

2006 No. 538

ANIMALS

ANIMAL HEALTH

**The Welfare of Animals (Transport) Regulations (Northern
Ireland) 2006**

Made - - - - - *21st December 2006*

Coming into operation - - - - - *5th January 2007*

The Department of Agriculture and Rural Development(a), being designated 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, makes the following Regulations in exercise of the powers conferred on it by that section.

PART I

INTRODUCTION

Title and commencement

1. These Regulations may be cited as the Welfare of Animals (Transport) Regulations (Northern Ireland) 2006 and shall come into operation on 5th January 2007.

Interpretation

2.—(1) In these Regulations—

“Council Regulation 1/2005” means Council Regulation (EC) No. 1/2005 on the protection of animals during transport and related operations and amending Directives 64/432/EEC and 93/119/EC(c);

“Council Regulation 1255/97” means Council Regulation (EC) No. 1255/97 concerning Community criteria for staging points and amending the route plan referred to in the Annex to Directive 91/628/EEC(d);

“the Council Regulations” mean both Council Regulation 1/2005 and Council Regulation 1255/97;

“the Department” means the Department of Agriculture and Rural Development for Northern Ireland;

(a) S.I. 2000/2812

(b) 1972 c. 68

(c) O.J. No. L 3, 5.1.2005, p.1

(d) O.J. No. L 174, 2.7.97, p.1

“the 1981 Order” means the Diseases of Animals (Northern Ireland) Order 1981.

(2) Expressions used in these Regulations that are also used in the Council Regulations have the same meaning as they bear in those Regulations.

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

Extension of the definition of “animals”

3. For the purposes of the Diseases of Animals (Northern Ireland) Order 1981, in its application to these Regulations, the definitions of animals and poultry in Part I of Schedule 1 to that Order are extended to cover all vertebrates and cold-blooded invertebrate animals.

PART II

TRANSPORT OF ANIMALS

General provision on the protection of animals in transport

4.—(1) It is an offence to transport any animal in a way which causes, or is likely to cause, injury or unnecessary suffering to that animal.

(2) It is an offence to transport any animal except in such receptacles or means of transport, under conditions (in particular with regard to space, ventilation, temperature and security) and with such supply of liquid and oxygen, as are appropriate for the species concerned.

(3) This regulation applies to the transport of cold-blooded invertebrate animals.

(4) This regulation applies to the transport of vertebrate animals except those to which Council Regulation 1/2005 applies.

Transport

5.—(1) A person who fails to comply with the any of the following provisions of Council Regulation 1/2005 is guilty of an offence—

- (a) Article 3 (general conditions for the transport of animals);
- (b) Article 4(1) (Article 4 relates to transport documentation);
- (c) Article 5(1) (Article 5 relates to planning obligations for the transport of animals);
- (d) Article 6(1) (Article 6 relates to transporters);
- (e) Article 6(5) from 5 January 2008 (Article 6 relates to transporters);
- (f) Article 7 (prior inspection and approval of means of transport);
- (g) Points 1.8, 1.9 and 1.11 of Chapter III of Annex I (Chapter III relates to transport practices).

(2) A person shall not remove, deface, obliterate or alter a mark made by an inspector under regulation 24(4) (powers of inspectors).

(3) A copy of the documentation referred to in Article 4 of Council Regulation 1/2005 shall be kept for 6 months from the completion of the journey.

(4) A person who fails to comply with paragraphs (2) or (3) is guilty of an offence.

Transporters

6. A transporter who fails to comply with the following provisions of Council Regulation 1/2005 is guilty of an offence—

(a) 1954 c. 33 (N.I.)

- (a) Article 4(2) (transport documentation);
- (b) Article 5(2) and (4) (planning obligations for the transport of animals);
- (c) Article 6(2), (3), (4), (6) and (8) (transporters);
- (d) Article 6(9) (transporters)—
 - (i) for means of transport by road in service for the first time on or after the coming into operation date of these Regulations; and
 - (ii) for all means of transport by road as from 1 January 2009;
- (e) Article 12 (limitation on applications for authorisation).

Roll-on-roll-off vessels

7.—(1) A master of a roll-on-roll-off vessel who fails to comply with point 3.1 of Chapter II of Annex I to Council Regulation 1/2005 (Chapter II relates to additional provisions for transport on roll-on-roll-off vessels) is guilty of an offence.

(2) A transporter shall not transport animals on a roll-on-roll-off vessel unless the master of the vessel has first verified the matters referred to in that point.

(3) A person who fails to comply with paragraph (2) is guilty of an offence.

Organisers

8. An organiser who fails to comply with Article 5(3) and (4) of Council Regulation 1/2005 (Article 5 relates to planning obligations for the transport of animals) is guilty of an offence.

Keepers

9. A keeper who fails to comply with Article 8 of Council Regulation 1/2005 (keepers at places of departure, transfer or destination) is guilty of an offence.

Assembly centres

10. An operator of an assembly centre who fails to comply with Article 9 of Council Regulation 1/2005 (assembly centres) is guilty of an offence.

Control posts

11.—(1) It is an offence for a person to operate a control post unless he is approved by the Department for that purpose.

(2) It is an offence for a person to operate or use a control post unless it is approved by the Department in accordance with Article 3(1) of Council Regulation 1255/97.

(3) An operator of a control post who fails to comply with the following provisions of Council Regulation 1255/97 is guilty of an offence—

- (a) Article 4 (use of control posts);
- (b) Article 5 (the operation of control posts); or
- (c) Article 6(1) (confirmation an animal is fit to continue its journey).

PART III

DEROGATIONS FOR MEANS OF TRANSPORT BY ROAD ON JOURNEYS UNDER 12 HOURS

Application

12. In accordance with Article 18(4) of Council Regulation 1/2005, the derogations in this Part apply in respect of a means of transport by road used for a journey that does not exceed 12 hours in order to reach the final place of destination (“means of transport by road”).

Derogation from inspection and approval

13. For the purposes of Article 18(1) of Council Regulation 1/2005, a means of transport by road used to transport animals other than domestic equidae or domestic animals of bovine, ovine, caprine or porcine species does not require a certificate of approval.

Derogation from requirement for continuous access to water

14. For the purposes of point 1.4(b) of Chapter V of Annex I to Council Regulation 1/2005, during a journey pigs—

- (a) do not require continuous access to water on a means of transport by road;
- (b) shall be offered water at appropriate intervals and afforded an adequate opportunity to drink.

Derogation from insulated roof requirements

15. For the purposes of point 1.1 of Chapter VI to Annex I of Council Regulation 1/2005, the roof on a means of transport by road does not require insulation.

Derogation from temperature requirements

16.—(1) For the purposes of point 3.1 of Chapter VI of Annex I to Council Regulation 1/2005, the temperature on a means of transport by road may fall below 0°C during a journey—

- (a) up to the point in time when the means of transport by road is first moved at the place of departure; and
- (b) during any unloading and loading occurring at intermediate points in the journey.

(2) Where the temperature falls below 0°C, pigs weighing less than 30 kgs and unaccompanied on the journey by their mother shall be provided with adequate quantities of a bedding material appropriate to their species to ensure their thermal comfort.

(3) A person who fails to comply with paragraph (2) shall be guilty of an offence.

Derogation from ventilation system requirement

17. The ventilation system on a means of transport by road—

- (a) does not require the capabilities described in point 3.2 of Chapter VI of Annex I to Council Regulation 1/2005;
- (b) shall be capable of adjustment so as to ensure the requirements for temperatures set out in that point and in regulation 16(1) are maintained during the journey.

Derogation from temperature monitoring requirements

18. The temperature monitoring, data recording and warning systems referred to in points 3.3 and 3.4 of Chapter VI of Annex I to Council Regulation 1/2005 are not required on a means of transport by road.

Derogation from navigation system requirement

19. The navigation system referred to in part 4.1 of Chapter VI of Annex I to Council Regulation 1/2005 is not required in a means of transport by road.

PART IV

APPROVALS, AUTHORISATIONS, CERTIFICATES AND NOTICES

The competent authority

20. The Department is the competent authority for the purposes of granting or issuing—
- (a) authorisations to transporters in accordance with Articles 10, 11 and 13 of Council Regulation 1/2005;
 - (b) certificates of competence in accordance with Article 17(2) of that Regulation;
 - (c) certificates of approval of means of transport by road in accordance with Article 18(1) of that Regulation;
 - (d) certificates of approval of livestock vessels in accordance with Article 19(1) of that Regulation.
- (2) For the purposes of Council Regulation 1/2005 the Department is the competent authority for—
- (a) receiving notification of changes relating to authorisations in accordance with Article 6(2);
 - (b) receiving documents in accordance with Article 6(5), (8) and (9) and point 3(b) of Annex II;
 - (c) checking and inspecting journey logs in accordance with Article 14(1) and the second paragraph of point 5 of Annex II;
 - (d) carrying out checks relating to long journeys in accordance with Article 15;
 - (e) recording information relating to livestock vessels in accordance with Article 19(3) and (4);
 - (f) inspecting livestock vessels in accordance with Article 20;
 - (g) requiring action in the event of non-compliance by transporters in accordance with Article 23;
 - (h) receiving notification from other competent authorities of non-compliance in accordance with Article 26(2) and (3);
 - (i) taking action in the event of infringements in accordance with Article 26;
 - (j) inspecting animals, means of transport and accompanying documentation in accordance with Article 27(1);
 - (k) approving classification societies in accordance with point 1 of Chapter IV of Annex I.
- (3) The Department is the competent authority for the purposes of—
- (a) granting or issuing approvals in accordance with Articles 3 and 4(2) of Council Regulation 1255/97;
 - (b) receiving information on animals passing through a control post in accordance with Article 5(h) and (i) of that Regulation.
- (4) The Department is responsible for exercising the functions of a member State for the purposes of—
- (a) Council Regulation 1/2005;
 - (b) Council Regulation 1255/97,

and for designating bodies in accordance with Articles 17(2), 18(1) and 19(1) of Council Regulation 1/2005.

Approvals, authorisations, certificates and notices

21. Any approval, authorisation, certificate or notice issued under these Regulations or the Council Regulations as the case may be—

- (a) shall be in writing;
- (b) may be made subject to conditions; and
- (c) may be amended, suspended or revoked at any time.

Suspension, amendment or revocation of approvals etc

22.—(1) The Department, may, by notice, suspend or amend an approval, authorisation, certificate of approval or certificate of competence if it is satisfied that any of the conditions under which it was granted or of any provision of these Regulations or the Council Regulations have been breached.

(2) A suspension under paragraph (1) has immediate effect where the Department considers it necessary to protect the welfare of animals, otherwise it shall not have effect for at least 21 days following service of the notice.

(3) The notice shall—

- (a) give the reasons;
- (b) state when it comes into effect and, in the case of a suspension, state on what date or event it is to cease to have effect; and
- (c) explain the right of the recipient of the notice to make written representations to a person appointed by the Department.

(4) Where the notice does not have immediate effect, and representations are made under regulation 23, an amendment or suspension will not have effect until the final determination by the Department in accordance with regulation 23 unless the Department decides that it is necessary for the protection of animal welfare for the amendment or suspension to have immediate effect and serves a notice on the holder of the approval, authorisation or certificate to that effect.

(5) Where a suspension is upheld the Department may, by notice, revoke an approval, authorisation, certificate of approval or a certificate of competence if it is satisfied that these Regulations or the Council Regulations will not be complied with.

(6) A notice shall not be issued under paragraph (5) until the process in regulation 23 (if any) has been completed.

(7) A person who fails to comply with the conditions of an approval, authorisation, certificate of approval, certificate of competence or notice is guilty of an offence.

Representations to an appointed person

23.—(1) A person may make written representations against a refusal, condition, suspension, amendment or revocation of an approval, authorisation or certificate to a person appointed for the purpose by the Department.

(2) Any representations shall be made within 21 days of receiving notification of the Department's decision.

(3) The appointed person shall consider the representations and report in writing to the Department.

(4) The Department shall give the person who made the representations written notification of its final determination and the reasons for it.

(5) For the purposes of this regulation an appointed person means a person appointed by the Department to consider representations under these regulations.

PART V

MISCELLANEOUS

Powers of inspectors

24.—(1) The following provisions of the 1981 Order shall apply as if these Regulations were an order made under the 1981 Order—

- (a) Article 46 (general powers of inspectors);
- (b) Article 46A (powers of inspectors relating to Community obligations); and
- (c) Article 48 (powers to detain vessels and aircraft).

(2) An inspector may, if he considers animals are being transported, or are about to be transported, in a way which contravenes any provision of these Regulations or the Council Regulations, serve a notice on the person appearing to him to be in charge of the animals requiring that person to take any action necessary to ensure compliance with these Regulations or the Council Regulations, giving reasons for the requirements.

(3) An inspector may in particular—

- (a) prohibit the transport of the animals, either indefinitely or for a period specified in the notice;
- (b) specify conditions under which the animals may be transported;
- (c) require the journey to be completed or the animals to be returned to their place of departure by the most direct route, provided that this course of action would not cause unnecessary suffering to the animals;
- (d) require animals not fit to complete their journey to be unloaded, watered, fed or rested;
- (e) require the animals to be held in suitable accommodation with appropriate care until the problem identified in the notice is solved;
- (f) require the humane slaughter or killing of the animals; or
- (g) require a means of transport or container to be repaired or replaced before it is used to transport animals.

(4) Where it is necessary for identification purposes, an inspector may mark an animal.

(5) An inspector may take copies of any document inspected for the purpose of ascertaining whether the provisions of these Regulations or the Council Regulations have been complied with.

(6) An inspector may serve on the owner, or any person appearing to him to be in charge of a control post, a notice requiring him to take any action the inspector reasonably considers necessary to ensure compliance with, or remedy any infringement of, Council Regulation 1255/97.

(7) In particular, an inspector may—

- (a) require one or more animals at a control post to be removed from the control post;
- (b) specify conditions under which animals may remain there.

(8) In deciding whether to serve a notice under this regulation, an inspector may take into account any previous failure to comply with any provision of these Regulations or of any other order made under Articles 21, 22, 23 or 23A of the 1981 Order or point 8 of Annex II to Council Regulation 1/2005 (return of documents after completion of journey).

Powers of inspectors in case of default

25.—(1) Where a person fails to comply with a requirement of these Regulations, the Council Regulations or an approval, authorisation certificate or notice, an inspector may take any steps he considers necessary to ensure the requirement is met.

(2) The person in default shall reimburse any reasonable expenses incurred by the Department in taking such steps and any such debt is recoverable summarily.

Compliance with notices

26. A notice served under these Regulations shall be complied with at the expense of the person on whom it is served, except where otherwise provided in that notice.

Production of plans

27.—(1) The owner or charterer of any vessel to be used for the transport of animals shall—

- (a) produce to an inspector, on demand, plans of the vessel (including details of its ventilation system and any fittings for livestock); and
- (b) provide such information concerning the vessel as the inspector considers necessary to enable him to ascertain whether the provisions of these Regulations will be complied with during the proposed journey.

(2) A person is not obliged by virtue of paragraph (1) to provide any information which he cannot, with the exercise of reasonable diligence, obtain.

Obstruction

28.—(1) Any person who—

- (a) without reasonable cause, fails to give any person acting in the execution of Council Regulation 1/2005, Council Regulation 1255/97 or these Regulations any assistance or information which that person may reasonably require for the purposes of his functions under those Regulations or these Regulations;
- (b) provides any person acting in the execution of these Regulations with any information he knows to be false or misleading;
- (c) provides false information on any journey log (whether submitted for approval, returned to the officer of the Department after the journey or otherwise) or provides false information on any documentation carried pursuant to Article 4 of Council Regulation 1/2005;
- (d) makes an entry in a record or statement, or gives any information for the purposes of these Regulations, which he knows to be false in any material particular or, for those purposes, recklessly makes a statement or gives any information which is false or misleading in any material particular;
- (e) intentionally obstructs a person in the exercise of his powers under these Regulations; or
- (f) causes or permits any of the above,

shall be guilty of an offence.

(2) Nothing in paragraph (1) shall be construed as requiring any person to answer any question or give any information if to do so might incriminate him.

Offences

29. Except where expressly provided in these Regulations, any person who fails to comply with any of the provisions of these Regulations or the Council Regulations is guilty of an offence.

Penalties

30. A person guilty of an offence under these Regulations shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale or to imprisonment not exceeding 3 months or to both.

Revocations

31. The following Orders are hereby revoked—

- (a) the Welfare of Animals (Transport) Order (Northern Ireland) 1997(a);
- (b) the Welfare of Animals (Staging Points) Regulations (Northern Ireland) 1999(b); and
- (c) the Welfare of Animals (Transport) (Amendment) Order (Northern Ireland) 1999(c).

Sealed with the Official Seal of the Department of Agriculture and Rural Development on 21st December 2006



E. Redmond

A senior officer of the Department of Agriculture and Rural Development

(a) S.R. 1997No. 346
(b) S.R. 1999 No.326
(c) S.R. 1999 No.380

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, revoke the Welfare of Animals (Transport) Order 1997, which implemented Council Directive 91/628/EEC on the protection of animals during transport (O.J. No L340, 11.12.91, p 17).

These Regulations makes for the administration and enforcement of Council Regulation (EC) No. 1/2005 (on the protection of animals during transport and related operations and amending Directives 64/432/EEC and 93/119/EC and Regulation (EC) No 1255/97) (“Council Regulation (EC) No. 1/2005”).

It also makes provision for the administration and enforcement of Council Regulation 1255/97 (concerning Community criteria for staging points and amending the route plan referred to in the Annex to Directive 91/628/EEC) (O.J. L 174, 2.7.97 p.1).

Part 2 of the Regulations enforces the requirements of Council Regulation (EC) No. 1/2005 in relation to transport (regulation 5), transporters (regulation 6), roll-on-roll-off vessels (regulation 7) organisers (regulation 8), keepers (regulation 9) and assembly centres (regulation 10). It also enforces the requirements of Council Regulation (EC) No. 1255/97 in relation to control posts (regulation 11). Regulation 11(1) makes it an offence to operate a control post without prior approval.

Part 3 provides derogations relating to means of transport by road used in respect of journeys not exceeding 12 hours in order to reach the final destination (regulations 12 to 19).

Part 4 provides for the amendment, suspension or revocation of approvals, authorisations or certificates and for representations against a notice to amend, suspend or revoke them (regulations 20 to 23).

Inspectors are given powers to require compliance with the Regulations, including the power to stop a journey (regulation 24).

Owners or charterers of vessels used to transport animals are required to produce information on demand to an inspector, which may include a plan of the vessel (regulation 27).