



An Rialálaí Agraibhia Agri-Food Regulator

Agri-Food Regulator announces first conviction for Unfair Trading Practices

Court rules non-payment to farmer as a breach of Unfair Trading Practice Regulations.

19th November 2024: The Agri-Food Regulator secured its first conviction for a breach of the unfair trading practices (UTP) Regulations, following a court case on Friday 15th November against Asba Meats Ltd, Beechpark Logistics Centre, Smithstown Industrial Estate, Shannon, Co Clare. The Court ruled against the meat processor following the non-payment for cattle delivered to the slaughter plant by a West of Ireland farmer.

Ennis District Court heard, in August 2023, the farmer in question made a complaint to the Agri-Food Regulator claiming that Asba Meats, who were not represented in Court, were in breach of the Unfair Trading Practices Regulations as a result of the non-payment for animals which were delivered to the processor in October 2022. Under the 2021 UTP Regulations, failure to pay within a 60-day period constitutes a breach of the UTPs.

Representing the Regulator, **Jonathan Moore, Fieldfisher Ireland LLP** stated that the case before the Court was as a result of the Regulator's investigation of the complaint and he confirmed that, whilst a portion of the payment had been paid during the course of the proceedings, a portion due to the farmer was still outstanding.

The Court convicted the company on a single charge but placed a stay on the conviction until **13th December 2024**, indicating that it would consider a fine and adjudicate on costs on that date.

Speaking after the court case, **Niamh Lenehan, CEO of the Agri-Food Regulator** said *"Today's outcome is a significant milestone for the Agri-Food Regulator. Securing a conviction in this case sends an important message to both suppliers and buyers in our agri-food supply chain - actively engage regarding your rights and obligations. I would like to thank the complainant, my staff and our legal team for successfully prosecuting this case"*.

Ms Lenehan said that the successful conviction served as a reminder to primary producers and small agri-food businesses in particular that the Agri-Food Regulator was here to help them in their dealings with larger buyers, adding that anyone who feels they are experiencing or have been subjected to an Unfair Trading Practice should contact the Regulator immediately.

Ms Lenehan continued *“This is the first conviction in Ireland as a result of an Unfair Trading Practice. I hope it will encourage other producers to come forward if they are concerned that they are not being treated in accordance with the UTP Regulations”*.

Ms Lenehan also called on any other farmers who were facing payment-related issues with their buyers such as in this case to come forward and make themselves known to the Regulator.

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Notes to editors:

[S.I. No. 198/2021 - European Union \(Unfair Trading Practices in the agricultural and food supply chain\) Regulations 2021 \(irishstatutebook.ie\)](#) was signed by the Minister for Agriculture, Food and the Marine, Charlie McConalogue T.D. on 28th April 2021.

These Regulations gave effect to the provisions of [The Unfair Trading Practices \(UTP\) Directive \(Directive \(EU\) 2019/633 of the European Parliament and of the Council of 17 April 2019\)](#) in relation to business-to-business relationships in the agriculture and food supply chain.

The Regulations afford protection for any supplier of agricultural and food products with a turnover of up to €350 million subject to the supplier’s turnover being lower than the buyer’s turnover within stated categories. The Regulations provide protection for five graduated levels of supplier turnover categories relative to the buyer up to the €350 million turnover limit.

The Regulations prohibit 16 unfair trading practices (UTPs) – 10 practices which are prohibited in all circumstances and a further 6 which are prohibited unless the parties agree clearly and unambiguously beforehand.

UTPs which are prohibited in all circumstances

1. Payment later than 30 days for perishable agricultural and food products
2. Payment later than 60 days for other agricultural and food products
3. Short-notice cancellations of perishable agricultural and food products
4. Unilateral contract changes by the buyer
5. Payment not related to a specific transaction
6. Risk of loss and deterioration transferred to the supplier
7. Refusal of written confirmation of a supply agreement by the buyer, despite request of the supplier

8. Misuse of trade secrets by the buyer
9. Commercial retaliation by the buyer
10. Transferring the costs of examining customer complaints to the supplier

UTPs which are prohibited unless the parties agree clearly and unambiguously beforehand

1. The buyer returns unsold products to the supplier without paying for those unsold products
2. Payment by the supplier for stocking, display and listing
3. Payment by the supplier for promotion
4. Payment by the supplier for marketing
5. Payment by the supplier for advertising
6. Payment by the supplier for staff of the buyer for fitting out premises

Under the Agricultural and Food Supply Chain Act 2023, 'An Rialálaí Agraibhia' (Agri-Food Regulator) was established as a new independent state agency on 13th December 2023 (2023 Act)

Under the 2023 Act, the Agri-Food Regulator became the designated Enforcement Authority for the purposes of the Unfair Trading Regulations and revised Regulations ([S.I. No. 625/2023 - Agricultural and Food Supply Chain \(Unfair Trading\) Regulations 2023](#)) were introduced by the Minister to coincide with the establishment of the new agency with similar provisions in respect of the UTPs outlined above.

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Promoting fairness and transparency in the agri-food supply chain