



STATUTORY INSTRUMENTS.

S.I. No. 9 of 2024

EUROPEAN UNION (OFFICIAL CONTROLS IN RELATION TO FOOD
LEGISLATION) (AMENDMENT) REGULATIONS 2024

**EUROPEAN UNION (OFFICIAL CONTROLS IN RELATION TO FOOD
LEGISLATION) (AMENDMENT) REGULATIONS 2024**

I, STEPHEN DONNELLY, Minister for Health, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972) and for the purpose of giving further effect to Regulation (EU) 2017/625 of the European Parliament and of the Council of 15 March 2017¹, hereby make the following regulations:

1. (1) These Regulations may be cited as the European Union (Official Controls in relation to Food Legislation) (Amendment) Regulations 2024.

(2) The Principal Regulations and these Regulations may be cited together as the European Union (Official Controls in relation to Food Legislation) Regulations 2020 and 2024.

2. In these Regulations “Principal Regulations” means the European Union (Official Controls in relation to Food Legislation) (S.I. No. 79 of 2020).

3. Regulation 3 of the Principal Regulations is amended by inserting after paragraph (6) the following paragraph:

“(7) The functions of the State, in so far as they relate to food legislation, as regards the multi-annual national control plans referred to in Articles 109(1) and 111 of the Official Controls Regulation and the annual reports referred to in Article 113 of the Official Controls Regulation shall be performed by the Authority.”.

4. Regulation 11 of the Principal Regulations is amended—

(a) in paragraph (6)(b), by inserting “and Regulation 12” after “the Official Controls Regulation”, and

(b) by inserting after paragraph (7) the following paragraph:

“(8) An authorised officer who serves a notice under paragraph (7) may, by further notice in writing to the recipient of the first notice, extend the period during which the removal of the food or relevant thing is prohibited for a further period specified in the second notice not exceeding 10 working days, provided that such extension is necessary for the purposes of completing analysis, testing or inspection of the food or relevant thing.”.

¹ OJ No. L 95, 7.4.2017, p. 1, as affected by Corrigendum of 7 April 2017 (OJ No. L 137, 24.5.2017, p. 40).

5. Regulation 12 of the Principal Regulations is amended—

- (a) in paragraph (1), by inserting “, provided that the second expert opinion is requested by notice in writing to the authorised officer within a period of 7 working days after the operator is notified of the results of the analysis, testing or inspection” after “(‘a second expert opinion’)”,
- (b) by inserting after paragraph (1) the following paragraphs:
 - “(1A) Following receipt of a request pursuant to paragraph (1), the authorised officer shall issue a written acknowledgement of the request.
 - “(1B) An operator who makes a request pursuant to paragraph (1) shall provide to the authorised officer, in writing within 7 working days of the date of the acknowledgement issued pursuant to paragraph (1A), written details of the recognised and appropriately qualified expert who shall be giving the second expert opinion and a written list of documents and records relating to the sampling, analysis, or test required for the purpose of the documentary review under Article 35 of the Official Controls Regulation.
 - “(1C) The documentary review under Article 35 of the Official Controls Regulation shall be completed within 15 working days of the date on which the documents and records required for the purpose of the review are issued to the operator.”,
- (c) in paragraph (2), by substituting for subparagraph (i) the following:

“when purchasing or taking the sample, and if so requested by the operator or the person in apparent charge or control of the food or relevant thing, ensure that a sufficient quantity is taken to allow for a second expert opinion referred to in Article 35(3) of the Official Controls Regulation, or”, and
- (d) by substituting for paragraph (4) the following:

“(4) Where there is a dispute between the Authority or the official agency and the operator that is based on a second expert opinion, the operator may, by notice in writing delivered to the authorised officer no more than 10 working days after the issuance of the opinion, request pursuant to Article 35(3) of the Official Controls Regulation and at his or her own expense, a documentary review of the initial analysis or test or another analysis, test or inspection by another official laboratory.”.

6. Regulation 13 of the Principal Regulations is amended—

- (a) by inserting after paragraph (2) the following paragraph:

“(2A) Notwithstanding paragraph (2)(a), an authorised officer may mark, close and seal a part of a sample, as appropriate, in the absence of the operator, or the person in apparent charge or control of the food, where no such person agrees to be present or it is not technically feasible for such person to be present during such marking, closing and sealing.”,

(b) in paragraph (5), by inserting “, or the operator concerned availed of its right to a second expert opinion under Article 35 of the Official Controls Regulation and Regulation 12” after “as specified in this Regulation”, and

(c) by substituting for paragraph (7) the following:

“(7) The Authority or the official agency, as the case may be, may, where it considers that it is necessary to eliminate or contain the risks to human, animal or plant health, animal welfare, or, as regards GMOs and plant protection products, also to the environment, take immediate action notwithstanding that the sampling procedures set out in this Regulation have not been carried out and notwithstanding any application by the operator for a second expert opinion under Article 35 of the Official Controls Regulation and Regulation 12.”.

7. Regulation 14 of the Principal Regulations is amended—

(a) in paragraph (2)(a), by inserting “in the presence of the operator, or the person in apparent charge or control of the relevant thing” before “mark, close and seal”,

(b) by inserting after paragraph (2) the following paragraph:

“(2A) Notwithstanding paragraph (2)(a), an authorised officer may mark, close and seal a part of a sample, as appropriate, in the absence of the operator, or the person in apparent charge or control of the relevant thing, where no such person agrees to be present or it is not technically feasible for such person to be present during such marking, closing and sealing.”,

(c) in paragraph (3), by inserting “, or the operator concerned availed of its right to a second expert opinion under Article 35 of the Official Controls Regulation and Regulation 12,” after “taken pursuant to paragraph (1)”, and

(d) by substituting for paragraph (5) the following:

“(5) The Authority or the official agency, as the case may be, may, where it considers that it is necessary to eliminate or contain the risks to human, animal or plant health, animal welfare, or, as regards GMOs and plant protection products, also to the environment, take immediate action

notwithstanding that the sampling procedures set out in this Regulation have not been carried out and notwithstanding any application by the operator for a second expert opinion under Article 35 of the Official Controls Regulation and Regulation 12.”.

8. Regulation 25(2) of the Principal Regulations is amended by substituting “suspects” for “has reasonable grounds for believing”.

9. Regulation 26 of the Principal Regulations is amended—

- (a) in paragraph (2), by substituting “where there is non-compliance, as regards such food or relevant thing,” for “which is suspected by him or her of failing to comply”,
- (b) in paragraph (3), by substituting “paragraph (6)” for “paragraph 5”,
- (c) in paragraph (4), by substituting “paragraph (6)” for “paragraph 5”, and
- (d) in paragraph (6), by substituting “paragraph (5)” for “paragraph (3) or (4)”.

10. Section 6(1) of the Food Safety Authority of Ireland Act 1998 (No. 29 of 1998) is amended by inserting “, or the official agency concerned, or both” after “Authority”.

GIVEN under my Official Seal,
11 January, 2024.

STEPHEN DONNELLY,
Minister for Health.



L.S.

EXPLANATORY NOTE

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

These Regulations give further effect to Regulation (EU) 2017/625 of the European Parliament and of the Council of 15 March 2017 on official controls and other official activities.

These Regulations amend the European Union (Official Controls in relation to Food Legislation) Regulations 2020 (S.I. No. 79 of 2020) and the Food Safety Authority of Ireland Act 1998 (No. 29 of 1998) in the manner specified in these Regulations.

These Regulations may be cited as the European Union (Official Controls in relation to Food Legislation) (Amendment) Regulations 2024.

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