STATUTORY INSTRUMENTS

2004 No. 2885

ANIMALS, ENGLAND

ANIMAL HEALTH

The Salmonella in Laying Flocks (Survey Powers) (England) Regulations 2004

Made - - - -	*3rd November 2004*
Laid before Parliament	*4th November 2004*
Coming into force - -	*1st December 2004*

The Secretary of State, being designated(**a**) for the purposes of section 2(2) of the European Communities Act(**b**) in relation to the common agricultural policy of the European Community and also being so designated(**c**) in relation to measures in the veterinary and phytosanitary fields for the protection of public health, in exercise of the powers conferred on her by that section, makes the following Regulations:

Title, commencement and application

1.—(1) These Regulations may be cited as the Salmonella in Laying Flocks (Survey Powers) (England) Regulations 2004 and shall come into force on 1st December 2004.

(2) These Regulations apply in relation to England only.

Interpretation

2. In these Regulations—

"authorised officer" means a person appointed by a local authority for the purpose of enforcing these Regulations;

"the Commission Decision" means Commission Decision 2004/665/EC dated 22 September 2004 concerning a baseline study on the prevalence of Salmonella in laying flocks of *Gallus gallus*;

"faecal and environmental material" means faeces, moist litter, dust and dusty material and any other material which the Technical Specifications require to be sampled;

"inspector" means a person appointed to be an inspector for the purpose of these Regulations by the Secretary of State;

"laying hen" means any bird of the species *Gallus gallus* that produces eggs for human consumption;

(**a**) S.I. 1972/1811.
(**b**) 1972 c.68.
(**c**) S.I. 1999/2027 as amended by S.I. 2002/794.

"local authority" means:

(a) in any part of England where there is, within the meaning of Local Government Changes for England Regulations 1994(**a**), a unitary authority for that local government area, that authority;

(b) where there is not a unitary authority—

(i) in a metropolitan district, the council of that district;

(ii) in a non-metropolitan county, the council of that county; or

(iii) in each London borough, the council of that borough;

(c) in the city of London, the Common Council;

"premises" includes land with or without buildings but does not include any place used only as a dwelling; and

"the Technical Specifications" mean those technical specifications referred to at Article 5 of the Commission Decision as having been presented to the European Commission's Standing Committee on the Food Chain and Animal Health on 15th July 2004 and which are entitled "Baseline Study on the Prevalence of Salmonella in Laying Flocks of *Gallus gallus* in the EU – Technical Specifications".

Selection of Premises

3.—(1) The Secretary of State shall be responsible for the selection of premises, in accordance with the Technical Specifications, for sampling.

(2) An inspector may for the purposes of selecting premises for sampling in accordance with the Commission Decision and the Technical Specifications—

(a) make inquiries of any person and request him to provide any information and documentation, including records, that appear to him to be, or likely to be, relevant;

(b) examine, retain or copy any records including computerised records that appear to him to be, or likely to be, relevant; and

(c) require the occupier or person in charge of those premises or any employee or agent of that occupier or person in charge of those premises to provide to him such assistance, co-operation, information and documentation including records, computerised or otherwise, as he may reasonably require.

Powers of Entry

4.—(1) An inspector shall, on producing, if requested, some duly authenticated document showing his authority, and on giving notice in writing, have the right at all reasonable hours to enter premises which have been selected for sampling, for the purpose of taking samples as required by the Commission Decision and for the purposes of regulation 9.

(2) An authorised officer shall, if a relevant agreement has been entered into under regulation 9, on producing, if requested, some duly authenticated document showing his authority, have the right at all reasonable hours to enter premises for the purposes of regulation 9.

General Powers

5.—(1) An inspector, and an authorised officer if a relevant agreement has been entered into under regulation 9, shall have the following powers for the purposes set out in paragraph (3)—

(a) to make inquiries of any person and request him to provide any information and documentation, including records, that appear to him to be, or likely to be, relevant;

(b) to examine, retain or copy any records including computerised records that appear to him to be, or likely to be, relevant;

(**a**) S.I. 1994/867 to which there are amendments not relevant to these Regulations.

(c) to take with him such vehicles and equipment as he considers necessary;

(d) to be accompanied by such other persons as he considers necessary; and

(e) to require the occupier or person in charge of those premises or any employee or agent of that occupier or person in charge of those premises to provide to him such assistance, co-operation, information and documentation including records, computerised or otherwise, as he may reasonably require.

(2) An inspector, for the purpose of sampling required by the Commission Decision, may also take and retain samples of faecal and environmental material, in accordance with the Technical Specifications, as well as take all other samples that he considers necessary.

(3) The purposes for which the powers in paragraph (1) may be exercised are—

(a) in the case of an inspector, for sampling required by the Commission Decision and for the purpose of regulation 9; and

(b) in the case of an authorised officer, for the purpose of regulation 9.

Notices

6.—(1) A notice in writing to be given to any person under regulation 4 may be given–

(a) by delivering it to that person; or

(b) by leaving it, or sending it in a pre-paid envelope addressed to that person, at the usual or last known place of business or residence of that person, or in the case of a body corporate or partnership at any place of business or the registered office of that body corporate or partnership.

(2) A notice in writing given under regulation 4 may be sent to a person as an electronic communication (as defined in the Electronic Communications Act 2000(**a**)), only if that person has consented to the use of that method of communication.

(3) A notice in writing sent to a person as an electronic communication shall be regarded as sent when the text of it is received in a legible form.

Offences

7. Any person who–

(a) intentionally obstructs any person acting under these Regulations;

(b) without reasonable cause, fails to comply with requests under regulation 3(2)(c) and regulation 5(1)(e) above; or

(c) provides to an inspector, an authorised officer or a person assisting an inspector or authorised officer, any information or documentation which he knows to be false or misleading,

shall be guilty of an offence.

Penalties

8.—(1) A person who is guilty of an offence under these Regulations shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(2) Where a body corporate is guilty of an offence under these Regulations, and that offence is proved to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of—

(a) any director, manager, secretary or other similar officer of the body corporate;

(b) any person who was purporting to act in any such capacity; or

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(**a**) 2000 c.7

(c) in the case of a partnership, a partner or person who was purporting to act as such,

any such person, as well as the body corporate or partnership, shall be guilty of the offence and be liable to be proceeded against and punished accordingly.

(3) For the purposes of paragraph (3), "director", in relation to a body corporate whose affairs are managed by its members, includes a member of the body corporate.

Enforcement

9.—(1) Subject to paragraph (2), the Secretary of State shall be responsible for enforcement of these Regulations.

(2) The Secretary of State and a local authority may enter into an agreement under which the responsibilities of the Secretary of State under paragraph (1) shall be vested in the local authority instead of the Secretary of State and the local authority shall have those responsibilities during the currency of any such agreement.

Ben Bradshaw
Parliamentary Under Secretary of State
3rd November 2004 Department for Environment, Food and Rural Affairs

EXPLANATORY NOTE

(This note does not form part of the Regulations)

These Regulations, which apply in relation to England only, implement Commission Decision 2004/665/EC which requires Member States to carry out a survey for salmonella prevalence in laying flocks (OJ No L303, 30.09.2004, p30) in accordance with certain technical specifications referred to in Article 5 of the Commission Decision. The text of the technical specifications can be found at http://europa.eu.int/comm/food/food/biosafety/salmonella/tech_spec_sanco-34-2004_rev-3_en.pdf

These Regulations–

(a) designate the Secretary of State for the purpose of selecting premises for sampling and give inspectors the powers required for selecting premises for sampling (regulation 3)

(b) provide powers for inspectors to enter premises for the purposes of the Commission Decision and for the purpose of enforcement of these Regulations (regulation 4)

(c) provide powers for local authority officers to enter premises for the purpose of enforcement of these Regulations where agreement is reached with the Secretary of State for the local authority to enforce (regulation 4)

(d) provide powers for inspectors to make inquiries, examine and retain records, take samples, require assistance, be accompanied by other persons and take equipment and vehicles on to the premises, for the purpose of carrying out sampling under these Regulations and for the purpose of enforcement of these Regulations (regulation 5)

(e) provide powers for local authority officers for the purpose of enforcement of these Regulations where agreement is reached with the Secretary of State for the local authority to enforce (regulation 5)

(f) set out requirements for notices in writing (regulation 6)

(g) prescribe offences and penalties (regulation 7 and 8); and

(h) provide for enforcement by the Secretary of State of these Regulations as well as for enforcement by the local authority where this is agreed with the Secretary of State (regulation 9).

A regulatory impact assessment has not been produced for this instrument as it has no impact on the costs of business.

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