L.N. 313 of 2005

VETERINARY SERVICES ACT
(CAP. 437)

Official Control of Foodstuffs Rules, 2005

IN exercise of the powers conferred under articles 22 and 23 of the Veterinary Services Act, 2001, the Minister for Rural Affairs and the Environment has made the following rules:-

Title and scope.

1. (1) The title of these rules is the Official Control of Foodstuffs Rules, 2005.

(2) The scope of these rules is to implement the rules found under European Union Council Directive 89/397/EEC of the 14th June, 1989 on the official control of foodstuffs and in accordance with articles 22 and 23 of the Veterinary Services Act.

(3) These rules lay down the general principles for the performance of official control of foodstuffs and shall apply without prejudice to the provisions adopted in the context of more specific Community rules, but shall not apply to metrological control.

Interpretation.

2. For the purpose of these rules, unless the context otherwise requires -

"Member State" means a State which is a Member within the European Community;

"official control of foodstuffs", or "control", means an inspection by the competent authority of the territory of Malta of the compliance -

(i) of foodstuffs;

(ii) of food additives, vitamins, mineral salts, trace elements and other additives intended to be sold as such;

(iii) of materials and articles intended to come into contact with foodstuffs;

with provisions aimed at preventing risks to public health, guaranteeing fair commercial transactions or protecting consumer interests, including provisions on consumer information.

"the Commission" means the European Commission.

"the Community" means the European Community as established under the Treaty establishing the European Community;

"the competent authority for the territory of Malta" means the Veterinary Services within the territory of Malta as provided under article 2 of the Veterinary Services Act;

Control to be exercised.

3. (1) The territory of Malta shall take all necessary measures to ensure that control is carried out in accordance with these rules.

(2) The territory of Malta shall ensure that products intended for consignment to another Member State are inspected with the same care as those intended for marketing in its own territory.

Products intended for export.

4. The territory of Malta shall not exclude a product from appropriate control on the grounds that it is intended for export outside the Community.

Inspections.

5. (1) Inspections shall be carried out -

(a) regularly;

(b) where non-compliance is suspected.

(2) Inspections shall be carried out using means proportionate to the end to be observed.

(3) Inspections shall cover all stages of production, manufacture, import into the Community, processing, storage, transport, distribution and trade.

(4) As a general rule, inspections shall be carried out without prior warning.

(5) As a general rule, inspections shall, in each case, select the stage or stages which it considers the most appropriate for its examination from those listed in sub-rule (3) hereof.

Control Operations.

6. Control shall comprise one or more of the following operations in accordance with the conditions laid down in rules 7 to 10 and in the light of the examination to be carried out -

(a) inspection;

(b) sampling and analysis;

(c) inspection of staff hygiene;

(d) examination of written and documentary material;

(e) examination of any verification systems set up by the undertaking and of the results obtained.

Objects subject to inspection.

7. (1) The following shall be subject to inspection -

(a) the state and use which is made at the different stages enumerated in sub-rule 5 (3) of the site, premises, offices, plant surroundings, means of transport, machinery and equipment;

(b) raw materials, ingredients, technological aids and other products used for the preparation and production of foodstuffs;

(c) semi-finished products;

(d) finished products;

(e) materials and articles intended to come into contact with foodstuffs;

(f) cleaning and maintenance products and processes and pesticides;

(g) processes used for the manufacture or processing of foodstuffs;

(h) labelling and presentation of foodstuffs;

(i) preserving methods.

(2) The operations enumerated in sub-rule (1) may, where necessary, be supplemented by -

(a) interviews with the head of the inspected undertaking and with persons working for that undertaking;

(b) the reading of values recorded by measuring instruments installed by the undertaking;

(c) inspections carried out by the competent authority for the territory of Malta, with its own instruments, of measurements taken with the instruments installed by the undertaking.

Analysis of samples.

8. (1) Samples of the products listed in rule 7 (1) (b) to (f) may be taken for the purposes of analysis. The territory of Malta shall take the necessary steps to ensure that those subject to inspection may apply for a second opinion.

(2) The analyses shall be carried out by official laboratories. The territory of Malta may also empower other laboratories to carry out these analyses.

Hygiene inspection.

9. Persons who, in the exercise of their activity, come into contact, whether directly or indirectly, with the materials and products referred to in rule 7 (1) (b) to (f) shall be subject to the hygiene inspection referred to in rule 6 (c). The purpose of this inspection shall be to check that the health standards concerning personal cleanliness and clothing are respected. It shall be carried out without prejudice to medical examinations.

Inspectors.

10. (1) Inspectors may take note of written and documentary material held by the natural and legal persons at the various stages listed in rule 5 (3).

(2) Inspectors may also make copies or take extracts of written and documentary material submitted to them for examination.

Suspected irregularity.

11. Where inspectors discover or suspect an irregularity, they shall take the requisite measures.

Security of inspection.

12. (1) The territory of Malta shall ensure that inspectors have the right to carry out the operations provided for in rules 7 to 10.

(2) The territory of Malta shall prescribe that the natural and legal persons concerned shall be obliged to undergo any inspection carried out in accordance with these rules and to assist inspectors in the accomplishment of their tasks.

Right of appeal.

13. (1) The territory of Malta shall take the measures necessary to ensure that natural and legal persons concerned by the inspection have a right of appeal against measures taken by the competent authority for the territory of Malta for the purpose of inspection.

(2) The territory of Malta shall prescribe that inspectors shall be bound by professional secrecy.

Forward programmes.

14. (1) The competent authority for the territory of Malta shall draw up forward programmes laying down the nature and frequency of the inspections to be carried out regularly in accordance with rule 5 (1) (a) over a specific period.

(2) By the 1st May of each year the territory of Malta shall send to the Commission all the necessary information on implementation during the previous year of the programmes referred to in sub-rule (1), specifying -

(a) the criteria applied in drawing up these programmes;

(b) the number and type of inspections carried out;

(c) the number and types of infringements established.

(3) By the 16th October of each year, the Commission shall transmit to the territory of Malta, after having consulted it within the framework of the Standing Committee for Foodstuffs, a recommendation concerning a coordinated programme of inspections for the following year. This recommendation may be subsequently adjusted as required during implementation of the coordinated programme. The coordinated programme shall set out in particular the priority criteria to be applied in its implementation. The information provided for in sub-rule (2) hereof shall contain a special, separate section on implementation of the coordinated programme.

Naming of authority and laboratory.

15. The territory of Malta shall communicate to the Commission the names of -

(a) the competent authority or authorities and the extent of their territorial responsibility and functions;

(b) the official laboratory or laboratories authorized by the competent authority for the territory of Malta, which are responsible for carrying out analyses in connection with the control.

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