

Statutory Instrument 2000 No. 3047

The Beef Labelling (Enforcement) (England) Regulations 2000

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STATUTORY INSTRUMENTS

2000 No. 3047

AGRICULTURE, ENGLAND

The Beef Labelling (Enforcement) (England) Regulations 2000

<i>Made</i>	<i>13th November 2000</i>
<i>Laid before Parliament</i>	<i>4th December 2000</i>
<i>Coming into force</i>	<i>1st January 2001</i>

The Minister of Agriculture, Fisheries and Food, being designated for the purposes of section 2(2) of the European Communities Act 1972[1] in relation to the presentation, packaging, labelling, marking and advertising of food intended for sale for human consumption[2], in exercise of the powers conferred on him by the said section 2(2), and of all other powers enabling him in that behalf, makes the following Regulations:

Title, extent and commencement

1. These Regulations may be cited as the Beef Labelling (Enforcement) (England) Regulations 2000; they shall apply to England and shall come into force on 1st January 2001.

Interpretation

2. - (1) In these Regulations -

"authorised officer" means any person (whether or not an officer of the Minister or of an enforcement authority) who is authorised for the purposes of these Regulations by the Minister or an enforcement authority;

"Commission Regulation 1141/97" means Commission Regulation (EC) No. 1141/97 laying down detailed rules for the application of Council Regulation (EC) No. 820/97 as regards the labelling of beef and beef products^[3];

"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^[4];

"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^[5].

(2) For the purposes of these Regulations as they apply to Regulation 1760/2000, Commission Regulation 1141/97 and Commission Regulation 1825/2000, the term "marketing" shall be deemed to include the supply of beef, otherwise than on sale, in the course of a business.

Competent authority

3. The Minister shall be the competent authority^[6] for the purposes of Title II of Regulation 1760/2000, Commission Regulation 1141/97 and Commission Regulation 1825/2000.

Enforcement authorities

4. - (1) Subject to the following provisions of this regulation, the enforcement authorities for the purposes of the enforcement and execution of these Regulations shall be -

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

(b) as respects the City of London (including the Temples), the Common Council of the City of London;

(c) as respects the Inner Temple, the Sub-Treasurer, and as respects the Middle Temple, the Under Treasurer;

(d) as respects each port, in relation to imported beef, the port health authority of that port.

(2) These Regulations shall not be enforced and executed by the council of a district in a non-metropolitan county except where the county functions have been transferred to that council under a structural change.

(3) These Regulations shall be enforced and executed as respects abattoirs, cutting plants and wholesalers by the relevant enforcement authority and by any authorised officer appointed for that purpose by the Minister.

Enforcement of compulsory and voluntary labelling requirements

5. - (1) Any person engaged in the marketing of beef who fails to comply -

(a) in respect of beef derived from animals slaughtered on or after 1st September 2000, with the compulsory and voluntary labelling requirements applicable under Title II of Regulation 1760/2000 and Commission Regulation 1825/2000; or

(b) in respect of beef derived from animals slaughtered before 1st September 2000, with the voluntary labelling requirements applicable under Commission Regulation 1141/97,

shall be guilty of an offence.

(2) Where beef has been labelled and marketed in a manner which does not comply -

(a) in respect of beef derived from animals slaughtered on or after 1st September 2000, with the compulsory and voluntary labelling requirements applicable under Title II of Regulation 1760/2000 and Commission Regulation 1825/2000; or

(b) in respect of beef derived from animals slaughtered before 1st September 2000, with the voluntary labelling requirements applicable under Commission Regulation 1141/97,

an authorised officer may serve a notice on the person in possession of the beef requiring its removal from sale until the beef is re-labelled in accordance with those requirements.

(3) In respect of beef derived from animals slaughtered on or after 1st September 2000, a notice served under paragraph (2) above may authorise the beef to be sent directly for processing into products other than those indicated in the first indent of Article 12 of Regulation 1760/2000.

(4) Any person who fails to comply with the provisions of a notice served under paragraph (2) above shall be guilty of an offence.

Powers of entry

6. - (1) An authorised officer shall, on producing, if so required, 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; or

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

(2) If a justice of the peace, on sworn information in writing, is satisfied that there is reasonable ground for entry into any premises (excluding premises used only as a dwelling) 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 anticipated, 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 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 authorised officer to enter the premises, if need be by reasonable force.

(3) Every warrant granted under paragraph (2) above shall continue in force for a period of one month.

(4) An authorised officer entering any premises by virtue of this regulation, or of a warrant issued under it, may take with him such other persons as he considers necessary; and on leaving any unoccupied premises which he has entered by virtue of such a warrant shall leave them as effectively secured against unauthorised entry as he found them.

(5) Where any land or other property is damaged in the exercise of a power of entry conferred by this section, compensation in respect of that damage may be recovered by any person interested in the land or property from the Minister or the relevant enforcement authority as the case may be.

Powers of inspection, sampling and seizure

7. An authorised officer entering any premises by virtue of regulation 6 above, or of a warrant issued under it, may -

- (a) inspect any beef present on those premises;
- (b) take samples (and, if necessary, send the samples for laboratory testing) from any beef present on those premises;
- (c) inspect any labels and relevant business records (including electronic records) in whatever form they are held except in the case of material which is either excluded or special material under sections 11 and 14 of and Schedule 1 to the Police and Criminal Evidence Act 1984^[7];
- (d) seize and detain any such labels and records (including electronic records) which he has reason to believe may be required as evidence in proceedings under any of the provisions of these Regulations.

Protection of officers acting in good faith

8. - (1) No authorised officer shall be personally liable in respect of any act done by him -

- (a) in the execution or purported execution of these Regulations; and
- (b) within the scope of his employment,

if he did that act in the honest belief that his duty under these Regulations required or entitled him to do it.

(2) Nothing in paragraph (1) above shall be construed as relieving the Minister or the relevant enforcement 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 done by him -

- (a) in the execution or purported execution of these Regulations; and
- (b) outside the scope of his employment,

the Minister or the relevant enforcement authority may indemnify him against the whole or part of any damages which he has been ordered to pay or any costs which he may have incurred if they are satisfied that he honestly believed that the act complained of was within the scope of his employment.

Obstruction

9. - (1) Any person who -

- (a) intentionally obstructs any person acting in the execution of these Regulations;
- (b) without reasonable cause, fails to give any person acting in 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) furnishes to any person acting in the execution of these Regulations any information which he knows to be false or misleading,

shall be guilty of an offence.

(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 due to fault of another person

10. Where the commission by any person of an offence under any of the provisions of these Regulations is due to the act or default of some other person, that other person shall be guilty of the offence; and a person may be charged with and convicted of the offence by virtue of this paragraph of this regulation whether or not proceedings are taken against the first-mentioned person.

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 any body corporate established by or under any enactment for the purpose of carrying on under national ownership any industry or part of an industry or undertaking, being a body corporate whose affairs are managed by its members, means a member of that body corporate.

Defence of due diligence

12. - (1) In any proceedings for an offence under any provision of these Regulations it shall, subject to paragraph (2) below, be a defence for the person charged to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence by himself or by a person under his control.

(2) If in any case the defence provided by paragraph (1) above involves the allegation that the commission of the offence was due to an act or default of another person, or to reliance on information supplied by another person, the person charged shall not, without leave of the court, be entitled to rely on that defence unless -

(a) at least seven clear days before the hearing; and

(b) where he has previously appeared before a court in connection with the alleged offence, within one month of his first such appearance;

he has served on the prosecutor a notice in writing giving such information identifying or assisting in the identification of that other person as was then in his possession.

(3) In paragraph (2) above any reference to appearing before a court shall be construed as including a reference to being brought before a court.

Penalties

13. - (1) Subject to the following paragraphs of this regulation, a person guilty of an offence under any provision of these Regulations shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(2) A person guilty of an offence under regulation 9(1)(a) or (b) 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.

(3) A person guilty of an offence under regulation 9(1)(c) 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 six months or to both.

Revocation of the Beef Labelling (Enforcement) Regulations 1998

14. The Beef Labelling (Enforcement) Regulations 1998^[8] are revoked in so far as they apply in England.

Joyce Quin

Minister of State, Ministry of Agriculture, Fisheries and Food

13th November 2000

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide for the enforcement in England of -

(a) in respect of beef derived from animals slaughtered on or after 1st September

2000, 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 (OJ No. L204, 11.8.00, p. 1) and Commission Regulation (EC) No. 1825/2000 laying down detailed rules for the application of Regulation (EC) No. 1760/2000 as regards the labelling of beef and beef products (OJ No. L216, 26.8.00, p. 8); and

(b) in respect of beef derived from animals slaughtered before 1st September 2000, Commission Regulation (EC) No. 1141/97 laying down detailed rules for the implementation of Council Regulation (EC) No. 820/97 as regards the labelling of beef and beef products (OJ No. L 165, 24.6.97, p. 7).

The Regulations, which revoke and replace the Beef Labelling (Enforcement) Regulations 1998 (S.I. 1998/616) in so far as they apply in England, provide for the enforcement of the compulsory and voluntary beef labelling schemes established by the above Community instruments. Regulation 3 provides that the Minister is the competent authority for the purposes of those schemes, while regulation 4 sets out enforcement authorities.

By regulation 5 it is made an offence for persons engaged in the marketing of beef to fail to comply with the applicable requirements of the compulsory and voluntary beef labelling schemes. It is also made an offence to fail to comply with the requirements of a notice served by an authorised officer requiring the removal from sale of beef which has been wrongly labelled and marketed. These offences are punishable on summary conviction to a fine not exceeding £5,000 (regulation 13(1)).

The Regulations also confer powers of entry, inspection, sampling and seizure on authorised officers (regulations 6 and 7) and make provision for the protection of officers acting in good faith (regulation 8). Regulation 9 creates offences in respect of the obstruction of any person acting in the execution of the Regulations, offences which may be punishable on summary conviction by a fine not exceeding £5,000 or imprisonment of up to three or six months (regulation 13(2) and (3)). Further provision is made in respect of offences due to the fault of another person (regulation 10), offences by bodies corporate (regulation 11) and the defence of due diligence (regulation 12).

A Regulatory Impact Assessment has not been prepared in respect of these Regulations.

Notes:

[1] 1972 c. 68.[back](#)

[2] S.I. 1982/1675.[back](#)

[3] OJ No. L165, 24.6.97, p. 7, as last amended by Commission Regulation (EC) No. 824/98 (OJ No. L117, 21.4.98, p. 4).[back](#)

[4] OJ No. L216, 26.8.00, p. 8.[back](#)

[5] OJ No. L204, 11.8.00, p. 1.[back](#)

[6] The Minister retains the power to act as competent authority by means of regulation 13(1)(c) of the Food Standards Act 1999 (Transitional and Consequential Provisions and Savings) (England and Wales) Regulations 2000 (S.I. 2000/656).[back](#)

[7] 1984. c. 60.[back](#)

[8] S.I. 1998/616.[back](#)

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