

Department of Agriculture, Fisheries and Food

Pigmeat Recall Scheme & Compensation Payments

December, 2008



This scheme is being funded from the Irish Exchequer with partial co-funding from the European Union

1. Scheme Outline and General Objectives

Following the confirmation of dioxin contamination in Irish pigmeat samples on 6 December 2008, the Minister of Agriculture, Fisheries and Food, having regard to the exigencies of the common good and, in particular, the need to ensure a high level of health protection and to protect consumer confidence in EU pork products generally, announced the urgent recall of all Irish pigmeat products from the market. The production period covered by the recall is set out in the “Eligibility” Section below.

The Pigmeat Recall Scheme is being introduced to put into effect the rapid and secure disposal of eligible product, in order to enable normal pig meat processing operations to resume and bring stability to the pigmeat sector. The Scheme is based on an emergency fund agreed between the Minister and representatives of the sector and is financed by the State, with co-financing from the European Union for certain primary product.

This fund is strictly intended to provide assistance for the cost of removing “eligible product” from the market that may have originated from pigs, deemed to be unfit for the food chain due to having been exposed to, or suspected of being exposed to, contaminated animal feed and the subsequent rendering/destruction of that product, under the direction and control of the Minister.

The Minister is not purchasing any product directly or indirectly in operating this scheme from any party and agreement to pay, or actual payment of monies by the Minister from the fund shall not vest ownership of any product, nor will any ownership of the product covered by the Scheme reside at any time, in the Minister.

The scheme shall be administered by the Minister and shall operate throughout the State.

2. Definitions

“**The Department**” and “**DAFF**” means The Department of Agriculture, Fisheries and Food.

“**The Minister**” means The Minister for Agriculture, Fisheries and Food.

“**Applicant**” means a natural or legal person applying for assistance under this scheme, being a primary or secondary processor of pigmeat, incorporated in Ireland.

“**Authorised officer**” means a person authorised by the Minister to carry out functions in relation to this scheme, or a Veterinary Inspector of the Department, or an Agricultural Inspector/Officer of the Department, or a local authority veterinarian.

“**Eligible product**” for the purposes of this scheme shall mean:

- Product manufactured from animals slaughtered in Ireland on dates between 1st September and 6th December, 2008 that had left the control

of primary and secondary processors and was in free circulation on 6th December, 2008 and which was returned to the processor or his agent, receipted for and verified by the Department or sent direct by retailers for destruction, with verification documents being provided to the primary and/or secondary processors and supplied to the Department;

- Product manufactured from animals slaughtered in Ireland on dates between 1st September and 6th December, 2008 that remains under the control of primary and secondary processors, which cannot be segregated to the satisfaction of the Department (i.e. that cannot be shown conclusively to be uncontaminated). Assistance will be subject to verification by the Department;
- Product manufactured from animals slaughtered in Ireland on dates between 1st September and 6th December, 2008 that remain under the control of primary and secondary processors that, due to the expiry of sell by dates could not enter free circulation. Assistance will be subject to verification by the Department;

3. Eligibility

This scheme covers all eligible product, for which a claim for assistance is made by 31 March 2009, with all supporting documentation.

Where this includes fresh, chilled or frozen product which was in slaughterhouses on 6 December 2008, or in coldstores under the responsibility and control of a slaughterhouse, there is a requirement that such product be secure, easily identifiable and kept apart physically from other stocks.

Compensation paid to an applicant is to be net of any insurance recovered by that applicant, or any other financial recovery made by the applicant by any means. The applicant must take all reasonable steps to recover any insurance payments that are possible under any insurance policy held by it, relevant to the operation of the scheme, which leads to a recovery of monies and reduction in the claims on the State including any indemnity enjoyed by an applicant in respect of such product under a usual contract of insurance (including recovery by litigation and/or arbitration, where a commercial law senior counsel to be appointed by agreement between the applicant and the Minister or in default of agreement within 14 days by the President for the time being of the Law Society of Ireland provides an opinion that there is on the balance of probability, a reasonable chance of success in pursuing payment on foot of any insurance policy held by the applicant) and must as a condition of this scheme use its best endeavours to make such insurance recovery. An applicant shall furnish to the Minister all insurance documentation held by it in this regard, on request being made by the Minister. The Department reserves the right to verify all aspects relating to claims, including a review of insurance cover, before all claims are reconciled and subsequent payments are made. Full co-operation in this matter is a condition of this scheme.

The standard procedure is that eligible product must be returned to the plant of origin. The Minister may be willing, in certain exceptional circumstances, to consider

facilitating direct dispatch of recalled pork products for rendering from other nominated sites. The approval of the Minister must be obtained in advance, however.

4. Presentation and Transportation for Rendering

Eligible product must be presented by an applicant, to an authorised officer for loading and onward dispatch for rendering from the applicant's premises, on a consignment basis, i.e. in a quantity and form capable of being transported as a single load. It should be assembled and presented to an authorised officer using a PRS2 form. The product should be assembled and recorded in the form of the product categories shown at Appendix 1. Fresh, chilled or frozen product which was in slaughterhouses on 6 December 2008, or in coldstores under the responsibility and control of a slaughterhouse, must be clearly identified on the PRS2 form.

The authorised officer will supervise the identification and weighing of the product or material and will carry out the required sample checks. These will comprise of a minimum of 10% inspection of all intake per consignment.

When an authorised officer is satisfied with a consignment, the transporting vehicle may be loaded. If it is necessary to remove any boxing prior to transportation, in line with instructions from Animal By-Products Division, then this should only be done at this stage and only when the authorised officer has authorised same. The vehicle must be weighed at the site of loading using a certified weighbridge. The weight must be recorded on the left hand side of the PRS3 form. The vehicle will be sealed and the seal number recorded. A unique identifier will be created for the consignment in the following format: **Plant No./Load No./PRS**, which must be written on to both forms. The first part of the PRS3 form will be completed and signed on behalf of the Minister and the plant management.

The original form and one copy will travel with the consignment and one copy will be kept by the authorised officer. The load can then be dispatched to the final destination point for rendering.

Eligible product is regarded as Category 1 animal by-product (ABP) and must be accompanied by an ABP commercial document. However, as an exceptional measure, there is no requirement to transport the product/material on special Category 1 vehicles.

On arrival at the designated rendering plant the consignment shall be weighed on intake under the supervision of an authorised officer and the second part of Form PRS3 completed and signed. The original documents, which have accompanied the load should be retained by the authorised officer and forwarded with a copy of the weighbridge docket to Pig Meat Recall Section, Department of Agriculture, Fisheries and Food, Johnstown Castle, Co. Wexford. Copies should be retained by the Department representative. A copy of the Form PRS3 should be retained by plant management as this document will form the basis of their claim for payment at a later date.

5. General Conditions of the Scheme:

The following general conditions apply: -

- 1) Adequate notice must be given to DAFF to enable adequate authorised officers to be present to supervise movements of product/material from an applicant's premises to the designated rendering plant for destruction (in the case of abattoirs, processing plants and renderers, at least 24 hours notice must be given; a shorter period may be possible in the case of smaller operators or retailers.).
- 2) Work on the scheme shall not commence, until adequate DAFF staff is available to give supervision.
- 3) Applicants must facilitate all sample and other checks being carried out
- 4) Weighing scales must be calibrated and certified
- 5) Tares must be accurate
- 6) Payments shall only be processed and made after receipt and verification by authorised officers of all required and validated documents.

The secure disposal of all by-products of rendering will be the responsibility of the designated rendering plant. All resultant tallow and or MBM shall be incinerated on site, if permitted or removed to an authorised incineration plant.

6. Payment

Payment to applicants shall be made on the basis of the rate fixed by the Minister for eligible product.

In general, a claim for payment may only be made after the product has been delivered and accepted for destruction by rendering (subject to section 7 below). Claims for payment shall be made in the format specified by the Minister and with the required supporting documentation. Once-off claims may be made immediately. Claims over a sustained period should be made at no more than weekly intervals.

Please note that separate procedures will be put in place for claiming the balance of payment on product which has been the subject of an interim payment from the Department.

In all cases, final payment will be made solely on the basis of volumes rendered and validated by the DAFF. Where there is a discrepancy between the applicant's claim and the Department's records, payment will be made on the lesser of the two figures. Before all claims are reconciled and final payment made, all aspects relating to the claim, including a review of insurance cover will be undertaken. An appeal/review process from any decision shall be provided for.

7. Advance Payment

Provision will be made for advance payment in certain circumstances, on the basis of an inventory of stocks proposed for destruction. The inventory must be submitted in the format laid down by the Minister. On receipt of the application for advance payment, the Minister shall assess the claim and make a payment not exceeding a fixed percentage of the value of the claim, on the basis of the rates established by the Minister for the categories of product concerned.

8. Taxation Requirements

All activities the subject of payment under the terms of this Scheme shall be conducted in compliance with the laws of the State relating, inter alia, to tax and employment. Applicants are expected to be tax compliant and all payments are made strictly subject to provision on request of a tax clearance certificate.

9. Keeping of records

Applicants of this scheme shall ensure that proper records are kept and made available to the Minister on request. As with company records generally, all such original documents shall be maintained for a period of six years and shall be produced to the Minister's authorised officer on written demand and copies provided where required.

10. Provision of False or Misleading Information

By signing the required forms the applicant confirms that all information is true and accurate to the best of his or her knowledge. Where, for the purposes of obtaining payment under this Scheme, the applicant or a person acting on his/her behalf knowingly makes a false or misleading statement or declaration, or includes ineligible material or withholds essential information, the claim in question shall be rendered ineligible for payment and the applicant may be precluded from making any further claims. A deliberate attempt to obtain monies by fraudulent means may render the applicant and any others involved liable to prosecution.

11. Amendment of Terms, Conditions and Procedures

The Minister reserves the right to alter the terms and conditions of this scheme and/or the procedures to be followed subject to State Aid rules.

Any monies that may be payable pursuant to this scheme is strictly subject to a determination by the Commission of the European Union that such payments are consistent with Community law. The Minister reserves the right to recover any and all monies paid pursuant to this scheme in the event that the Commission of the European Union determines that such payments are unlawful having regard to Community law.

12. Information and Data Protection

The Minister reserves the right to make public information in relation to payments and beneficiaries under this scheme, having regard to the provisions of the Freedom of Information Act and the Data Protection Act.

13. General Indemnity

Any payments made to an applicant pursuant to this Scheme shall preclude any claims and the applicant shall fully indemnify the Minister and the State in respect of any such claims howsoever arising against the Minister and the State (the existence of

which is denied) in relation to the removal and disposal of product or material that may have originated from pigs, deemed to be unfit for the food chain due to having been exposed to, or suspected of being exposed to, contaminated animal feed and participation by an applicant in the Scheme. Any payment made there under shall be deemed as full acceptance by the applicant that the Minister has no liability whatsoever to the applicant.

By way of example and explanation, but without prejudice to the generality of the preceding paragraph, the indemnity referred to in the preceding paragraph relates *inter alia* to claims taken against the applicant and/or the Minister and the State to include any injury, loss, or damage caused to a third party by the applicant, or to any member of staff of the applicant in dealing with the return, collection, unwrapping, loading, unloading, removal, transport, delivery disposal, ultimate destruction of and/or payment for Product pursuant to the Scheme and to any claim taken by a party to whom the applicant may have an existing, or as yet unascertained financial liability relating to, or connected with Product covered by the Scheme or compensation paid under it by the Minister to the applicant. This indemnity does not relate to, or exclude claims for compensation, by the applicant limited to Product only, as set out at paragraph 4 of the overarching framework compensation agreement (Framework Agreement) concluded between the processors and the Minister on the 10th day of December 2008. Any such claims will be dealt with by the Minister, but within the strict parameters of what is set out in paragraph 4 of the Framework Agreement.

The applicant shall be fully responsible for the onward payment of all monies received by the applicant under this scheme which:

- (i) is due to retailers or other creditors of the applicant,
- (ii) arises from the receipt of eligible product for destruction by the applicant and
- (iii) for which the Minister has provided payment to the applicant.

14. Further Information/Queries

Any queries in relation to this Scheme should be referred to:

Pigmeat Recall Section
Department of Agriculture, Fisheries and Food
Johnstown Castle
Co. Wexford.

PRIMARY PROCESSOR CATEGORIES**Fresh, chilled or frozen product in store on 6 December, 2008**

Carcases	fore-end	middle	legs	tenderloin	by-product	manufacturing (trims/fat)	Offal (red)
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Product acquired/returned after 6 December, 2008

Carcases	fore-end	middle	legs	tenderloin	by-product	manufacturing (trims/fat)	Offal (red)
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SECONDARY PROCESSOR CATEGORIES

Finished Goods & Work In Progress		
Ser	Product Category	Incl in Category
1	Bulk Cooked Hams	
2	Small Goods (Various)	Sausages, Puddings, Rolls, Sausage Rolls, Savouries, Pies, Ready Meals
3	Pre-Sliced Pre-packed Rashers	
4	Pre-Sliced Bulk Rashers	
5	Bacon Joints	Ham Fillets, BI Gammon, BR Gammon, Horseshoe Gammon, Others
6	Pre-pack Sliced Ham	
7	IQF Diced Ham	Individually Quick Frozen
8	Fermented & Dried Meats	Pepperoni/Salami/Merguez/Chorizo/Other
9	Cooked Back Rasher	
10	Cooked Streaky Rasher	
11	Cooked Sausage/Pork	
12	Hand Held Snacks	"Attack a Snack", "Rustlers"/ Others

Raw Material		
Ser	Product Category	Incl in Category
1	Legs Bone In	
2	Boneless Leg Meat	
3	Loin/Backs	
4	Bellies	
5	Shoulder Bone In	
6	Boneless Shoulder Meat	
7	Pork Manufacturing Meat	Belly Meat, Trim, Fat

