of paragraph (2) of this regulation and shall transmit to the authorised officer who submitted the poultry carcases a certificate specifying the result of the counter-analysis.

(4) The authorised officer shall, within 7 days of receipt by him of the certificate specifying the result of the counter-analysis, serve a copy of the certificate on—

(a) the occupier of the slaughterhouse from which the poultry carcases originate, unless the slaughterhouse is outside the United Kingdom,

(b) the person who requested a counter-analysis, if the request was not made by or on behalf of the occupier of the slaughterhouse from which the poultry carcases originate, and

(c) any other person against whom proceedings have been brought for an offence under these regulations in respect of a contravention of article 1(1) of the Council regulation relating to those poultry carcases.

(5) If, in a case where a counter-analysis has been made, a food and drugs authority intends to bring proceedings for an offence under these regulations in respect of a contravention of article 1(1) of the Council regulation against any person who has not already been served with a copy of the certificate specifying the result of the counter-analysis under paragraph (4) of this regulation, the authority shall, before the institution of proceedings, cause to be served on that person a copy of that certificate.

Method of analysis and counter-analysis

9. In accordance with article 4(2) of the Council regulation any determination of the water content of poultry carcases by chemical analysis shall be carried out according to the method described in Annex III to the Council regulation.

Offences and penalties

10.—(1) Any person who contravenes or fails to comply with regulation 5 of these regulations or any Community provision specified in paragraph (2) of this regulation shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £400.

(2) The Community provisions referred to in paragraph (1) of this regulation are:—

(a) article 1 of the Council regulation (which permits the marketing of poultry carcases only if the water content absorbed during preparation does not exceed a prescribed limit);

(b) article 2 of the Council regulation (which requires slaughterhouses to carry out regular checks on water absorbed by poultry, to record the results of those checks and, in appropriate cases, to make the necessary technical adjustments to their processing methods);

(c) article 2 of the Commission regulation (which contains requirements relating to poultry carcases deemed not to comply with the Council regulation);

(d) article 4 of the Commission regulation (which contains requirements relating to the manner of marking or labelling).

(3) Any person who—

(a) wilfully obstructs an authorised officer acting in execution of the Community provisions or of these regulations, or

(b) wilfully fails to comply with any requirement properly made of him by such an officer under article 2(3) of the Council regulation,

shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £200.

Information to be provided by food and drugs authorities

11. Each food and drugs authority shall provide the Minister of Agriculture, Fisheries and Food with such information relating to the execution of its duties under these regulations as he may from time to time require.

Offences due to fault of other person

12. Where the commission by any person of an offence under these regulations is due to the act or default of some other person that other person shall be guilty of the offence. A person may be charged with and convicted of an offence by virtue of this regulation whether or not proceedings are taken against the first mentioned person.

Defence of due diligence

13.—(1) In any proceedings for an offence under these regulations it shall be a defence for the defendant to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

(2) If in any case the defence provided by paragraph (1) of this regulation involves the allegation that the commission of the offence was due to the act or default of another person or due to reliance on information supplied by another person, the defendant shall not, without leave of the court, be entitled to rely on that defence unless he has served on the prosecutor at least 7 clear days before the hearing a notice in writing giving such information identifying or assisting in the identification of that other person as was then in his possession.

Application of various provisions of the Food and Drugs Act 1955

14. Section 115 (which relates to the conditions under which a warranty may be pleaded as a defence) and section 116 (which prescribes offences in relation to warranties and certificates of analysis) of the Food and Drugs Act 1955 shall apply for the purposes of these regulations as if references therein to proceedings, or a prosecution, under that Act included references to proceedings brought for an offence under these regulations.

Service of notices and other documents

15.—(1) Any notice or other document required or authorised by these regulations to be served on any person shall be sufficiently served if it is delivered to him personally or left at his last known place of abode or business or sent to him by post in a letter addressed to him at the aforesaid place of abode or business.

(2) Any notice or other document required or authorised by these regulations to be served on an incorporated company or body shall be sufficiently served if served on the secretary or clerk of the company or body. For the purposes of these regulations the proper address of such secretary or clerk shall be that of the registered or principal office of the company or body.

Failure to comply with requirement to serve notice or other document

16. A defendant in proceedings for an offence under these regulations in respect of a contravention of article 1(1) of the Council regulation shall not be convicted of the offence if he proves that any notice or other document required to be served on him by regulation 6, 7(1), (2) or (3) or 8(4) or (5) of these regulations was not served on him in compliance with the appropriate requirement, unless the court is satisfied either—

(a) that the food and drugs authority or, as the case may be, the authorised officer could not with reasonable diligence have ascertained the name and address of the defendant in time for the notice or other document to be served on the defendant in compliance with the appropriate requirement, or

(b) that the defendant by his own conduct or by the conduct of his employee contributed to the failure of the food and drugs authority or, as the case may be, the authorised officer to comply with the appropriate requirement.

In Witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 3rd November 1982.

L.S.

Peter Walker,
Minister of Agriculture, Fisheries and Food.

Signed by authority of the
Secretary of State for Social Services

Geoffrey Finsberg,
Parliamentary Under-Secretary of State,
Department of Health and Social Security.

5th November 1982.

Nicholas Edwards,
Secretary of State for Wales.

9th November 1982.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These regulations, which apply to England and Wales only, supplement the provisions of Council Regulation (EEC) No. 2967/76 laying down common standards for the water content of frozen and deep-frozen chickens, hens and cocks, as amended, and Commission Regulation (EEC) No. 2785/80 introducing detailed rules for implementing Regulation (EEC) No. 2967/76.

The regulations, which provide for the enforcement of articles 1 and 2 of the Council regulation and of articles 2 and 4 of the Commission regulation—

(a) designate the authorities which are to enforce the Council regulation and the Commission regulation (regulation 3);

(b) specify the powers of authorised officers of the enforcement authorities (regulation 4);

(c) require poultry carcases to be marked so as to identify the slaughterhouse from which they originate (regulation 5);

(d) require a notice of intended prosecution to be served on proposed defendants in certain cases (regulation 6);

(e) prescribe procedures for analysis and counter-analysis (regulations 7 and 8);

(f) specify the method of analysis and counter-analysis (regulation 9);

(g) prescribe offences and penalties (regulation 10);

(h) require food and drugs authorities to provide the Minister of Agriculture, Fisheries and Food with such information as he may require (regulation 11); and

(i) make ancillary provisions (regulations 12 to 16).

The regulations come into operation on 1st January 1983 and supersede the Poultry Meat (Slaughterhouse Checks on the Absorption of Water) Regulations 1977.

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