1990 No. 151

AGRICULTURE

The Meat and Meat Products (Hormonal Substances) Regulations (Northern Ireland) 1990

Made	*20th April 1990*
Coming into operation . .	*21st May 1990*

The Department of Agriculture being a department 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, in exercise of the powers conferred on it by the said section 2(2), and of every other power enabling it in that behalf hereby makes the following Regulations:—

Citation and commencement

1. These Regulations may be cited as the Meat and Meat Products (Hormonal Substances) Regulations (Northern Ireland) 1990 and shall come into operation on 21st May 1990.

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954(**c**) shall apply to these Regulations as it applies to a Measure of the Northern Ireland Assembly.

(2) In these Regulations—

"analyst" means a person having the management or control of an approved laboratory;

"animal" means—

(*a*) a domestic animal of any of the following species, that is to say—

(i) bovine animals,

(ii) swine,

(iii) sheep,

(iv) goats,

(v) solipeds,

(vi) poultry;

(*b*) a wild animal of any of those species; or

(*c*) a wild ruminant of any other species which has been raised on a holding;

(a) S.I. 1972/1811
(b) 1972 c. 68
(c) 1954 c. 33 (N.I.)

"approved laboratory" means a laboratory designated by the competent authority for the purposes of these Regulations;

"authorised officer" means a person who is authorised by a district council to act in relation to the examination and seizure of meat;

"authorised substance" has the meaning assigned to it by regulation 3 of the Hormonal Substances Regulations;

"competent authority" means the Department;

"Department" means the Department of Agriculture for Northern Ireland;

"the Examination for Residues Regulations" means the Animals and Fresh Meat (Examination for Residues) Regulations 1988(**a**);

"the Food Order" means the Food (Northern Ireland) Order 1989(**b**);

"fresh meat" means meat, including meat which has been vacuum packed or wrapped in a controlled atmosphere, which has not undergone any preserving process other than chilling or freezing;

"hormonal substance" has the meaning assigned to it by regulation 2 of the Hormonal Substances Regulations;

"the Hormonal Substances Regulations" means the Animals and Fresh Meat (Hormonal Substances) Regulations 1988(**c**);

"human consumption" has the meaning assigned to it by Article 2 of the Food Order;

"meat"—

(*a*) means the flesh or other edible part of an animal suitable for human consumption; but

(*b*) in relation to the procuring of a sample for the purposes of these Regulations, also extends to all other parts of an animal,

and for the purposes of this definition body fluids and excrement found within a dead animal shall be regarded as parts of that animal;

"meat product" means a product prepared from or with meat which has undergone treatment such that the cut surface shows that the product no longer has the characteristics of fresh meat;

"owner" includes, in relation to any meat or meat product, the person in possession or control of such meat or meat product;

"prescribed", in relation to the maximum level for an authorised substance, means prescribed by or in implementation of Community law;

"primary analysis" means an analysis of a sample of meat or meat product carried out by, or under the direction of, an analyst;

"primary analysis certificate" means an analyst's certificate specifying the finding of a primary analysis;

(**a**) S.I. 1988/848
(**b**) S.I. 1989/846 (N.I. 6)
(**c**) S.I. 1988/849

"reference analysis" means an analysis carried out by, or under the direction of, an analyst to check the finding of a primary analysis;

"reference analysis certificate" means an analyst's certificate specifying the finding of a reference analysis;

"registered premises" has the same meaning as in section 22 of the Agricultural Produce (Meat Regulation and Pig Industry) Act (Northern Ireland) 1962(**a**);

"sell" includes offer or expose for sale or have in possession for sale;

"slaughterhouse" has the meaning assigned to it by section 9 of the Slaughter of Animals Act (Northern Ireland) 1932(**b**);

"stain" shall be construed in accordance with the definition of "stained" contained in regulation 2 of the Meat (Sterilisation and Staining) Regulations (Northern Ireland) 1989(**c**);

"treatment", in relation to a meat product, means the treatment of meat, whether or not mixed with other food, by heating, salting, curing or drying, or a combination of two or more of these processes; and

"withdrawal period" has the meaning assigned to it by regulation 2 of the Hormonal Substances Regulations.

(3) For the purposes of these Regulations, the supply of any meat or meat product, otherwise than by sale, at, in or from any place where any meat or meat product is supplied in the course of a business shall be deemed to be a sale of that meat or meat product.

Appointment of new competent authority and transitional provisions

3.—(1) The Department shall be the competent authority for the purposes of the Examination for Residues Regulations and the Hormonal Substances Regulations insofar as they apply to Northern Ireland and accordingly the said Regulations shall so apply as if, in each case, for the definition of "competent authority" in regulation 2 thereof, there were substituted the following definition:—

" 'competent authority' means, in relation to England, the Minister of Agriculture, Fisheries and Food; in relation to Scotland or Wales, the Secretary of State and in relation to Northern Ireland, the Department of Agriculture for Northern Ireland;".

(2) For the purposes of the Examination for Residues Regulations and the Hormonal Substances Regulations as they apply to Northern Ireland—

(*a*) any person appointed by the Secretary of State as an authorised officer for those purposes shall be deemed to have been appointed by the Department; and

(*b*) any notice given by, and any act or other thing done by or in relation to, the Secretary of State for those purposes, shall be deemed to have been given by or done by or in relation to the Department.

(**a**) 1962 c. 13 (N.I.)
(**b**) 1932 c. 9 (N.I.)
(**c**) S.R. 1989 No. 448

Prohibitions

4.—(1) Subject to paragraph (2), a person shall not sell for human or animal consumption any meat (whether or not mixed with other food) derived from an animal to which any hormonal substance has been administered.

(2) Nothing in paragraph (1) shall prohibit the sale of meat from an animal where—

(*a*) the hormonal substance administered to the animal is an authorised substance; and

(*b*) in the case of a sale for human consumption, the withdrawal period after the administration of that substance elapsed before the slaughter of that animal.

(3) A person shall not sell for human or animal consumption any meat product prepared from any meat the sale of which is prohibited by paragraph (1).

(4) A person shall not use as an ingredient in the preparation of any meat product intended for sale for human or animal consumption, any meat or meat product the sale of which is prohibited by paragraph (1) or (3).

Inspection and control

5.—(1) If an authorised officer has reasonable grounds for suspecting that any meat or meat product is material the sale of which would contravene regulation 4, he may give notice to the person in possession of such meat or meat product that, until that notice is withdrawn, the meat or meat product or any portion of it specified in the notice—

(*a*) shall not be sold or used as an ingredient in the preparation of any meat product intended for sale for human or animal consumption, as specified in the notice; and

(*b*) shall either not be removed, or shall not be removed except to a place or for a purpose specified in the notice.

(2) A person shall not sell, use or remove any meat or meat product in contravention of the requirements of a notice given under paragraph (1).

(3) A notice given under paragraph (1) may at any time be withdrawn by a further notice in writing given by an authorised officer to the person in possession of the meat or meat product in question and it shall be withdrawn if, as a result of the investigations carried out under these Regulations, an authorised officer is satisfied that the sale of that meat or meat product is not prohibited by regulation 4.

Power to procure samples

6.—(1) Subject to paragraphs (2) to (4), an authorised officer shall, for the purposes of his functions under these Regulations, have the power to procure samples bestowed on a sampling officer by Article 38(2) and (3) of the Food Order.

(2) The power of an authorised officer under paragraph (1) shall extend to the procuring of parts of meat which are not food for the purposes of the Food Order.

(3) Any sample procured under and for the purposes of these Regulations shall be treated for the purposes of the Food Order as if it were a sample taken under Article 38 of that Order for the purpose of bacteriological or other examination and not for analysis.

(4) Nothing in this regulation shall be taken to override any provision of regulations 7 to 12.

Primary analysis of samples

7.—(1) Where an authorised officer—

(*a*) procures a sample of meat or meat product; and

(*b*) considers that it should be analysed for the purpose of ascertaining whether it is material the sale of which is prohibited by regulation 4(1) or (3),

that sample shall be submitted for analysis at an approved laboratory and there dealt with in accordance with paragraph (2) or (3), as the case may be.

(2) Where the sample submitted under paragraph (1) is of meat or a meat product other than any such material to which paragraph (3) refers, the analyst shall subject part of the sample to a primary analysis and shall retain the remainder of the sample for any reference analysis.

(3) Where the sample submitted under paragraph (1) is of any meat or meat product containing the remains of any solid implant, the analyst shall prepare an extract of such implant, subject part of that extract to a primary analysis and retain the remainder of it for any reference analysis.

Results of primary analysis

8.—(1) Where the primary analysis of a sample submitted under Regulation 7(1) shows that—

(*a*) where the sample is of meat to which regulation 7(2) refers, that meat;

(*b*) where the sample is of a meat product to which regulation 7(2) refers, the meat contained in that sample; or

(*c*) where the sample is of any meat or meat product containing the remains of a solid implant, such remains of solid implant,

contains—

(i) a residue of a hormonal substance other than an authorised substance; or

(ii) in the case of a sample mentioned in sub-paragraph (*a*) or (*b*) a quantity of an authorised substance exceeding the maximum level prescribed for that substance,

the analyst shall give a primary analysis certificate to the owner of the meat or meat product and to the authorised officer who submitted the sample.

(2) Where the primary analysis of a sample submitted under regulation 7(1) does not show anything requiring a primary analysis certificate to be given under paragraph (1), the analyst shall notify the owner of the meat or meat product from which it was taken, and the authorised officer who submitted it, of the fact.

Reference analysis

9.—(1) If, within a period of seven days from the receipt of the primary analysis certificate in respect of a sample, the owner of the meat or meat product from which the sample was procured challenges the finding specified in that certificate or if an authorised officer in any event so decides, that finding together with—

(*a*) the remainder of the sample of meat or meat product retained by the analyst in accordance with regulation 7(2); or

(*b*) the remainder of the extract retained by the analyst in accordance with regulation 7(3),

as the case may be, shall be referred by the authorised officer to an approved laboratory where a reference analysis shall be made in respect of it.

(2) Any challenge under paragraph (1) against the finding specified in a primary analysis certificate shall be made by notice in writing and served on the authorised officer who submitted for analysis the sample to which the certificate relates.

(3) The analyst who carries out or directs the reference analysis in respect of any sample shall give to the owner of the meat or meat product from which the sample was procured, and the authorised officer who submitted the sample, a reference analysis certificate.

Notification to analyst

10.—(1) An authorised officer who submits to an approved laboratory a sample for a primary analysis shall inform the analyst of that approved laboratory of the name and address of the owner of the meat or meat product from which such sample was procured.

(2) An authorised officer who refers to an approved laboratory for a reference analysis a finding specified in a primary analysis certificate in respect of a sample, shall inform the analyst of that approved laboratory of the name and address of the owner of the meat or meat product from which the sample was procured.

Methods of analysis

11. The analysis of any sample procured from any meat or meat product for the purposes of these Regulations shall be carried out—

(*a*) in the case of a primary analysis, in accordance with methods authorised by Commission Decision 87/410/EEC(**a**); and

(*b*) in the case of a reference analysis, in accordance with methods determined under Article 5.2 of Council Directive 85/358/EEC(**b**).

Certificates of analysis

12.—(1) Any certificate given by an analyst under these Regulations—

(*a*) shall be signed by the analyst; and

(**a**) O.J. No. L223, 11.8.87, p. 18
(**b**) O.J. No. L191, 23.7.85, p. 46

(*b*) except as otherwise provided by regulation 17(7) shall specify the name of the authorised officer who submitted for analysis the sample to which it relates and the name and address of the district council whose officer he is.

(2) A person shall not be convicted of an offence of contravening regulation 4 in any proceedings relating to meat or a meat product unless the evidence in those proceedings relating to that meat or meat product includes an appropriate analysis certificate.

(3) For the purposes of paragraph (2) an appropriate analysis certificate is—

(*a*) in a case where a reference analysis is required to be made under regulation 9, a reference analysis certificate; and

(*b*) in any other case, a primary analysis certificate.

Notification to competent authority

13.—(1) If an authorised officer—

(*a*) is of the opinion, as a result of information revealed by any analysis of any meat or meat product; or

(*b*) otherwise has reasonable grounds for suspecting,

that any animal at a slaughterhouse, farm or any other place may contain either a residue of a hormonal substance, other than an authorised substance, or a quantity of an authorised substance exceeding the maximum prescribed for that substance, the authorised officer shall act in accordance with paragraph (2).

(2) The authorised officer shall immediately—

(*a*) inform the competent authority of his opinion and the result of any analysis concerned; or

(*b*) inform the competent authority of his suspicion and the grounds for such suspicion,

and in either case, supply to the competent authority such particulars as the authorised officer is able to supply so as to enable the competent authority to identify the animal in question and the place where it is.

Application of various provisions of the Food (Northern Ireland) Order

14.—(1) Subject to paragraph (2), the following provisions of the Food Order shall apply for the purposes of these Regulations as if they had been made under that Order, that is to say:—

(*a*) Article 47 (which relates to the power to enter premises);

(*b*) Article 48 (which relates to the power to enter vehicles, etc.);

(*c*) Article 50 (which relates to obstruction);

(*d*) Article 52(1), (2), (4), (6) and (7) (which relates to prosecutions);

(*e*) Article 54(1) and (2) (which relates to evidence of analysis);

(*f*) Article 55(1) (which relates to presumptions);

(*g*) Article 58 (which relates to conditions under which warranty may be pleaded as a defence); and

(*h*) Article 59 (which relates to offences in relation to warranties and certificates of analysis).

(2) For the purposes of these Regulations—

(*a*) Articles 50(1) and (4) and 59 of the Food Order shall apply as if the references therein to an offence were references to an offence punishable on summary conviction by a fine not exceeding that specified in regulation 18;

(*b*) Article 50(2) of the Food Order shall apply as if the references therein to a sampling officer were references to an authorised officer or an officer of the competent authority acting in pursuance of regulation 17;

(*c*) Article 52(2), (4) and (7) of the Food Order shall apply as if the references therein to a sample procured under that Order included a reference to a sample procured for the purposes of these Regulations;

(*d*) Article 52(6) of the Food Order shall apply as if the references therein to any article or substance sampled under that Order included a reference to meat or any meat product sampled under these Regulations;

(*e*) Article 54(1) and (2) of the Food Order shall apply as if the references therein to a public analyst were references to an analyst as defined in regulation 2(2) and references to a certificate of a public analyst were references to a certificate of analysis given under these Regulations; and

(*f*) Article 59 of the Food Order shall apply as if references therein to a certificate of analysis included a reference to a primary analysis certificate or a reference analysis certificate.

Condemnation of meat or meat products

15.—(1) An authorised officer or an officer of the competent authority shall condemn any meat or meat product where a sample from it or from any portion of it has been submitted by him to an approved laboratory for primary analysis and in respect of that sample a primary analysis certificate has been issued in accordance with regulation 8(1) (including that regulation as applied by regulation 17(2)(*a*)), and—

(*a*) the period for challenging the finding specified in that certificate under regulation 9 has expired without such challenge; or

(*b*) a reference analysis certificate has been issued in accordance with regulation 9 (including that regulation as so applied) confirming the finding specified in a primary analysis certificate.

(2) Where an authorised officer or an officer of the competent authority condemns any meat or meat product under paragraph (1) he shall order the owner thereof to stain it and destroy it or otherwise so dispose of it as to prevent it from being used for human consumption.

Enforcement

16. It shall be the duty of every district council to enforce and execute in its district the provisions of these Regulations except in relation to any meat or meat product in a registered premises.

Competent authority's powers

17.—(1) The competent authority may for the purpose of complying with any Community obligation in relation to any meat or meat product suspected by the competent authority of containing a residue of a hormonal substance exercise the powers specified in paragraph (2).

(2) The competent authority may direct an officer of the authority to procure samples of any meat or meat product and upon that direction:—

(*a*) the officer shall have the same powers as an authorised officer has under regulations 6 to 9 to—

(i) procure samples of the meat or meat product;

(ii) submit those samples to an approved laboratory for primary analysis; and

(iii) refer any finding in a primary analysis certificate in respect of those samples to such a laboratory for reference analysis,

and, accordingly, for those purposes the said regulations shall apply as if the officer of the competent authority were an authorised officer; and

(*b*) in relation to meat or meat product in any registered premises, if the officer has reasonable grounds for suspecting that the sale of that meat or meat product would contravene regulation 4, he shall have the powers specified in paragraph (3).

(3) The officer may give notice to the person in possession of the meat or meat product that, until the notice is withdrawn, the meat or meat product or any part of it specified in the notice—

(*a*) shall not be sold or used as an ingredient in the preparation of any meat product intended for sale for human or animal consumption, as specified in the notice; and

(*b*) shall either not be removed, or shall not be removed except to a place or for a purpose specified in the notice.

(4) A person shall not sell, use or remove any meat or meat product in contravention of the requirements of a notice given under paragraph (3).

(5) A notice given under paragraph (3) may at any time be withdrawn by a further notice in writing given by an officer of the competent authority to the person in possession of the meat or meat product in question and it shall be withdrawn if, as a result of the investigations carried out under these Regulations, the officer is satisfied that the sale of that meat is not prohibited by regulation 4.

(6) The officer of the competent authority who under paragraph (2)—

(*a*) submits a sample to an approved laboratory for primary analysis; or

(*b*) refers any finding in a primary analysis certificate in respect of those samples to such a laboratory for reference analysis,

shall inform the analyst of that laboratory of the name and address of the owner of the meat or meat product from which the sample in question was procured.

(7) Any certificate of analysis given in respect of a sample submitted by an officer of the competent authority under this regulation shall specify the name of that officer and the name and address of the competent authority.

(8) An officer of the competent authority may, on producing, if so required, some duly authenticated document showing his authority, enter at all reasonable times any registered premises or any other premises for the purpose of carrying out his functions under this regulation.

Penalty

18. If any person contravenes—

(*a*) any of the provisions of these Regulations; or

(*b*) any order given under regulation 15(2),

he shall be guilty of an offence, and liable on summary conviction to a fine not exceeding £2,000.

Offences due to fault of another person

19. 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 and may be charged with and convicted of the offence by virtue of this regulation whether or not proceedings are brought against the first-mentioned person.

Defence of due diligence

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

(2) If in any case the defence provided by paragraph (1) involves the allegation that the commission of the offence was due to the act or default of another person, the person charged shall not, without leave of the court, be entitled to rely on that defence unless, not less than seven clear days before the hearing, he has served on the prosecutor a notice in writing giving such information as was then in his possession to identify or assist in identifying that other person.

Sealed with the Official Seal of the Department of Agriculture for Northern Ireland on 20th April 1990.

(L.S.) *D. A. J. Hirrell*
Assistant Secretary

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations implement Article 2(*c*) and (*d*) of Council Directive 81/602/EEC (O.J. No. L222, 7.8.81, p. 32) concerning the prohibition of certain substances having a hormonal action and of any substances having a thyrostatic action, and in part Articles 4, 5 and 6 of Council Directive 85/358/EEC (O.J. No. L191, 23.7.85, p. 46) supplementing Directive 81/602/EEC and Article 1 of Council Directive 86/469/EEC (O.J. No. L275, 26.9.86, p. 36) concerning the examination of animals and fresh meat for the presence of residues.

The Department of Agriculture for Northern Ireland (''the Department'') is designated as the competent authority for the purposes of these Regulations and of the Animals and Fresh Meat (Hormonal Substances) Regulations 1988 and the Animals and Fresh Meat (Examination for Residues) Regulations 1988 as they apply to Northern Ireland (regulation 3).

The Regulations prohibit the sale for human or animal consumption of meat of any animals to which have been administered any hormonal substances except where such substance is an authorised substance (as defined) and, where the sale is for human consumption, the withdrawal period has elapsed since the administration of the substance and the slaughter of the animal. The sale of meat products prepared from such meat and the use of such meat as an ingredient in the preparation of any meat product are also prohibited (regulation 4).

An authorised officer appointed by a District Council who has reasonable grounds for suspecting that any meat or meat product is material the sale of which is prohibited is empowered to give notice to the person in possession of such meat or meat product prohibiting its sale or use as an ingredient in any meat product for sale for human or animal consumption or its removal except to a place or for a purpose specified in the notice (regulation 5).

In addition the Regulations empower an authorised officer to take samples and make provision for those samples to be analysed (''the primary analysis''). Where the finding of the primary analysis is positive (i.e., the sample or the remains of any solid implant in it contains the residue of a hormonal substance other than an authorised substance or contains an authorised substance exceeding the maximum level prescribed for that substance) those results must be reported to the authorised officer who submitted the sample and the owner of the meat or meat product from which it was taken. That owner can challenge such findings and if he does so, or if the authorised officer in any event so decides, the Regulations require that a second or reference analysis be carried out on the sample (regulations 6 to 10).

The Regulations specify the methods of analysis and the requirements in relation to the certificate of analysis by which the findings are reported. They provide that no person shall be convicted in any proceedings for an offence

under regulation 4 unless the evidence in such proceedings includes such an analysis certificate (regulations 11 and 12).

In addition the Regulations—

(*a*) require an authorised officer to notify the competent authority of the suspected presence at any place of any animal which may contain a residue of a hormonal substance other than an authorised substance or contain a quantity of an authorised substance exceeding the maximum prescribed for that substance (regulation 13);

(*b*) make provision for the condemnation and disposal of meat or meat products the sale of which is prohibited (regulation 15);

(*c*) require each District Council to enforce and execute the Regulations in its district except in relation to premises registered with the Department for shipment of meat out of Northern Ireland under the Agricultural Produce (Meat Regulation and Pig Industry) Act (Northern Ireland) 1962 (1962 c. 13 (N.I.)) (regulation 16); and

(*d*) create certain offences for breach of the Regulations and a defence of due diligence to proceedings for any such offence (regulation 18).

The Regulations make provision for the application of certain specified provisions of the Food (Northern Ireland) Order 1989 for the purposes of the enforcement of these Regulations (regulation 14).

For the purposes of complying with any Community obligation in relation to meat or meat products suspected by it of containing a residue of a hormonal substance the competent authority is empowered to procure samples of the meat or any meat product, submit those samples to an approved laboratory for primary analysis and refer the finding of that analysis for reference analysis. During these investigations officers of the competent authority have the power to give notice to a person in possession of meat or meat product prohibiting its sale or use as an ingredient in any meat product for sale for human or animal consumption or its removal except to a place or for a purpose specified in the notice (regulation 17).

Article 2(*a*) of Directive 81/602/EEC, which prohibits the administration of hormonal substances to animals except for specified purposes, has been implemented by the Medicines (Hormone Growth Promoters) (Prohibition of Use) Regulations 1988 (S.I. 1988/705). Article 2(*b*) of that Directive, which prohibits the sale or slaughter of animals to which hormonal substances have been administered, has been implemented by the Animals and Fresh Meat (Hormonal Substances) Regulations 1988.