

Statutory Instrument 1997 No. 1905

The Bovines and Bovine Products (Despatch Prohibition and Production Restriction) Regulations 1997

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STATUTORY INSTRUMENTS

1997 No. 1905

AGRICULTURE

The Bovines and Bovine Products (Despatch Prohibition and Production Restriction) Regulations 1997

<i>Made</i>	<i>1st August 1997</i>
<i>Laid before Parliament</i>	<i>1st August 1997</i>
<i>Coming into force</i>	<i>6.00 p.m. 1st August 1997</i>

ARRANGEMENT OF REGULATIONS

1. Title, commencement and extent
2. Interpretation
3. Prohibitions and restrictions on despatch of live bovine animals and products derived from them
4. Production of controlled bovine by-products
5. Control of the consignment of bovine material

6. Use of controlled bovine by-products
7. Approval of establishments for the purpose of despatch of relevant goods
- 8 Fees
9. Powers to stop and search vehicles and vessels and detain goods
10. Powers of entry
11. Seizure of illegal goods
12. Sampling and other checks and examinations
13. Powers of customs officers to detain vehicles and vessels
14. Suspension notices and orders
15. Obstruction
16. Offences and penalties
17. Offences by bodies corporate
18. Enforcement
19. Service of notices and other documents
20. Revocation of the Bovine Products (Production and Despatch) Regulations 1997

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 the exercise of the powers conferred on them by that section, hereby make the following Regulations: -

Title, commencement and extent

1. These Regulations may be cited as the Bovines and Bovine Products (Despatch Prohibition and Production Restriction) Regulations 1997, shall come into force at 6.00 p.m. on 1st August 1997 and shall extend to Great Britain.

Interpretation

2. - (1) In these Regulations, unless the context otherwise requires -

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

"Commission Decision 96/239/EC" means Commission Decision 96/239/EC^[3] on emergency measures to protect against bovine spongiform encephalopathy, 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 4(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 4(4)(b) below,

and includes a veterinary inspector appointed as such by the Minister;

"local authority" means -

(a) in relation to England -

(i) as respects each London borough, district or non-metropolitan county, the council of that borough, district or county;

(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;

"officer" means a person commissioned by the Commissioners of Customs and Excise;

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

"premises" includes any place, stall or moveable structure;

"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.

(2) Expressions in these Regulations which are not defined in paragraph (1) above and which appear in Article 1(1) of Commission Decision 96/239/EC have the same meaning in these Regulations as in that Decision.

Prohibitions and restrictions on despatch of live bovine animals and products derived from them

3. - (1) No person shall despatch from Great Britain to another member State or a third country any -

(a) live bovine animal or bovine embryo;

(b) meat derived from a bovine animal slaughtered in the United Kingdom;

(c) product obtained from a bovine animal slaughtered in the United Kingdom which -

(i) is liable to enter the human food chain;

(ii) is liable to enter the animal feed chain;

(iii) is destined for use in cosmetic products; or

(iv) is destined for use in medical or pharmaceutical products,

with the exception of a controlled bovine by-product manufactured in accordance with regulation 4(1)(a) or a controlled bovine by-product manufactured in accordance with regulation 4(1)(b) in respect of which the Commission has set the date referred to in article 1(c)(3) of Commission Decision 96/239/EC; or

(d) meat meal, bonemeal or meat and bonemeal derived from any mammal.

(2) No person shall bring to any place in Great Britain for the purpose of despatch to another member State or a third country, or consign for the purpose of such despatch, any -

(a) live bovine animal or bovine embryo;

(b) meat derived from a bovine animal slaughtered in the United Kingdom;

(c) product obtained from a bovine animal slaughtered in the United Kingdom

which -

- (i) is liable to enter the human food chain;**
- (ii) is liable to enter the animal feed chain;**
- (iii) is destined for use in cosmetic products; or**
- (iv) is destined for use in medical or pharmaceutical products,**

with the exception of a controlled bovine by-product manufactured in accordance with regulation 4(1)(a) or a controlled bovine by-product manufactured in accordance with regulation 4(1)(b) in respect of which the Commission has set the date referred to in article 1(c)(3) of Commission Decision 96/239/EC; or

(d) meat meal, bonemeal or meat and bonemeal derived from any mammal.

(3) No person shall despatch from Great Britain to another member State or a third country any controlled bovine by-product produced in an establishment registered under regulation 4(3) below 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.

(4) No person shall despatch from Great Britain to another member State or a third country 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 regulation 7 below; or**
- (ii) (in the case of a stage or 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 Products of Animal Origin (Import and Export) Regulations 1996[6].

Production of controlled bovine by-products

4. - (1) No person shall produce a controlled bovine by-product of any type unless he ensures that it is produced -

(a) from bovine animals slaughtered outside the United Kingdom in an establishment registered by the Minister for the production of by-products of that type under paragraph (2) below; or

(b) in accordance with paragraphs (4) and (5) below in an establishment registered by the Minister for the production of by-products of that type under paragraph (3) 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

5. No person shall consign from any place, or transport, material derived from any part of any bovine animal to an establishment registered for the purposes of regulation 4(3) above, unless he ensures 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 of controlled bovine by-products

6. No person shall use 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,

unless he ensures that that by-product was produced -

(i) in accordance with regulation 4 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;

(iii) (in the case of gelatin produced before 24th December 1996 from bovine animals slaughtered outside the United Kingdom) in an establishment which complied with the conditions for registration under regulation 4(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 before 15th March 1997 from bovine animals slaughtered outside the United Kingdom) in an establishment which complied with the conditions for registration under regulation 4 above at the time of manufacture and which has subsequently been registered in accordance with it.

Approval of establishments for the purpose of despatch of relevant goods

7. - (1) 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.

(2) The operator of an establishment approved under paragraph (1) above shall give the Minister prior written notice of any change to the system of tracing 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.

(3) The Minister may withdraw an approval granted under paragraph (1) 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 (2) above.

Fees

8. 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 4(4)(b) above by a veterinary surgeon appointed by him;**
- (b) the issue of a health certificate under regulation 3(3) or 3(4)(c) above; and**
- (c) the approval of an establishment pursuant to regulation 7 above.**

Powers to stop and search vehicles and vessels and detain goods

9. - (1) At any time while a vehicle is -

- (a) within the limits of or entering or leaving a port or any land adjacent to a port and occupied wholly or mainly for the purposes of activities carried on at the port;**
- (b) at, entering or leaving an aerodrome; or**
- (c) at, entering or leaving an approved wharf, transit shed, customs warehouse or free zone,**

an officer or an inspector may, for the purposes of the enforcement of these Regulations, stop and search the vehicle.

(2) Where at any place (including any place which is referred to in paragraph (1) above) an officer or an inspector has reasonable grounds to suspect that any vehicle or vessel is or may be carrying a consignment of any goods which are -

- (a) of a kind described in regulation (3)(1) or (2) above;**
- (b) relevant goods;**
- (c) controlled bovine by-products; or**
- (d) material of a kind described in regulation 5 above,**

and which he reasonably suspects may be illegal, he may search that vehicle or vessel..

(3) Where an officer or an inspector has stopped and searched a vehicle under paragraph (1) above or has searched a vehicle or a vessel under paragraph (2) above, he may detain for not more than three working days any goods which he reasonably suspects may be illegal.

(4) Any goods detained under this regulation shall be dealt with during the period of their detention in such manner as the person detaining the goods may direct.

(5) Goods are "illegal" for the purposes of this regulation if -

(a) they are falsely described on their packaging, wrapping, label or any container in which they are placed, or in any health certificate or commercial documentation accompanying them;

(b) (in the case of any goods of a kind described in regulation 3(1) or (2) above) they are being brought or consigned for despatch in contravention of regulation 3(1) or (2) above;

(c) (in the case of relevant goods) they were produced or despatched in contravention of regulation 3(4) above;

(d) (in the case of controlled bovine by-products) they were produced in contravention of regulation 4(1) above; or

(e) (in the case of material of a kind described in regulation 5 above) the goods are not in an impervious container clearly labelled in accordance with regulation 5 above.

(6) For the purposes of paragraph (1) above a "port", an "aerodrome", an "approved wharf", "transit shed", "customs warehouse" and "free zone" have the same meanings as they respectively have in the Customs and Excise Management Act 1979[7].

Powers of entry

10. - (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 premises (excluding premises used only as a dwelling) for the purpose of ascertaining whether -

(a) there is or has been on the premises any contravention of any provisions of these Regulations;

(b) there is on the premises any evidence of any contravention of any provisions of these Regulations;

(c) (in the case of premises registered under regulation 4(3) above or approved under regulation 7(1) above) the requirements of that regulation are satisfied; and

(d) (in the case of premises from which material derived from bovine animals is consigned to an establishment registered under regulation 4(3) above or approved under regulation 7(1) above) the use of such material for the manufacture of controlled bovine by-products at that establishment is permitted under these Regulations.

(2) If a justice of the peace, on sworn information in writing is satisfied that there is reasonable ground for entry into premises for any such purpose as is mentioned in paragraph (1) above and that either -

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

(b) an application for admission, or the giving of such a notice, would defeat the object of the entry, or that the case is one of urgency, or that the premises are unoccupied or the occupier temporarily absent,

the justice may by warrant signed by him authorise an inspector to enter the premises, if need be by reasonable force.

(3) In the application of this regulation to Scotland any reference to a justice of the peace includes a reference to the sheriff and to a magistrate.

Seizure of illegal goods

11. - (1) Where an inspector has a reasonable suspicion that a consignment of any -

(a) goods of a kind described in regulation 3(1) or (2) above;

(b) relevant goods;

(c) controlled bovine by-products; or

(d) material of a kind described in regulation 5 above,

is illegal, he may require the person in control of any commercial documentation or health certificate accompanying the consignment to deliver that documentation or certificate and any copies to him on demand.

(2) Where an inspector exercises the power conferred by paragraph (1) above he 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

(3) Where an inspector exercises the power conferred by paragraph (2) 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.

(4) Where the inspector is satisfied that the consignment is not illegal, he shall -

(a) return any health certificate or commercial documentation which has been

delivered to him;

(b) withdraw any notice given pursuant to paragraph (2)(a) above relating to the consignment; and

(c) return anything which he has seized and which, in the case of food, is not unfit for human consumption.

(5) Where the inspector is satisfied that the consignment is illegal, 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 -

(a) 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

(b) the 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, unless he is satisfied that there is no despatch risk in respect of the consignment (or any part of it) if it is returned to the owner, order -

(a) the consignment to be destroyed or otherwise disposed of so as to prevent it from being despatched to another member State or a third country; and

(b) any expenses reasonably incurred in connection with such destruction or disposal and (where the consignment was seized pursuant to paragraph (2)(c) above) in connection with storage prior to destruction, to be defrayed by the owner of the consignment.

(7) Where the justice of the peace is satisfied that there is no despatch risk in respect of a consignment if it is returned to the owner, he shall order the consignment to be returned to the owner.

(8) For the purposes of paragraphs (6) and (7) above, the "despatch risk" in respect of a consignment is the risk that -

(a) (in the case of a consignment of any goods of a kind described in regulation 3(1) or (2) above) the owner will despatch some or all of those goods to another member State or a third country;

(b) in the case of a consignment of controlled bovine by-products) the owner will use some or all of those by-products in any product liable to enter the human food chain or animal feed chain or in any cosmetic, medical or pharmaceutical product; or

(c) (in the case of material of a kind described in regulation 5 above) the owner will consign some or all of that material to any establishment registered for the purposes of regulation 4 above.

(9) 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 any goods of a kind described in regulation 3(1) or (2) above) it was brought to a place in Great Britain for despatch in contravention of regulation 3(1) or (2) above;**
- (c) (in the case of a consignment of relevant goods) they were produced or despatched in contravention of regulation 3(4) above;**
- (d) (in the case of a consignment of controlled bovine by-products) it was produced in contravention of regulation 4(1) above; or**
- (e) (in the case of a consignment of material of a kind described in regulation 5 above) it was not consigned in an impervious container clearly labelled in accordance with regulation 5 above.**

(10) 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) above shall not apply; and**
- (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 in question was falsely described.**

Sampling and other checks and examinations

12. - (1) An inspector shall have power to carry out all checks and examinations necessary for the enforcement of these Regulations.

(2) An inspector may -

- (a) take samples (and, if necessary, send the samples for laboratory testing) from any product or material;**
- (b) examine any record, and any information contained in a computer, which he believes to be relevant to any checks and examinations under these Regulations;**
- (c) seize, detain and require the production of any such record and information which he has reason to believe may be required as evidence in proceedings under any of the provisions of these Regulations;**
- (d) take with him such other person as he considers necessary to carry out any checks and examinations under these Regulations;**
- (e) require any person who is or appears to be in control of any goods of a kind described in regulation 3(1) or (2) above, or any relevant goods or controlled bovine by-products or material of a kind described in regulation 5 above, to arrange, at his own expense, for those goods or products to be removed from**

any store, vehicle, vessel, container, packing or wrapping;

(f) 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; and

(g) take with him a representative of the European Commission acting for the purposes of Commission Decision 96/239/EC.

Powers of customs officers to detain vehicles and vessels

13. - (1) Any officer may, for the purpose of facilitating the exercise by any inspector of the powers conferred on the inspector by these Regulations, detain any vehicle or vessel for such period as may reasonably be necessary for that purpose.

(2) Any vehicle or vessel detained by an officer under this regulation shall be dealt with during the period of its detention in such manner as the officer may direct.

Suspension notices and orders

14. - (1) If an inspector is satisfied that the despatch risk is fulfilled with respect to a consignment on business premises of any goods of a kind described in regulation 3(1) or (2) above, he may, by a notice served on the proprietor of the business (a "suspension notice"), impose a suspension of the use of the premises for -

(a) the despatch of those goods; and

(b) the receipt or despatch of any other goods of a kind described in regulation 3(1) or (2) above.

(2) If a magistrates' court or, in Scotland, the sheriff is satisfied, on the application of an inspector, that the despatch risk is fulfilled with respect to a consignment on business premises of any goods of a kind described in regulation 3(1) or (2) above, the court or sheriff shall, by an order (a "suspension order"), impose a suspension of the use of the premises for -

(a) the despatch of those goods; and

(b) the receipt or despatch of any other goods of a kind described in regulation 3(1) or (2) above.

(3) An inspector shall not apply for a suspension order unless, at least one day before the date of the application, he has served notice on the proprietor of the business of his intention to apply for the order.

(4) As soon as practicable after the service of a suspension notice, an inspector shall affix a copy of the notice in a conspicuous position on such premises used for the purpose of the business as the inspector considers appropriate; and any person who knowingly contravenes such a notice shall be guilty of an offence.

(5) As soon as reasonably practicable after the making of a suspension order, an inspector shall -

(a) serve a copy of the order on the proprietor of the business; and

(b) affix a copy of the notice in a conspicuous position on such premises used for the purpose of that business as the inspector considers appropriate;

and any person who knowingly contravenes such a notice shall be guilty of an offence.

(6) A suspension notice shall cease to have effect -

(a) if no application for a suspension order is made within the period of three days beginning with the service of the notice, at the end of that period; and

(b) if such an application is so made, on the determination or abandonment of the application.

(7) A suspension notice or suspension order shall cease to have effect on the issue by the Minister of a certificate to the effect that he is satisfied that the proprietor has taken sufficient measures to secure that the despatch risk is no longer fulfilled with respect to the use of the premises for the receipt and despatch of goods.

(8) The Minister shall issue a certificate under paragraph (7) above within three days of his being satisfied as mentioned in that paragraph; and on an application by a proprietor for such a certificate, the Minister shall -

(a) determine, as soon as is reasonably practicable and in any event within 14 days, whether or not he is so satisfied; and

(b) if he determines that he is not so satisfied, give notice to the proprietor of the business of the reasons for that determination.

(9) Where a suspension notice is served on the proprietor of a business, the Minister shall compensate him in respect of any loss suffered by reason of his complying with the notice unless -

(a) an application for a suspension order is made within the period of three days beginning with the service of the notice; and

(b) the court declares itself satisfied, on the hearing of the application, that the despatch risk was fulfilled with respect to the business at the time when the notice was served;

and any disputed question as to the right to or the amount of any compensation payable under this paragraph shall be determined by arbitration or, in Scotland, by a single arbiter appointed, failing agreement between the parties, by the sheriff.

(10) For the purposes of this regulation, the "despatch risk" in respect of a consignment of goods is the risk that the proprietor of the business premises to which the goods have been consigned will despatch some or all of those goods to another member State or a third country.

Obstruction

15. - (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

16. - (1) A person guilty of an offence under regulation 14(4) or regulation 14(5) above shall be liable -

(a) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years or to both;

(b) on summary conviction to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding three months or to both.

(2) A person contravening any other provision of these Regulations shall be guilty of an offence and shall be liable -

(a) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years or to both;

(b) on summary conviction to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding three months or to both.

(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

17. - (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 person 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 shall 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 shall be liable to be proceeded against and punished accordingly.

Enforcement

18. - (1) Except as provided in paragraph (2) below, these Regulations shall be enforced and executed by the Minister and the local authority.

(2) 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 this regulation shall be discharged by the Minister and not by the local authority.

Services of notices and other documents

19. - (1) Any notice or other document to be given or served on any person under these Regulations may be given or served either -

(a) by delivering it to that person;

(b) in the case of an incorporated body, by delivering it to their secretary or clerk at their registered or principal office, or by sending it in a prepaid letter addressed to him at that office; or

(c) in the case of any other person, by leaving it, or sending it in a prepaid letter addressed to him, at his usual or last known address.

(2) Where a notice or other document is to be given or served on the owner, proprietor or occupier of any premises and it is not practicable after reasonable enquiry to ascertain the name and address of the person to or on whom it should be given or served, or the premises are unoccupied, the document may be given or served by addressing it to the person concerned by the description of "owner", "proprietor" or "occupier" of the premises (naming them) and -

(a) by delivering it to some person on the premises; or

(b) if there is no person on the premises to whom it can be delivered, by affixing it, or a copy of it, to some conspicuous part of the premises.

Revocation of the Bovine Products (Production and Despatch) Regulations 1997

20. The Bovine Products (Production and Despatch) Regulations 1997[2] are hereby revoked.

Jack Cunningham

Minister of Agriculture, Fisheries and Food

1st August 1997

{sg} Donald Dewar

Secretary of State, Scottish Office

1st August 1997

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations give effect to 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 third countries and other member States of bovine animals and embryos and meat and other products from bovine animals.

Regulation 3 prohibits the despatch from Great Britain to another member State or a third country of -

- bovine animals or bovine embryos
- meat derived from bovine animals slaughtered in the United Kingdom
- products obtained from bovine animals slaughtered in the United Kingdom (with the exception of controlled bovine by-products, as defined in regulation 2) which are liable to enter the human food or animal feed chains, or which are destined for use in cosmetics products, medical products or pharmaceutical products
- meat meal, bonemeal or meat and bonemeal derived from any mammal.

Regulation 3 also prohibits the bringing of any of these goods to any place in Great Britain for the purpose of their despatch to another member State or a third country and it prohibits their consignment for the purpose of any such despatch.

The Regulations revoke and replace the Bovine Products (Production and Despatch) Regulations 1997 and make provision for the control of production from bovine animals of gelatin, tallow and related products (regulation 4); for the control of the consignment of material containing bovine vertebral column to establishments approved under the Regulations (regulation 5); for the use of gelatin, tallow and related products (regulation 6); and the despatch to other member States of meat and other products from bovine animals slaughtered outside the United Kingdom (regulation 7).

Regulation 8 makes provision for the Minister to charge fees in respect of his costs reasonably incurred in the control exercised under regulation 3(4)(b) and 4(4)(b), for the issue of health certificates under regulation 3(3) and 3(4)(c) and the approval of establishments pursuant to regulation 7.

Regulation 9 confers on inspectors and customs officers powers to stop and search vehicles and vessels reasonably suspected of carrying goods the despatch of which to

other member States or third countries is prohibited. Regulation 10 provides powers of entry to premises. Regulation 11 provides power to seize goods. It makes provision for the destruction of goods, the despatch of which to other member States or third countries is prohibited, where a justice of the peace is satisfied there is a risk of despatch abroad. Regulation 13 confers power on customs officers to detain vehicles and vessels. Regulation 14 makes provision for suspension notices and orders, suspending the use of business premises for the receipt or despatch of such goods.

Regulations 15 to 17 provide offences and penalties. Regulation 18 provides that the Regulations are enforced by the Minister and local authorities, as defined in regulation 2, and regulation 19 makes provision for the service of notices.

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.

Notes:

[1] S.I. 1972/1811.

[2] 1972 c. 68.

[3] OJ No. L 78, 28.3.96, p. 47.

[4] OJ No. L139, 12.6.96, p. 17.

[5] 1994 c. 39.

[6] S.I. 1996/3124.

[7] 1979 c. 2.

[8] 1990 c. 16.

[9] S.I. 1997/389.

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