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ANIMALS, ENGLAND

ANIMAL HEALTH

**The Salmonella in Broiler Flocks (Survey Powers) (England)
Regulations 2005**

<i>Made</i>	- - - -	<i>20th October 2005</i>
<i>Laid before Parliament</i>		<i>21st October 2005</i>
<i>Coming into force</i>	- -	<i>17th November 2005</i>

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The Secretary of State, being 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 Community, in exercise of the powers conferred on her by that section, makes the following Regulations:

Title, application and commencement

1. These Regulations may be cited as the Salmonella in Broiler Flocks (Survey Powers) (England) Regulations 2005; they apply in England and come into force on 17th November 2005.

Interpretation

2.—(1) In these Regulations—

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

“Commission Decision” means Commission Decision 2005/636/EC concerning a financial contribution by the Community towards a baseline survey on the prevalence of *Salmonella* spp. in broiler flocks of *Gallus gallus* to be carried out in the Member States (a);

“holding” means a facility used for the rearing or keeping of broiler chickens;

“local authority” means—

- (a) in any part of England where there is, within the meaning of the Local Government Changes for England Regulations 1994(b), 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.

(2) Expressions defined in the Commission Decision have the same meaning in these Regulations.

The competent authority

3. The Secretary of State is the competent authority for the purposes of the Commission Decision.

Selection of holdings

4.—(1) The occupier or person in charge of a holding (or any employee or agent of the occupier or person in charge of a holding) shall, upon request, supply such information to the Secretary of State as she requires to assist her with the selection of holdings to be included in the survey for the purposes of the Commission Decision, including—

- (a) the number of broiler chickens or the number of flocks of broiler chickens on the holding;
- (b) the number and times of the flock cycles of the broiler chickens on the holding; and
- (c) the production type of the broiler chickens on the holding.

(2) Any person who fails to comply with this regulation is guilty of an offence.

Powers of inspectors

5.—(1) An inspector shall, on producing some duly authenticated document showing his authority, have the right at all reasonable hours to enter any holding selected in accordance with the Commission Decision, for the purposes of ascertaining in accordance with that Decision—

- (a) whether *Salmonella* spp. exists or has existed there;
- (b) the *Salmonella* vaccination status of the broiler chickens on the holding; and
- (c) whether anti-microbials have been used.

(2) In addition to his right under paragraph (1), an inspector may also enter any holding for the purposes of the enforcement of these Regulations.

(3) When he has entered a holding an inspector may—

- (a) take samples of faecal material;
- (b) examine any records in whatever form, including computerised records, and take copies of those records;
- (c) make inquiries of any person; and

(a) OJ No L 228, 3.9.2005, p 14.

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

- (d) take with him any person, vehicle or equipment he considers necessary for the execution or enforcement of these Regulations.

(4) For the purpose of this regulation, “inspector” means any person appointed be an inspector for the purposes of these Regulations by the Secretary of State or a local authority.

Offences

6. Any person who—

- (a) intentionally obstructs any person acting in the execution of these Regulations;
- (b) without reasonable cause, fails to give to any person acting in the execution of these Regulations any assistance or information which that person may reasonably require of him for the performance of his functions under these Regulations;
- (c) furnishes to any person acting in the execution of these Regulations any information which he knows to be false or misleading; or
- (d) fails without reasonable excuse to produce a record when required to do so to any person acting in the execution of these Regulations,

is guilty of an offence.

Penalties

7. 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.

Offences by bodies corporate

8.—(1) 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 representative of the body corporate; or
- (b) any person who was purporting to act in any such capacity,

he, as well as the body corporate, shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

(2) For the purposes of paragraph (1), “director”, in relation to a body corporate whose affairs are managed by its members, means a member of the body corporate.

Enforcement

9.—(1) These Regulations shall be enforced by the local authority.

(2) The Secretary of State may direct, in relation to cases of a particular description or a particular case, that any duty imposed on a local authority under paragraph (1) shall be discharged by the Secretary of State and not by the local authority.

20th October 2005

Ben Bradshaw
Parliamentary Under Secretary of State
Department for Environment, Food and Rural Affairs

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide a power of entry to inspectors to undertake the sampling required by Commission Decision 2005/636/EC (concerning a financial contribution by the Community towards a baseline survey on the prevalence of *Salmonella* spp. in broiler flocks of *Gallus gallus* to be carried out in the Member States) to detect the prevalence of *Salmonella* spp. in broiler chickens. Regulation 3 designates the Secretary of State as the competent authority for the purposes of the Commission Decision. Regulation 4 provides that the occupier or person in charge of a holding must provide information to the Secretary of State, upon request, to assist her with the selection of holdings to be included in the survey. Regulation 5 provides inspectors with various powers including a power of entry and power to take samples of faecal material, to examine records and to make inquiries of any person. Regulation 6 creates offences for obstructing an inspector exercising his powers under these Regulations and regulation 7 sets out the applicable penalties. Regulation 9 provides that these Regulations shall be enforced by the local authority.

A regulatory impact assessment has not been prepared for these Regulations.

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