



STATUTORY INSTRUMENTS

S.I. No. 704 of 2007

EUROPEAN COMMUNITIES (PROTECTION OF GEOGRAPHICAL
INDICATIONS AND DESIGNATIONS OF ORIGIN FOR
AGRICULTURAL PRODUCTS AND FOODSTUFFS) REGULATIONS
2007

(Prn. A7/1819)

EUROPEAN COMMUNITIES (PROTECTION OF GEOGRAPHICAL
INDICATIONS AND DESIGNATIONS OF ORIGIN FOR
AGRICULTURAL PRODUCTS AND FOODSTUFFS) REGULATIONS
2007

I, MARY COUGHLAN, Minister for Agriculture 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 purposes of giving effect to Council Regulation (EC) No. 510/2006 of 20 March 2006¹, and Commission Regulation (EC) No. 1898/2006 of 14 December 2006² hereby make the following Regulations:

Citation

1. These Regulations may be cited as the European Communities (Protection of Geographical Indications and Designations of Origin for Agricultural Products and Foodstuffs) Regulations 2007.

Interpretation

2. (1) In these Regulations—

“authorised officer” means—

- (a) a person appointed under Regulation 7,
- (b) an officer of the Health Service Executive who is an authorised officer for the purposes of the European Communities (Labelling, Presentation and Advertising of Foodstuffs) Regulations 2002 (S.I. No. 482 of 2002) as amended,
- (c) a member of the Garda Síochána, or
- (d) an officer of Customs and Excise;

“Commission” means the Commission of the European Communities;

“Council Regulation” means Council Regulation (EC) No. 510/2006 of 20 March 2006;

“Commission Regulation” means Commission Regulation (EC) No. 1898/2006 of 14 December 2006;

“Minister” means the Minister for Agriculture and Food.

¹O.J. L93 31 March 2006 p.12

²O.J. L369 23 December 2006 p.1

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 23rd October, 2007.*

(2) A word or expression that is used in these Regulations and is also used in the Council Regulation has, unless the contrary intention appears, the same meaning in these Regulations as it has in the Council Regulation.

Scope

3. These Regulations apply to the geographical indications and designations of origin as defined in the Council Regulation.

Prohibition

4. (1) A person shall not sell, present for sale, advertise or provide free samples of any foodstuff or agricultural product bearing a designation of origin or geographical indication protected under the Council Regulation or the Commission Regulation unless it complies with the provisions of the Council Regulation, the Commission Regulation and these Regulations.

(2) A person shall not use a designation of origin or geographical indication protected under the Council Regulation or the Commission Regulation unless it complies with the Council Regulation, the Commission Regulation and these Regulations.

Application

5. (1) The application for registration referred to in Article 5 of the Council Regulation shall be made to the Minister, who, provided the requirements of the Council Regulation are in his or her view satisfied, shall, having provided a means of appeal to any natural or legal person having a legitimate interest, forward the application to the Commission.

(2) The Minister may grant the protection provided for under Article 13 of the Council Regulation at national level to the name which is the subject of the application, pending a decision on registration by the Commission. The national protection shall cease when the Commission's decision is made on the application.

Change to specifications

6. The Minister may make a decision on an application for a change to registered specifications made under Article 9, paragraph 3(i) or paragraph 4 of the Council Regulation.

Appointment of authorised officer

7. (1) The Minister may, by instrument in writing, appoint such and so many persons as he or she thinks fit to be authorised officers for the purposes of some or all of these Regulations as may be specified in the instrument.

(2) The Minister may terminate the appointment of an authorised officer appointed by him or her, whether or not the appointment was for a fixed period.

(3) An appointment as an authorised officer ceases—

(a) if it is terminated pursuant to paragraph 2,

(b) if it is for a fixed period, on the expiry of that period, or

(c) if the person appointed is an officer of the Minister, upon the person ceasing to be such an officer.

(4) Nothing in paragraph (3) is to be construed so as to prevent the Minister from reappointing as an authorised officer a person to whom that paragraph relates.

(5) An authorised officer shall be furnished with a warrant of his or her appointment as an authorised officer and, when exercising a power conferred on him or her, the officer, an officer of the Health Service Executive, an officer of Customs and Excise or a member of the Garda Síochána shall, if requested by a person affected, produce the warrant or evidence that he or she is such an officer or member to the person.

Functions of an authorised officer

8. (1) An authorised officer or a person employed by or acting on the authority of the Commission of the European Communities accompanied by an authorised officer, if the authorised officer has reasonable cause to suspect that—

(a) an agricultural product or a foodstuff bearing a protected geographical indication or a protected designation of origin is present, has been present or may be present on a premises,

(b) an agricultural product or a foodstuff bearing a protected designation of origin or geographical indication is being kept, sold, manufactured, stored or otherwise dealt with on a premises,

(c) a document relating to an agricultural product or a foodstuff bearing a protected designation of origin or geographical indication is present, was present or may be present on a premises, or

(d) an offence is being or has been committed under these Regulations,

the authorised officer may enter the premises and he or she may—

(i) search the premises,

(ii) stop a person, vehicle, vessel or container,

(iii) board and search a vehicle, vessel or container,

- (iv) search a person, where the authorised officer considers it necessary,
- (v) examine a product, vehicle, vessel, container or other thing that may consist of or contain a product to which these Regulations apply,
- (vi) take, without payment, samples of a product to which these Regulations apply or other thing or an article, substance or liquid as he or she may reasonably require and carry out or cause to be carried out on a sample such tests, analyses, examinations or inspections as he or she considers necessary or expedient,
- (vii) seize and detain (for so long as is necessary) an agricultural product or a foodstuff, vehicle or container,
- (viii) require the production of a document or thing relating to an agricultural product or a foodstuff, vehicle, vessel or container,
- (ix) retain a 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 an agricultural product or a foodstuff to deal with or dispose of it (or any equipment, machinery, plant or other thing used in connection with, or that may have been in contact with the agricultural product or foodstuff) in a manner that the authorised officer sees fit,
- (xi) give a direction to, or request information of, a person regarding a product to which these Regulations apply or a premises 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 a product to which these Regulations apply is being delivered or who is causing it to be delivered,
- (xiii) require of a person the ownership, identity and origin of an agricultural product or a foodstuff,
- (xiv) make a record of a thing aforesaid or a process related to a thing aforesaid,
- (xv) mark or otherwise identify a product or a specimen taken under subparagraph (vi), or
- (xvi) secure the premises or part of it for later inspection.

(2) An authorised officer shall not enter, except with the consent of the occupier, a private dwelling, unless he or she has obtained a search warrant under Regulation 9 other than if he or she has reasonable cause to suspect that before

a search warrant could be sought in relation to the dwelling anything to which paragraph (1) relates is being or is likely to be destroyed or disposed of.

(3) An authorised officer may use reasonable force, if necessary, in exercise of his or her powers under this Regulation.

(4) An authorised officer, when exercising a power under this Regulation 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 the power.

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

(6) Without prejudice to the generality of paragraph (1), a direction or requirement of an authorised officer may include conditions prohibiting, restricting or otherwise controlling the use, processing or movement of a product as may be specified by the authorised officer.

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

(8) A sample taken pursuant to these Regulations shall be taken and dealt with in the manner prescribed under Regulation 16(3) of the European Communities (Labelling, Presentation and Advertising of Foodstuffs) Regulations 2002 (S.I. No. 483 of 2002).

Search warrant

9. (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) evidence of or relating to the commission or intended commission of an offence under these Regulations is to be found on a premises,
- (b) there is or was an agricultural product or a foodstuff bearing a protected geographical indication or a protected designation of origin, in contravention of these Regulations, on a premises, or
- (c) a document or other record related to a thing to which subparagraph (a) refers is or may be on the premises,

the judge may issue a search warrant.

(2) A search warrant under this Regulation shall be expressed and operate to authorise a named authorised officer, accompanied by such authorised officers or other persons as the named authorised officer thinks necessary, at any time, within one month from the date of issue of the warrant, on production if so

requested of the warrant, to enter (if necessary by use of reasonable force) the premises, vehicle, vessel or aircraft named in the warrant.

(3) If a premises 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.

Obstruction

10. A person shall not—

- (a) obstruct or impede an authorised officer in the exercise of any of his or her powers under these Regulations,
- (b) fail, without reasonable excuse, to comply with a requirement or direction made by an authorised officer under Regulation 8(1), or
- (c) in purporting to give information required by an authorised officer for the performance of the officer's powers under Regulation 8—
 - (i) make a statement which he or she knows to be false in a material particular or recklessly make a statement which is false in a material particular, or
 - (ii) fail to disclose any material particular.

Offences

11. (1) A person who contravenes Regulation 4 or 10 commits an offence and is liable on conviction to a fine not exceeding €5,000 or to a term of imprisonment not exceeding six months or to both.

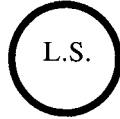
(2) An offence under these Regulations may be prosecuted by the Minister or by the Health Service Executive in whose functional area the offence was committed.

(3) If an offence under these Regulations has been committed by a body corporate and it is proved to have been committed with the consent or connivance of or to be attributable to any neglect on the part of a 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, shall be guilty of an offence and shall be 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) shall apply in relation to the acts and defaults of a member in connection with the functions of management as if such a member were a director or manager of the body corporate.

Revocations

12. The European Communities (Protection of Geographical Indications and Designations of Origin for Agricultural Products and Foodstuffs) Regulations 1995 (S.I. No. 148 of 1995) and the European Communities (Protection of Geographical Indications and Designations of Origin for Agricultural Products and Foodstuffs) (Amendment) Regulations 1999 (S.I. No. 275 of 1999) are revoked.



GIVEN under my Official Seal,
11 October 2007

MARY COUGHLAN.
Minister for Agriculture and Food.

EXPLANATORY NOTE

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

These Regulations implement the provisions of Council Regulation (EC) No. 510/2006 of 20 March 2006, and Commission Regulation (EC) No. 1898/2006 of 14 December 2006 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs to provide for creation of offences, the appointment of authorised officers and to confer powers of entry on authorised officers These Regulations should be read together with the Council and Commission Regulations.

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