
SCOTTISH STATUTORY INSTRUMENTS

2010 No. 402

**AGRICULTURE
FOOD**

The Beef and Veal Labelling (Scotland) Regulations 2010

Made - - - - *17th November 2010*
Laid before the Scottish
Parliament - - - - *19th November 2010*
Coming into force - - *11th December 2010*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972⁽¹⁾ and all other powers enabling them to do so. The Scottish Ministers have carried out consultation as required by Article 9 of Regulation (EC) No. 178/2002 of the European Parliament and of the Council laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety⁽²⁾.

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Beef and Veal Labelling (Scotland) Regulations 2010 and come into force on 11th December 2010.

(2) These Regulations extend to Scotland only.

Interpretation

2. In these Regulations—

“authorised officer” means a person (whether an officer of the Scottish Ministers or of a local authority) who is authorised for the purposes of these Regulations by the Scottish Ministers or a local authority;

“Commission Regulation 1825/2000” means Commission Regulation (EC) No. 1825/2000 laying down detailed rules for the application of Regulation (EC) No. 1760/2000 of the European Parliament and of the Council as regards the labelling of beef and beef products⁽³⁾;

(1) 1972 c.68. Section 2(2) was amended by the Scotland Act 1998 (c.46) (“the 1998 Act”), Schedule 8, paragraph 15(3) (which was amended by section 27(4) of the Legislative and Regulatory Reform Act 2006 (c.51) (“the 2006 Act”). Section 2(2) was also amended by section 27(1)(a) of the 2006 Act and by the European Union (Amendment) Act 2008 (c.7), Schedule 1, Part 1. The functions conferred upon the Minister of the Crown under section 2(2), insofar as within devolved competence, were transferred to the Scottish Ministers by virtue of section 53 of the 1998 Act.

(2) O.J. L 31, 1.2.2002, p.1 as last amended by Regulation (EC) No. 596/2009 of the European Parliament and of the Council (O.J. L 188, 18.7.2009, p.14).

(3) O.J. L 216, 26.8.2000, p.8, as amended by Commission Regulation (EC) No. 275/2007 (O.J. L 76, 16.3.2007, p.12).

“Council Regulation 1234/2007” means Council Regulation (EC) No. 1234/2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation)(4);

“Commission Regulation 566/2008” means Commission Regulation (EC) No. 566/2008 laying down detailed rules for the application of Council Regulation (EC) No. 1234/2007 as regards the marketing of the meat of bovine animals aged 12 months or less(5);

“local authority” means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994(6); and

“Regulation 1760/2000” means Regulation (EC) No. 1760/2000 of the European Parliament and of the Council establishing a system for the identification and registration of bovine animals and regarding the labelling of beef and beef products and repealing Council Regulation (EC) No. 820/97(7).

Authorities responsible for enforcement

- 3.—(1) The Scottish Ministers are the competent authority for the purposes of—
- (a) Title II of Regulation 1760/2000 (labelling of beef and beef products);
 - (b) Commission Regulation 1825/2000;
 - (c) Article 113b of, and Annex XIa to, Council Regulation 1234/2007 (marketing of the meat of bovine animals aged 12 months or less)(8); and
 - (d) Commission Regulation 566/2008.
- (2) These Regulations shall be enforced by—
- (a) the Scottish Ministers, for the purposes of ascertaining whether there is or has been any contravention of these Regulations in slaughterhouses, cutting plants or wholesalers; and
 - (b) local authorities, for the purposes of ascertaining whether there is or has been any contravention of these Regulations in places other than in slaughterhouses, cutting plants or wholesalers.

Offences under European legislation

- 4.—(1) Any person who fails to comply with any of the following is guilty of an offence—
- (a) the following provisions of Regulation 1760/2000—
 - (i) Article 11 (requirement to label);
 - (ii) Article 13(1) (compulsory labelling: general rules);
 - (iii) Article 13(2) (compulsory labelling: indications on the label);
 - (iv) Article 13(5) (compulsory labelling: additional information on the label);
 - (v) Article 14 (derogations from the compulsory labelling system);
 - (vi) Article 15 (compulsory labelling of beef from third countries);
 - (vii) Article 16(4) (voluntary labelling); and
 - (viii) Article 17(1) (voluntary labelling of beef from third countries);
 - (b) the following provisions of Commission Regulation 1825/2000—

(4) O.J. L 299, 16.11.2007, p.1, as last amended by Commission Regulation (EU) No. 513/2010 (O.J. L 150, 16.6.2010, p.40).

(5) O.J. L 160, 19.6.2008, p.22.

(6) 1994 c.39.

(7) O.J. L 204, 11.8.2000, p.1, as last amended by Council Regulation (EC) No. 1791/2006 (O.J. L 363, 20.12.2006, p.1).

(8) Article 113b and Annex XIa were inserted into Council Regulation 1234/2007 by Council Regulation (EC) No. 361/2008 (O.J. L 121, 7.5.2008, p.1).

- (i) Article 1 (traceability);
 - (ii) Article 2 (labelling where information is not available);
 - (iii) Article 4 (size and composition of a group);
 - (iv) Article 5(2) (minced beef);
 - (v) Article 5a (trimmings)(9);
 - (vi) Article 5b (pre-packaged cut meat);
 - (vii) Article 5c (non-pre-packaged cut meat);
 - (viii) Article 6(3) (beef in small retail packages);
 - (ix) Article 7(1) (checks); and
 - (x) Article 7(4) (Provision of information to the competent authority);
- (c) the following provisions of Council Regulation 1234/2007—
- (i) Article 113b (marketing of the meat of bovine animals aged 12 months or less);
 - (ii) paragraph II of Annex XIa (classification of bovine animals aged 12 months or less at the slaughterhouse);
 - (iii) paragraph III of Annex XIa (sales descriptions);
 - (iv) paragraph IV of Annex XIa (compulsory information on the label);
 - (v) paragraph V of Annex XIa (optional information on the label);
 - (vi) paragraph VI of Annex XIa (recording);
 - (vii) paragraph VIII(1) of Annex XIa (marketing of meat imported from third countries);
and
 - (viii) paragraph VIII(2) of Annex XIa (operators from third countries); and
- (d) the following provisions of Commission Regulation 566/2008—
- (i) Article 4(1) (compulsory information on the label);
 - (ii) Article 4(2) (indications of age);
 - (iii) Article 5 (recording of information); and
 - (iv) Article 6(6) (official checks).

(2) For the purposes of paragraph IV(2) of Annex XIa to Council Regulation 1234/2007, the required information must be clearly displayed near the meat so as to allow the final consumer to identify it easily and must be clearly legible.

Notices

5.—(1) Paragraph (2) applies where an authorised officer reasonably suspects that any beef or veal is being labelled and marketed in a manner that does not comply with any applicable provision of the EU instruments listed in regulation 4(1).

(2) The authorised officer may serve a written notice on the operator of the business responsible for the labelling and marketing of the beef or veal (“the operator”) requiring its removal from sale until it is—

- (a) re-labelled in accordance with the applicable provision of those EU instruments; or
- (b) sent directly for processing into products other than those indicated in the first indent of Article 12 of Regulation 1760/2000.

(9) Articles 5a, 5b and 5c were inserted into Commission Regulation 1825/2000 by Commission Regulation (EC) No. 275/2007 (O.J. L 76, 16.3.2007, p.12).

(3) When serving the notice, the authorised officer must inform the operator of the right of review under paragraph (4) and how it may be exercised.

(4) An operator on whom a notice has been served under paragraph (2) may request the Scottish Ministers to arrange a review of the decision to serve the notice.

(5) The operator requesting a review of a decision to serve a notice under paragraph (2) must do so in person, by telephone or by fax to the contact details indicated in the notice. A request in person or by telephone must be confirmed in writing as soon as reasonably practicable thereafter.

(6) The review is to be determined by a person (unconnected with the original decision) appointed by the Scottish Ministers (“the appointed person”) under arrangements maintained by them for the purpose of this regulation.

(7) The appointed person conducting the review may cancel the notice or confirm it, with or without modifications.

(8) The appointed person must—

- (a) complete the review as soon as reasonably practicable and in any event within 48 hours of the request being made under paragraph (4) in person, by telephone or by fax; and
- (b) serve notice on the operator of the decision in writing.

(9) The Scottish Ministers may suspend the notice pending determination of the review and must serve a notice forthwith of their decision to do so on the operator and the authorised officer.

(10) The appointed person’s determination is final.

Service of notices

6.—(1) Any notice served on an operator under regulation 5(2), (8)(b) or (9) must be in writing.

(2) Any such notice must be served by—

- (a) leaving it with the operator, or with an employee of the operator, at the appropriate place of business where the beef or veal, which is the subject of a notice under regulation 5(2), is being labelled and marketed; or
- (b) sending it by post to the operator at the operator’s proper address.

(3) For the purposes of paragraph (2)(b) the proper address of any operator on whom a notice is to be served is the operator’s last known business address, except in the case of a body corporate, partnership or unincorporated association, where the proper address is the address of the registered or principal office of the body.

Powers of entry

7.—(1) An authorised officer of an enforcement authority may at any reasonable hour, and on producing a duly authenticated authorisation if required, enter any premises for the purpose of ascertaining whether—

- (a) there is or has been on the premises any contravention of these Regulations; or
- (b) there is on the premises any evidence of any contravention of these Regulations.

(2) The authorised officer may be accompanied by such other persons as that officer considers necessary, including any representative of the European Commission.

(3) If a justice of the peace, a stipendiary magistrate or a sheriff, by evidence on oath, is satisfied that there is reasonable ground for entry into any premises (excluding premises used only as a dwelling) for any purpose in paragraph (1) and that—

- (a) admission has been refused, or a refusal of admission is anticipated, and that notice of intention to apply for a warrant has been given to the occupier; or

(b) an application for admission, or the giving of notice of the intention to apply for a warrant, would defeat the object of the entry, or that the case is one of urgency; or

(c) the premises are unoccupied or the occupier temporarily absent,

the justice of the peace, stipendiary magistrate or sheriff may by signed warrant authorise an authorised officer to enter the premises, if need be by reasonable force.

(4) A warrant granted under this regulation continues in force for one month.

(5) An authorised officer who enters any unoccupied premises must leave them as effectively secured against unauthorised entry as they were before entry.

(6) Where land or premises are damaged in the exercise of a power of entry conferred by this regulation, compensation in respect of that land or those premises may be recovered by any person interested in that land or those premises from the enforcement authority which authorised the authorised officer.

Powers of authorised officers

8. An authorised officer of an enforcement authority entering any premises under these Regulations may—

(a) inspect any beef or veal present on those premises;

(b) take samples from any beef or veal on those premises and, if necessary, send the samples for testing;

(c) inspect any labels and relevant business records (including electronic records) in whatever form they are held and take copies;

(d) seize and detain any such labels and records (including electronic records) that may be required as evidence in proceedings under these Regulations;

(e) have access to, and inspect and check the operation of, any computer and any associated apparatus or material which is or has been used in connection with any record mentioned in paragraph (c), and require any person having charge of, or otherwise concerned with the operation of, the computer, apparatus or material to afford such assistance as that person may reasonably require;

(f) where records are kept by means of a computer, require the records to be produced in a visible and legible form in which they may be taken away.

Offences: obstruction etc.

9. Any person who—

(a) intentionally obstructs any person acting in the execution of these Regulations; or

(b) without reasonable excuse, fails to give any person acting in execution of these Regulations any assistance or information that that person may reasonably require for the purpose of carrying out functions under these Regulations; or

(c) furnishes to any person acting in the execution of these Regulations any information knowing it to be false or misleading,

is guilty of an offence.

Offences by bodies corporate

10.—(1) Where—

(a) an offence under these Regulations has been committed by a body corporate or a Scottish partnership or other unincorporated association; and

- (b) it is proved that the offence was committed with the consent or connivance of, or was attributable to any neglect on the part of—
 - (i) a relevant individual; or
 - (ii) an individual purporting to act in the capacity of a relevant individual,

the individual as well as the body corporate, Scottish partnership or unincorporated association is guilty of the offence and is liable to be proceeded against and punished accordingly.

(2) In paragraph (1), “relevant individual” means—

- (a) in relation to a body corporate—
 - (i) a director, manager, secretary or other similar officer of the body;
 - (ii) where the affairs of the body are managed by its members, a member;
- (b) in relation to a Scottish partnership, a partner;
- (c) in relation to an unincorporated association other than a Scottish partnership, a person who is concerned in the management or control of the association.

Defence of due diligence

11. It is a defence for a person charged with an offence under regulation 4 (“P”) to prove that P took all reasonable precautions and exercised all due diligence to avoid the commission of the offence by P or by a person under P’s control.

Penalties

12. A person guilty of an offence under these Regulations is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Officers acting in good faith

13.—(1) No authorised officer shall be personally liable in respect of any act—

- (a) in the execution or purported execution of these Regulations; and
- (b) within the scope of that officer’s employment,

if the authorised officer acted in the honest belief that these Regulations required the act to be done.

(2) Nothing in paragraph (1) shall be construed as relieving the Scottish Ministers or the relevant local authority from any liability in respect of the acts of authorised officers.

(3) Where an action has been brought against an authorised officer in respect of an act—

- (a) in the execution or purported execution of these Regulations; and
- (b) outside the scope of that officer’s employment,

the enforcement authority which authorised the authorised officer may indemnify the authorised officer against the whole or part of any damages which that officer has been ordered to pay or any costs which that officer may have incurred if they are satisfied that that officer honestly believed that the act complained of was within the scope of that officer’s employment.

Revocation

14. The Beef and Veal Labelling (Scotland) Regulations 2008(10) are revoked.

St Andrew's House, Edinburgh
17th November 2010

RICHARD LOCHHEAD
A member of the Scottish Executive

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations replace the Beef and Veal Labelling (Scotland) Regulations 2008. The changes are that they enforce Articles 5a, 5b and 5c of Commission Regulation (EC) No. 1825/2000 (regulation 4(1)(b)) and provide rules for the provision of information for un-prepacked meat of bovine animals aged 12 months or less at the point of sale (regulation 4(2)).

They continue to enforce Title II of Regulation (EC) No. 1760/2000 of the European Parliament and of the Council establishing a system for the identification and registration of bovine animals and regarding the labelling of beef and beef products and subsidiary Commission Regulations.

They also enforce the provisions relating to meat of bovine animals aged 12 months or less of Council Regulation (EC) No. 1234/2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) as well as the provisions of Commission Regulation (EC) No. 566/2008 laying down detailed rules for the application of Council Regulation (EC) No. 1234/2007 as regards the marketing of the meat of bovine animals aged 12 months or less.

They are enforced by the local authority or the Scottish Ministers in accordance with regulation 3.

Breach of the Regulations is an offence punishable on summary conviction with a fine not exceeding level 5 on the standard scale (regulation 12).

The Regulations confer enforcement powers on authorised officers, including powers of entry (regulation 7) and powers of inspection and sampling (regulation 8). Moreover, regulations 5 and 6 enable authorised officers to serve a written notice on operators requiring removal from sale of any beef or veal labelled and marketed in breach of the relevant EU instruments in respect of which operators have a right of review.

Regulation 10 makes provision in relation to offences of bodies corporate and regulation 11 provides for a defence of due diligence. Regulation 13 makes provision for the protection of officers acting in good faith.

A Business and Regulatory Impact Assessment has not been produced, as no effect on business is anticipated.