

# Statutory Instrument 1997 No. 389

## The Bovine Products (Production and Despatch) Regulations 1997

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### STATUTORY INSTRUMENTS

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**1997 No. 389**

### AGRICULTURE

#### The Bovine Products (Production and Despatch) Regulations 1997

<i>Made</i>	<i>19th February 1997</i>
<i>Laid before Parliament</i>	<i>20th February 1997</i>
<i>Coming into force</i>	<i>15th March 1997</i>

The Minister of Agriculture, Fisheries and Food and the Secretary of State, being Ministers designated[1] for the purposes of section 2(2) of the European Communities Act 1972[2] in relation to the common agricultural policy of the European Community, acting jointly, in exercise of the powers conferred on them by the said section 2(2), hereby make the following Regulations: -

#### **Title, commencement and extent**

**1 . These Regulations may be cited as the Bovine Products (Production and Despatch) Regulations 1997, shall come into force on 15th March 1997 and shall extend to Great Britain.**

#### **Interpretation**

## **2 . In these Regulations -**

**"bovine animal" means a bull, cow, steer, heifer or calf;**

**"Commission Decision 96/239/EC" means Commission Decision 96/239/EC on emergency measures to protect against bovine spongiform encephalopathy[3], as amended by Commission Decision 96/362/EC[4];**

**"controlled bovine by-product" means -**

**(a) gelatin;**

**(b) an amino acid;**

**(c) a peptide;**

**(d) tallow; or**

**(e) a product derived, by hydrolysis at a temperature of at least 250°C, from tallow (other than tallow produced in accordance with regulation 3(1) below),**

**produced in the United Kingdom from any part of a bovine animal and which is -**

**(i) liable to enter the human food chain or animal feed chain; or**

**(ii) destined for use in cosmetic, medical or pharmaceutical products;**

**"inspector" means -**

**(a) a person appointed as such by the Minister;**

**(b) a person appointed as such by a local authority in relation to its enforcement responsibilities under these Regulations; and**

**(c) any veterinary surgeon appointed under regulation 3(4)(b) or 6(1)(b) below,**

**and includes a veterinary inspector;**

**"local authority" means -**

**(a) in relation to England -**

**(i) as respects each district or London borough, the council of that district or borough;**

**(ii) where there is a Port Health Authority, that authority in addition to the authority specified in paragraph (i) above;**

**(iii) as respects the City of London, the Common Council; and**

**(iv) as respects the Isles of Scilly, the Council of the Isles of Scilly;**

**(b) in relation to Scotland, a council constituted under section 2 of the Local**

**Government etc. (Scotland) Act 1994[5]; and**

**(c) in relation to Wales -**

**(i) as respects each county or county borough the council of that county or county borough; and**

**(ii) where there is a Port Health Authority, that authority in addition to the authority specified in paragraph (i) above.**

**"the Minister" means, in relation to England, the Minister of Agriculture, Fisheries and Food and, in relation to Scotland or Wales, the Secretary of State;**

**"the Ministers" means the Minister of Agriculture, Fisheries and Food and the Secretary of State;**

**"relevant goods" means -**

**(a) meat for human consumption;**

**(b) any meat product for human consumption;**

**(c) any meat preparation for human consumption; or**

**(d) food for domestic carnivores,**

**obtained from a bovine animal which was not slaughtered in the United Kingdom;**

**"vertebral column" includes any part thereof; and**

**"veterinary inspector" means a person appointed as a veterinary inspector by the Minister.**

### **Production of controlled bovine by-products**

**3 . - (1) Any person who produces a controlled bovine by-product of any type shall ensure that -**

**(a) it is produced -**

**(i) in an establishment registered by the Minister for the production of by-products of that type under paragraph (2) below; and**

**(ii) from bovine animals slaughtered outside the United Kingdom; or**

**(b) it is produced -**

**(i) in an establishment registered by the Minister for the production of by-products of that type under paragraph (3) below; and**

**(ii) in accordance with paragraphs (4) and (5) below.**

**(2) The Minister shall register an establishment for the purposes of this regulation**

and in respect of the type of controlled bovine by-products named in the registration where, following an inspection of that establishment by a veterinary inspector, he is satisfied that no material derived from bovine animals slaughtered in the United Kingdom is used in the production of controlled bovine by-products there.

(3) The Minister shall register an establishment for the purposes of this regulation and in respect of the type of controlled bovine by-products named in the registration where -

(a) following an inspection of that establishment by a veterinary inspector, he is satisfied that the controlled bovine by-products of that type produced there are produced in accordance with the appropriate conditions specified in the Annex to Commission Decision 96/239/EC;

(b) he is satisfied that no vertebral column derived from any bovine animal is used there in the production of such by-products; and

(c) in the case of a registration in respect of gelatin, the Commission of the European Communities has set the date referred to in Article 1(c)(3) of Commission Decision 96/239/EC in respect of gelatin.

(4) Controlled bovine by-products produced from bovine animals slaughtered in the United Kingdom shall be produced -

(a) in accordance with the appropriate conditions specified in the Annex to Commission Decision 96/239/EC; and

(b) under the control of a veterinary surgeon appointed by the Minister,

and no vertebral column derived from any bovine animal shall be used in such production.

(5) In respect of controlled bovine by-products produced from bovine animals slaughtered in the United Kingdom -

(a) the establishment at which that by-product was produced; and

(b) the method by which it was produced,

shall be clearly indicated, either by means of a label affixed to the by-product, or on its packaging or in commercial documentation accompanying it.

(6) The operator of an establishment registered under paragraph (2) or (3) above shall give the Minister prior written notice of any material change in the identity of the suppliers of the materials used by him in the manufacture of controlled bovine by-products or of the facilities or processes used at that establishment in manufacturing such by-products.

(7) The Minister may de-register premises registered under paragraph (2) or (3) above where the requirements of that paragraph are no longer satisfied, or where the operator has failed to give notice to the Minister as required under paragraph (6) above.

### **Control of the consignment of bovine material**

**4 . - (1) Any person who consigns from any place, or transports, material derived from any part of any bovine animal to any establishment registered for the purposes of regulation 3(3) above, shall ensure that -**

**(a) any material derived from such an animal which includes any part of its vertebral column is contained in an impervious container which is clearly labelled to indicate that it contains bovine vertebral column; and**

**(b) any other material is contained in an impervious container which is clearly labelled as not containing bovine vertebral column.**

### **Use and despatch of controlled bovine by-products**

**5 . - (1) Any person who uses any controlled bovine by-product in the production of any product (other than a controlled bovine by-product) which is -**

**(a) liable to enter the human food chain or animal feed chain; or**

**(b) destined for use as or in any cosmetic, medical or pharmaceutical product,**

**shall ensure that that by-product was produced -**

**(i) in accordance with regulation 3 above;**

**(ii) (in the case of a controlled bovine by-product produced in Northern Ireland) in accordance with Northern Ireland legislation having equivalent effect to these Regulations; or**

**(iii) (in the case of gelatin produced, from bovine animals slaughtered outside the United Kingdom, before 24th December 1996) in an establishment which complied with the conditions for registration under regulation 3(2) above at the time of manufacture and which has subsequently been registered in accordance with it; or**

**(iv) (in the case of a controlled bovine by-product, other than gelatin, produced, from bovine animals slaughtered outside the United Kingdom, before 15th March 1997) in an establishment which complied with the conditions for registration under regulation 3(2) above at the time of manufacture and which has subsequently been registered in accordance with it.**

**(2) No person shall despatch from Great Britain to another member State any controlled bovine by-product produced in an establishment registered under regulation 3(3) above unless it is accompanied by a health certificate issued by a veterinary inspector specifying that it was produced in compliance with the conditions specified in the Annex to Commission Decision 96/239/EC.**

### **Despatch of meat and other products from bovine animals slaughtered outside the United Kingdom**

**6 . - (1) No person shall despatch from Great Britain to another member State any relevant goods unless -**

**(a) each stage of the production of those goods which took place in the United**

**Kingdom took place in an establishment approved -**

**(i) by the Minister for the purposes of this regulation; or**

**(ii) (in the case of a stage of production taking place in Northern Ireland) under Northern Ireland legislation having equivalent effect to these Regulations;**

**(b) each stage of the production of those goods was under the control of a veterinary surgeon appointed by either of the Ministers;**

**(c) the goods are accompanied by a health certificate issued by such a veterinary surgeon stating that they were produced in such an establishment; and**

**(d) the goods are despatched in accordance with any relevant provisions of Part II of the Animals and Animal Products (Import and Export) Regulations 1995[6] or Part II of the Products of Animal Origin (Import and Export) Regulations 1996[7].**

**(2) The Minister shall approve an establishment for the purposes of this regulation where, following an inspection of that establishment by a veterinary inspector, he is satisfied that it has in place a system for tracing through the production process the raw material used in the production of any relevant goods which ensures that it is possible to identify the origin of the raw material contained in any relevant goods despatched from that establishment.**

**(3) The operator of an establishment approved under paragraph (2) above shall give the Minister prior written notice of any material change in the identity of the suppliers of the materials used by him in the manufacture of relevant goods or of the facilities or processes used at that establishment in manufacturing such goods.**

**(4) The Minister may withdraw an approval granted under paragraph (2) above where the requirements of that paragraph are no longer satisfied, or where the operator of an establishment has failed to give him notice as required by paragraph (3) above.**

**(5) For the purposes of paragraph (1) above, the storage of any relevant goods shall not be treated as a stage of production where -**

**(a) the goods are accompanied by the required documents;**

**(b) all of the goods listed in those documents are present; and**

**(c) all packaging is sealed and has not been opened since completion of the documents.**

**(6) For the purposes of paragraph (5) above "the required documents" means -**

**(a) in respect of goods originating in another member State, the documents required for the import of those goods by the relevant directive listed in Schedule 3 to the Animals and Animal Products (Import and Export) Regulations 1995 or Schedule 3 to the Products of Animal Origin (Import and Export) Regulations 1996; and**

**(b) in respect of goods originating in a third country, the certificate referred to in regulation 21(3)(a) of the Products of Animal Origin (Import and Export) Regulations 1996.**

#### **Fees**

**7 . The Minister may charge such reasonable fees as he may determine in respect of any costs reasonably incurred by him in connection with -**

- (a) the control exercised under regulation 3(4)(b) or 6(1)(b) above by a veterinary surgeon appointed by him;**
- (b) the issue of a health certificate under regulation 5(2) or 6(1)(c) above; and**
- (c) the approval of an establishment pursuant to regulation 6 above.**

#### **Powers of inspectors**

**8 . - (1) An inspector shall, on producing, if required to do so, some duly authenticated document showing his authority, have the right at all reasonable hours to enter any land or premises (excluding premises used only as a dwelling) for the purpose of ascertaining whether there is or has been on the land or premises any contravention of these Regulations; and in this regulation "premises" includes any place, installation, vehicle, ship, vessel, boat, craft, hovercraft or aircraft.**

**(2) An inspector shall, on producing, if required to do so, some duly authenticated document showing his authority, have the right at all reasonable hours to enter -**

- (a) any establishment registered under regulation 3 above or approved under regulation 6 above in order to ascertain whether the requirements of that regulation are satisfied in that establishment; and**
- (b) any land or premises (excluding premises used only as a dwelling) from which material derived from bovine animals is consigned to an establishment registered under regulation 3 above or approved under regulation 6 above, for the purpose of ensuring that the use of such material for the manufacture of specified bovine by-products at that establishment is permitted under these Regulations.**

**(3) An inspector shall have power to carry out all checks and examinations necessary for the enforcement of these Regulations, and in particular he may -**

- (a) carry out inspections of any process specified in the Annex to Commission Decision 96/239/EC and anything used for the marking and identification of products and materials;**
- (b) take samples (and, if necessary, send the samples for laboratory testing) from any product or material;**
- (c) examine documentary or data processing material relevant to the checks carried out under these Regulations;**
- (d) take with him any person he deems necessary to carry out the necessary checks and examinations;**

**(e) take with him a representative of the European Commission acting for the purposes of Commission Decision 96/239/EC; and**

**(f) require any person who is or appears to be in control of relevant goods or controlled bovine by-products to arrange, at his own expense, for those goods or products to be removed from any store, vehicle, container, packing or wrapping.**

**(4) Where an inspector has a reasonable suspicion that a consignment of any controlled bovine by-products, of any relevant goods, or of the material described in regulation 4 above, is illegal, he may require the person in control of any health certificate or commercial documentation accompanying the consignment to deliver it and any copies of it to him on demand and may, in respect of the consignment or any part of it -**

**(a) give notice that, until the notice is withdrawn, it may not be removed or may not be removed except to some place specified in the notice;**

**(b) give notice that it must be removed at the expense of the person who is or appears to be in control of the consignment to some place specified in the notice; or**

**(c) seize it and remove it in order to have it dealt with by a justice of the peace.**

**(5) Where an inspector exercises the power conferred by paragraph (4) above, he shall as soon as is reasonably practicable, and in any event within 21 days, determine whether he is satisfied that the consignment is not illegal and -**

**(a) if he is so satisfied, he shall return any health certificate or commercial documentation which has been delivered to him, withdraw any notice given pursuant to paragraph (4)(a) above relating to the consignment and return anything which he has seized; or**

**(b) if he is not so satisfied, he shall inform the person in charge of the consignment of his intention to have it dealt with by a justice of the peace and -**

**(i) any person who may be liable for prosecution in respect of the consignment shall, if he attends before the justice of the peace by whom the matter falls to be dealt with, be entitled to be heard and to call witnesses; and**

**(ii) that justice of the peace may, but need not, be a member of the court before which any person is charged with any offence in relation to the consignment.**

**(6) If it appears to a justice of the peace, on the basis of such evidence as he considers to be appropriate in the circumstances, that a consignment is illegal, he shall order that the consignment be destroyed and any expenses reasonably incurred in connection with such destruction and (where the consignment was seized pursuant to paragraph (4)(c) above) in connection with storage prior to destruction, be defrayed by the owner of the consignment, unless he is satisfied that, if the consignment is returned to the owner -**

**(a) (in the case of a consignment of controlled bovine by-products) the owner will ensure that it is not used in any product liable to enter the human food chain or animal feed chain or in any cosmetic, medical or pharmaceutical product;**

**(b) (in the case of material of the sort described in regulation 4 above) the owner will not consign it to any establishment registered for the purposes of regulation 3 above; or**

**(c) (in the case of a consignment of relevant goods) the owner will not despatch it to another member State,**

**in which case the consignment shall be returned to him.**

**(7) If a notice under paragraph (4)(a) above is withdrawn or anything seized is returned under paragraph (5)(a) above, or if a justice of the peace acting under paragraph (6) above does not find a consignment to be illegal, the Minister shall compensate the owner of the consignment for any depreciation in its value resulting from the action taken by the inspector.**

**(8) Any disputed question as to the right to or the amount of any compensation payable under paragraph (7) above shall be determined by arbitration.**

**(9) In the application of this regulation to Scotland -**

**(a) any reference to a justice of the peace includes a reference to the sheriff and to a magistrate;**

**(b) paragraph (5)(b)(ii) above shall not apply;**

**(c) any order made under paragraph (6) above shall be sufficient evidence in any proceedings in relation to these Regulations of the fact that the consignment of relevant goods in question was falsely described; and**

**(d) the reference in paragraph (8) above to determination by arbitration shall be construed as a reference to determination by a single arbiter appointed, failing agreement between the parties, by the sheriff.**

**(10) A consignment is "illegal" for the purposes of this regulation if -**

**(a) it is falsely described on its packaging, wrapping, label or any container in which it is placed, or in any health certificate or commercial documentation accompanying it;**

**(b) (in the case of a consignment of controlled bovine by-products) it was produced in contravention of regulation 3(1) above;**

**(c) (in the case of material of the sort described in regulation 4 above) it was not consigned in an impervious container clearly labelled in accordance with regulation 4 above; or**

**(d) (in the case of a consignment of relevant goods) it was despatched in contravention of regulation 6(1) above.**

**Obstruction**

**9 . - (1) No person shall -**

**(a) intentionally obstruct any person acting in the execution of these Regulations;**

**(b) without reasonable cause, fail to give to any person acting in the execution of these Regulations any assistance or information which that person may reasonably require of him for the purpose of carrying out his functions under these Regulations; or**

**(c) furnish to any person acting in the execution of these Regulations any information which he knows to be false or misleading.**

**(2) Nothing in paragraph (1)(b) above shall be construed as requiring any person to answer any question or give any information if to do so might incriminate him.**

**Offences and Penalties**

**10 . - (1) A person contravening any provision of these Regulations shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale or to imprisonment for a term not exceeding three months or to both.**

**(2) Paragraph (1) above does not apply to anything done or omitted by the Minister.**

**(3) Section 20 of the Food Safety Act 1990[8] shall apply to the commission by any person of an offence under these Regulations, and section 21(1), (5) and (6) of that Act shall apply in any proceedings for an offence under these Regulations, as if the references to "any of the preceding provisions of this Part" were references to "these Regulations".**

**Offences by bodies corporate**

**11 . - (1) Where a body corporate is guilty of an offence under these Regulations, and that offence is proved to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of -**

**(a) any director, manager, secretary or other similar officer of the body corporate, or**

**(b) any person who was purporting to act in any such capacity,**

**he, as well as the body corporate, shall be guilty of the offence and be liable to be proceeded against and punished accordingly.**

**(2) For the purposes of paragraph (1) above, "director", in relation to a body corporate whose affairs are managed by its members, means a member of the body corporate.**

**(3) Where an offence under these Regulations which has been committed by a Scottish partnership is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a partner, he as well as the partnership shall be guilty of the offence and be liable to be proceeded against and punished accordingly.**

**Enforcement**

**12 . - (1) Except as provided in paragraphs (2) and (3) below, these Regulations shall**

be executed and enforced by the Minister.

(2) Regulations 4, 5 and 6(1) shall be executed and enforced by the local authority.

(3) No proceedings shall be instituted for an offence under regulation 5 or 6(1) except with the consent of the Minister.

(4) The Minister may direct, in relation to cases of a particular description or any particular case, that the duty imposed on a local authority under paragraph (2) or (3) above shall be discharged by the Minister and not by the local authority.

#### **Amendment of the Animals and Animal Products (Import and Export) Regulations 1995**

**13 . Regulation 6(5) of the Animals and Animal Products (Import and Export) Regulations 1995 shall be deleted, and the following paragraph shall be added at the end of regulation 5 of the Animals and Animal Products (Import and Export) Regulations 1995 -**

**" (5) This regulation shall apply without prejudice to the requirements of the Bovine Products (Production and Despatch) Regulations 1997."**

#### **Revocation of the Bovine Products (Despatch to other Member States) Regulations 1996**

**14 . The Bovine Products (Despatch to other Member States) Regulations 1996[2] are hereby revoked.**

*Angela Browning*

**Parliamentary Secretary, Ministry of Agriculture, Fisheries and Food**

**17th February 1997**

*Lindsay*

**Parliamentary Under Secretary of State, Scottish Office**

**19th February 1997**

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#### **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

**These Regulations revoke and remake with amendments the Bovine Products (Despatch to other Member States) Regulations 1996.**

**Those Regulations implemented in part Commission Decision 96/239/EC on emergency measures to protect against bovine spongiform encephalopathy, as amended by Commission Decision 96/362/EC, in relation to the despatch to other member States of meat and other products from bovine animals slaughtered outside the United Kingdom.**

**They made provision for the Minister to charge fees and contained provisions on enforcement, obstruction, offences and penalties.**

**These Regulations additionally make provision controlling the production from bovine animals of gelatin, tallow and related products (regulation 3), and concerning the export and use of such products (regulation 5).**

**They regulate the consignment of material containing bovine vertebral column to establishments approved under the Regulations (regulation 4).**

**They correct an error in the amendment made to the Animals and Animal By-Products (Import and Export) Regulations 1995.**

**They were notified in draft to the European Commission in accordance with Council Directive 83/189/EEC (O.J. No. L181, 26.4.1983, p.8) (as amended).**

**A Compliance Cost Assessment has been prepared and placed in the library of each House of Parliament. Copies can be obtained from the Animal Health (BSE) Division of the Ministry of Agriculture, Fisheries and Food, Government Buildings, Hook Rise South, Tolworth, Surbiton, Surrey KT6 7NF.**

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*Notes:*

[1] S.I. 1972/1811.

[2] 1972 c.68.

[3] O.J. No. L78, 28.3.96, p.47.

[4] O.J. No. L139, 12.6.96, p.17.

[5] 1994 c.39.

[6] S.I. 1995/2428.

[7] S.I. 1996/3124.

[8] 1990 c.16.

[9] S.I. 1996/2265, amended by S.I. 1996/3000.

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