



STATUTORY INSTRUMENTS.

S.I. No. 449 of 2021



EUROPEAN UNION (MARKET TRANSPARENCY) REGULATIONS 2021

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I, CHARLIE MCCONALOGUE, Minister for Agriculture, Food and the Marine, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972), for the purpose of giving full effect to Regulation (EU) No 1307/2013 of the EU Parliament and of the Council of 17 December 2013¹ and Regulation (EU) No 1308/2013 of the EU Parliament and of the Council of 17 December 2013² (as amended by Regulation (EU) No 1310/2013 of the European Parliament and of the Council of 17 December 2013³ and Regulation (EU) 2017/2393 of the European Parliament and of the Council of 13 December 2017⁴) (to the extent that those Regulations apply to the notification to the Commission of price, production or marketing information), and effect to Commission Delegated Regulation (EU) 2017/1183 of 20 April 2017⁵ and Commission Implementing Regulation (EU) 2017/1185 of 20 April 2017⁶ (as amended by Commission Implementing Regulation 2019/1746 of 1 October 2019⁷) hereby make the following regulations:

Citation

1. These Regulations may be cited as the European Union (Market Transparency) Regulations 2021.

Interpretation

2. (1) In these Regulations—

“authorised officer” means a person-

- (a) appointed under Regulation 5,
- (b) a supervisory officer within the meaning of the European Union (Carcase Classification and Price Reporting) Regulations 2019 (S.I. No. 254 of 2019), or
- (c) an authorised officer appointed under section 13 of the European Union (Food and Feed Hygiene) Regulations 2020 (S.I. No. 22 of 2020).

“document” includes any information, photograph, image, or map whether maintained in an electronic form or otherwise.

¹ OJ L 347, 20.12.2013, p. 608

² OJ L 347, 20.12.2013, p. 671

³ OJ L 347, 20.12.2013, p. 865

⁴ OJ L 350, 29.12.2017, p. 15

⁵ OJ L 171, 4.7.2017, p.100

⁶ OJ L 171, 4.7.2017, p. 113

⁷ OJ L 268, 22.10.2019, p6

“Market Transparency Regulation” means Commission Implementing Regulation (EU) 2017/1185 of 20 April 2017 and Commission Implementing Regulation 2019/1746 of 1 October 2019.

“Minister” means Minister for Agriculture, Food and the Marine.

“price, production or marketing information” includes information required by international agreements within the meaning of the Market Transparency Regulation.

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

Price, production and market information

3. (1) Where the Minister requests price, production or market information to fulfil the States obligation under the Market Transparency Regulation, a person shall provide such information in accordance with Article 7(3) of the Market Transparency Regulation.

(2) Information referred to in paragraph 1 shall be provided within the time period specified in the request.

(3) A person that contravenes paragraphs (1) or (2) commits an offence.

Publication

4. Information referred to in Regulation (3) may be published in accordance with Article 9(3) of the Market Transparency Regulation.

Appointment of authorised officer

5. (1) The Minister may appoint in writing such persons or classes of persons as he or she considers appropriate to be authorised officers for the exercise of all or any of the functions conferred on an authorised officer under these Regulations, as specified in the appointment.

(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 or specified purpose.

(3) An appointment as an authorised officer ceases –

- (a) if it is terminated in accordance with paragraph (2),
- (b) if it is for a fixed period, on the expiration of that period,
- (c) if it is for a specified purpose, on the completion of that purpose,
or
- (d) 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 re-appointing as an authorised officer a person to whom paragraph (3) relates.

(5) An authorised officer appointed under this Regulation shall be furnished with a warrant of his or her appointment and, when exercising a function conferred on him or her as an authorised officer, the officer shall, if requested by a person affected, produce the warrant, or other evidence that he or she is such an officer, for inspection.

Functions of authorised officer

6. (1) For the purposes of these Regulations or the Market Transparency Regulation an authorised officer may –

- (a) enter and inspect, at all reasonable times, any premises if he or she is carrying out an official control for the purposes of these Regulations or the Market Transparency Regulation or where he or she has reasonable grounds for believing that –
 - (i) a document or record relating to price, production or marketing information or other thing to which the Market Transparency Regulation or these Regulations relates is, may be or has been present,
 - (ii) equipment, machinery, a vehicle, a vessel or other thing used in connection with a document or record relating to price, production or marketing information or other thing to which the Market Transparency Regulation or these Regulations relates is, may be or has been present,
- (b) examine equipment, machinery, a vehicle, a vessel or other thing used in connection with price, production or marketing information or other thing to which the Market Transparency Regulation or these Regulations relates,
- (c) require the name and address of the owner, or person in possession or control of equipment, machinery, a vehicle, a vessel used in connection with price, production or marketing information or other thing to which the Market Transparency Regulation or these Regulations relate, or require details of place of departure, journey or destination,
- (d) inspect equipment, machinery, a vehicle, a vessel used in connection with price, production or marketing information or other thing to which the Market Transparency Regulation or these Regulations relate and require the person in charge or control of such to refrain from moving it,
- (e) require the owner, person in possession or control of any premises, equipment, machinery, a vehicle, a vessel used in connection with a price, production or marketing information or other thing to which the Market Transparency Regulation or these Regulations relate, to produce to the officer such records (and in

the case of a record stored in non-legible form, produce to him or her a copy in legible form) that are in the person's possession or procurement, or under the person's control, as the officer may reasonably require,

- (f) inspect and take copies of any record (including a legible reproduction of one stored in non-legible form) or a document or extracts from the record or document that the officer finds or is produced to him or her during an inspection,
- (g) make a record, including by means of writing, sound recording, photograph, video or other means.

(2) An authorised officer may require a person to give information regarding the ownership and identity of equipment, machinery, a vehicle, a vessel or other thing used in connection with price, production or marketing information or other thing to which the Market Transparency Regulation or these Regulations relate as is in the person's knowledge or procurement.

(3) Where an authorised officer has reasonable grounds for believing that an offence is being or has been committed under the Market Transparency Regulation or these Regulations, the officer may, in addition to the powers exercisable by him or her under paragraph (1) –

- (a) search any premises,
- (b) search the equipment, machinery, vessel or other thing used in connection with price, production or marketing information or other thing to which the Market Transparency Regulation or these Regulations relate,
- (c) require a person in charge or control of the equipment, machinery, vessel or other thing used in connection with price, production or marketing information or other thing to which the Market Transparency Regulation or these Regulations relate to –
 - (i) refrain from moving it or move it to a location where it may be searched, or
 - (ii) give information regarding its ownership, place of departure, journey or destination,
- (d) seize and detain, for as long as is necessary, a record or document relating to price, production or marketing information or other thing to which the Market Transparency Regulation or these Regulations relate and mark or otherwise identify it,
- (e) detain any equipment, machinery, vehicle, vessel or other thing used in connection with price, production or marketing information or other thing to which the Market Transparency Regulation or these Regulations relate for such reasonable period necessary for the purposes of permitting an inspection or a search under the Market Transparency Regulation or these Regulations either at the place where it was first detained or require it to be moved to such other location as the authorised officer requires,

- (f) remove any equipment, machinery, vehicle, vessel or other thing used in connection with price, production or marketing information or other thing to which the Market Transparency Regulation or these Regulations relate, or remove documents or records, and detain them for such reasonable period necessary for the purpose of his or her functions under these Regulations,
- (g) give such direction to a person who has price, production or marketing information or other thing to which the Market Transparency Regulation or these Regulations relate, or who has equipment, machinery, vehicle, vessel or other thing used in connection with price, production or marketing information or other thing to which the Market Transparency Regulation or these Regulations relate in his or her possession or under his or her control or who has information relating to such, as the authorised officer may reasonably consider necessary for the purposes of these Regulations.

(4) 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 7.

(5) An authorised officer, when exercising a function 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 function.

(6) An authorised officer may use reasonable force, if necessary, to exercise his or her functions under these Regulations.

(7) Where, in the course of exercising a function under these Regulations, an authorised officer finds or comes into possession of anything that the officer has reasonable grounds for believing to be evidence of an offence or suspected offence under these Regulations, the officer may seize and retain it for use in evidence in proceedings for an offence under these Regulations.

(8) Nothing in section 17 of the Industrial and Provident Societies Act 1893 prevents an authorised officer from exercising a function conferred on him or her by these Regulations.

(9) A member of the Garda Síochána may stop a vehicle or vessel, for the purposes of these Regulations and may require it to be moved for inspection to such place as he or she directs.

(10) A person who has –

- (a) price, production or marketing information or other thing to which the Market Transparency Regulation or these Regulations relate, or
- (b) equipment, machinery, a vehicle, a vessel or other thing used in connection with price, production or marketing information or other thing to which the Market Transparency Regulation or these Regulations relate in his or her possession or under his or her control, or information or a record relating to any of them,

shall give such –

- (i) assistance to an authorised officer, or person who accompanies the officer, and
- (ii) information to an authorised officer

on request being made, in that behalf by the officer, as the officer may reasonably require for the exercise of his or her functions under these Regulations.

(11) The owner or person in charge of any premises used in connection with price, production or marketing information or other thing to which the Market Transparency Regulation or these Regulations relate shall, if required by an authorised officer, where it is practicable and possible, provide suitable equipment or facilities or a suitable part of the plant or establishment for the officer to carry out his or her functions under these Regulations.

(12) An authorised officer may require a person to give to the officer such information as is in the person's power or procurement as regards any premises specified by the officer including –

- (a) whether or not the premises is used, either partly or wholly, for or in connection with price, production or marketing information or other thing to which the Market Transparency Regulation or these Regulations relate,
- (b) the name of the owner, occupier or person who is in charge of the premises, and
- (c) whether or not the premises is let and, if let, the name and address of the person to whom, and the period of time for which, it is let.

Search Warrant

7. (1) If a judge of the District Court is satisfied on the sworn information of an authorised officer that there are reasonable grounds for believing that –

- (a) there is evidence on any premises of or relating to the commission or intended commission of an offence under the Market Transparency Regulation or these Regulations relating to price, production or marketing information or other thing to which the Market Transparency Regulation or these Regulations relate,
- (b) there is or was on a premises price, production or marketing information or other thing to which the Market Transparency Regulation or these Regulations relate or equipment or other thing made, used or adapted for use (including manufacture or transport) in connection with price, production or marketing information or other thing to which the Market Transparency Regulation or these Regulations relate, or
- (c) a record relating to a thing to which subparagraph (a) or (b) relates is or may be on the premises,

then 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, to enter the premises named in the warrant and to exercise all or any of the functions conferred on an authorised officer under these Regulations.

Compliance notice

8. (1) Where an authorised officer is of the opinion that a contravention of the Market Transparency Regulation or these Regulations may have taken place or may be taking place, the officer may serve a notice (“compliance notice”) stating that opinion to the person –

- (i) who appears to be the owner, occupier, or person in charge of the premises, or
- (ii) in possession or control of price, production or marketing information or other thing

to which the notice relates.

(2) A compliance notice shall –

- (a) require the person to whom it is served to take such action as specified in the notice,
- (b) inform the person to whom it is served that he or she may appeal the notice in the District Court under Regulation 9, and
- (c) state that if the person to whom it is served fails to comply with the notice, he or she commits an offence and is liable to a penalty set out in Regulation 13.

(3) A compliance notice may –

- (a) prohibit or regulate any activity specified in the notice,
- (b) require that the owner or a person in charge of price, production or marketing information or other thing to which the Market Transparency Regulation or these Regulations relate, provide such price, production or marketing information or other thing in a manner and in a form (if any) specified in the notice,
- (c) require a person to maintain such records as is specified in the notice and to produce any records, documents or other such information as the authorised officer specifies,
- (d) require that such alterations or additions be made to the keeping of any price, production or marketing information or other thing to which the Market Transparency Regulation or these Regulations relate as may be specified in the notice.

(4) A person to whom a compliance notice is served shall comply with it until the notice expires, is withdrawn under paragraph (6) or is annulled under Regulation 9, and not cause or permit another person to contravene the terms of the notice.

(5) A compliance notice may specify a time limit within which it is to be complied with.

(6) A compliance notice may be modified or withdrawn in a further notice and the earlier notice has effect subject to the modification or withdrawal.

(7) A compliance notice may require the owner, occupier, operator or person in charge of any premises, price, production or marketing information, vehicle, vessel, machinery, equipment or other thing to which the Market Transparency Regulation or these Regulations relate, to choose between two or more of the requirements in the notice.

(8) A compliance notice shall include an address for service of an appeal under Regulation 9.

(9) A person on whom a compliance notice is served who fails to comply with, or causes or permits another person to contravene the notice, commits an offence.

Appeal against compliance notice

9. (1) A person to whom a compliance notice is served may, within 7 days from the date of service of the notice, appeal the notice to the Judge of the District Court having jurisdiction in the District Court district –

- (a) where price, production or marketing information, premises, vehicle, machinery, equipment, vessel, or other thing to which the Market Transparency Regulation or these Regulations relate, which is the subject of the notice, is situated, or
- (b) where the person bringing the appeal ordinarily resides or carries on business,

on the grounds that the notice is unreasonable having regard to the Market Transparency Regulation or these Regulations.

(2) Notice of an appeal shall contain a statement on the grounds upon which it is alleged that the notice or any of the terms of the notice are unreasonable and shall be served on the authorised officer who served the compliance notice at the address included on the notice in accordance with Regulation 8(8) not later than 48 hours prior to the hearing of the appeal.

(3) A person bringing an appeal shall lodge a copy of the notice or appeal with the District Court Clerk concerned not later than 48 hours prior to the hearing of the appeal.

(4) On the hearing of an appeal a Judge of the District Court may confirm, modify, or annul a notice.

(5) A person, including a person on whom a compliance notice has been served, shall not –

- (a) pending the determination of an appeal, deal with price, production or marketing information, premises, vehicle, vessel, machinery, equipment, or other thing to which the notice relates, other than in accordance with the terms of the notice, or

- (b) if the notice is confirmed or modified on appeal, deal with price, production or marketing information, any premises, vehicle, vessel, equipment, machinery or other thing to which the notice relates other than in accordance with the terms of the compliance notice as confirmed or modified.

(6) In this Regulation “appeal” means an appeal under paragraph (1).

Prohibition of forgery and giving false information

10. (1) A person shall not—

- (a) forge price, production or marketing information, a record, including an electronic record, or document established under these Regulations or a document purporting to be an extract there from (hereafter in this Regulation referred to as “a forged record”),
- (b) alter with intent to defraud or deceive, or utter knowing it to be so altered any notice, price, production or marketing information, record, including an electronic record, or document established under these Regulations or a document purporting to be an extract there from (hereafter in this Regulation referred to as “an altered record”), or
- (c) have, without lawful authority, in his or her possession a forged record or altered record, including an electronic record.

(2) A person, in purported compliance with these Regulations, shall not give information that he or she knows to be false or misleading.

(3) A person who contravenes paragraph (1) or (2) commits an offence.

Obstruction and false statements

11. (1) A person who –

- (a) obstructs, interferes with, or impedes an authorised officer, or any person who accompanies an authorised officer, in the course of exercising a function conferred on the officer under these Regulations,
- (b) fails or refuses, without reasonable cause, to comply with a requirement of an authorised officer under Regulation 6,
- (c) fails, without reasonable cause, to give assistance or requested information to an authorised officer in accordance with Regulation 6, or
- (d) in purporting to give information to an authorised officer for the exercise of the officer’s functions under these Regulations –
 - (i) makes a statement that he or she knows to be false or misleading in a material particular or recklessly makes a statement which is false or misleading in a material particular, or

(ii) intentionally fails to disclose a material particular, commits an offence.

(2) A statement or admission made by a person pursuant to a requirement under Regulation 6(10)(ii) is not admissible in evidence in proceedings brought against the person for an offence (other than an offence under this Regulation for failing to give information or false information) under these Regulations.

Fixed payment notice

12. (1) Where an officer of the Minister, authorised by the Minister in that behalf has reasonable grounds for suspecting that a person is committing or has committed an offence under these Regulations, he or she may serve a notice in writing (“fixed payment notice”) on that person stating that –

- (a) the person is alleged to have committed the offence,
- (b) the person may during the period of 28 days beginning on the date of the notice make to the Minister, at the address specified in the notice, a payment of €250 accompanied by the notice,
- (c) the person is not obliged to make the payment, and
- (d) a prosecution in respect of the alleged offence will not be instituted during the period specified in the notice and, if the payment specified in the notice is made during that period, no prosecution in respect of the alleged offence will be instituted.

(2) Where a fixed payment notice is served under paragraph (1) –

- (a) the person to whom the notice applies may, during the period specified in the notice, make to the Minister, at the address specified in the notice, the payment specified in the notice accompanied by the notice,
- (b) the Minister may receive the payment, issue a receipt for it, and retain the money so paid, and any payment so received shall not be recoverable in any circumstances by the person who made it, and
- (c) a prosecution in respect of the alleged offence shall not be instituted in the period specified in the notice, and, if the payment so specified is made during that period, no prosecution in respect of the alleged offence shall be instituted.

(3) In proceedings for an offence under these Regulations, the onus of proving that a payment in accordance with a fixed payment notice has been made lies on the person on whom the fixed payment notice was served.

(4) In proceedings for an offence referred to in paragraph (1) it is a defence for the accused to show that he or she has made a payment in accordance with this Regulation pursuant to a fixed payment notice issued in respect of that offence.

Offences

13. (1) A person who commits an offence under these Regulations is liable on summary conviction to a class A fine.

(2) An offence under these Regulations may be prosecuted summarily by the Minister.

(3) If an offence under these Regulations is committed by a body corporate and it is proved to have been so committed with the consent or connivance of or to be attributable to any neglect on the part of any person who, when the offence is committed, is a director, manager, secretary or other officer of the body corporate, or a person purporting to act in any capacity, that person, as well as the body corporate, is guilty of an offence and liable to be proceeded against and punished as if guilty of the first-mentioned offence.

(4) If the affairs of a body corporate or unincorporated body are managed by its members, paragraph (2) applies in relation to the acts and defaults of a member in connection with functions of management as if the member is a director or manager of the body corporate.



GIVEN under my Official Seal,
31 August, 2021.

CHARLIE MCCONALOGUE,
Minister for Agriculture, Food and the Marine.

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