

Statutory Instrument 1994 No. 2155

The Pig Carcase (Grading) Regulations 1994

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STATUTORY INSTRUMENT

1994No. 2155

AGRICULTURE

The Pig Carcase (Grading) Regulations 1994

Made 9th August 1994

Laid before Parliament 22nd August 1994

Coming into force 12th September 1994

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 upon them by the said section 2(2) and of all other powers enabling them in that behalf, hereby make the following Regulations:

Title, extent and commencement

1. These Regulations, which may be cited as the Pig Carcase (Grading) Regulations 1994, shall extend to Great Britain and shall come into force on 12th September 1994.

Interpretation

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

"the appropriate Minister"—

(a) in relation to England, means the Minister of Agriculture, Fisheries and Food;

(b) in relation to Scotland or Wales, means the Secretary of State;

"authorised officer" means a person (whether or not an officer of that Minister) authorised by the appropriate Minister for the purposes of these Regulations;

"clean pig" means a pig which has not been used for breeding;

"the Commission Decision" means Commission Decision 88/234/EEC authorising methods for grading pig carcases in the United Kingdom^[3], as amended by Commission Decision 88/478/EEC^[4], Commission Decision 92/557/EEC^[5], Commission Decision 93/445/EEC^[6] and Commission Decision 94/336/EC^[7];

"the Commission Regulation" means Commission Regulation (EEC) No. 2967/85 laying down detailed rules for the application of the Community scale for grading pig carcases^[8];

"Community provision" means any requirement as to weighing, grading, marking or identifying of pig carcases or the making or keeping of any record in relation thereto under the Council Regulation, the Commission Regulation or the Commission Decision;

"the Council Regulation" means Council Regulation (EEC) No. 3220/84 determining the Community scale for grading pig carcases^[9], as amended by Council Regulation (EEC) No. 3530/86(b) and Council Regulation (EC) No. 3513/93(c);

"exempt carcase" means the carcase of a pig—

(a) which has been used for breeding; or

(b) which has been obtained in a slaughterhouse in which there are slaughtered not more than 200 clean pigs per week on a yearly average basis;

"the MLC" means the Meat and Livestock Commission established by virtue of section 1(1) of the Agriculture Act 1967^[10];

"occupier" means a person carrying on the business of operating a slaughterhouse;

"pig carcase" has the meaning assigned to it by the first indent of Article 2(1) of the Council Regulation, except that, in pursuance of the derogations contained in Articles 2 and 2a of the Commission Decision, the carcase may include—

(a) the tongue;

(b) the flare fat, the kidneys and the diaphragm; or

(c) the tongue, the flare fat, the kidneys and the diaphragm;

"slaughterhouse" means a slaughterhouse in which pigs are slaughtered.

(2) In these Regulations, unless the context otherwise requires, any reference to a numbered regulation or Schedule is a reference to the regulation or Schedule so numbered in these Regulations.

Exemption

3. Regulation 6 shall not apply in relation to any exempt carcase.

Registration

4.—(1) Subject to paragraphs (3) and (4) below, every person who is or becomes an occupier on the day these Regulations come into force shall within 28 days of that day give written notice to the appropriate Minister of the particulars specified in Schedule 1.

(2) Every person who becomes an occupier on any day after the day these

Regulations come into force shall within 28 days of becoming an occupier give written notice to the appropriate Minister of the particulars specified in Schedule 1.

(3) An occupier who—

(a) has notified particulars in compliance with paragraph (1) of regulation 3 of the Pig Carcase (Grading) Regulations 1988^[11] (whether or not he has notified a change in those particulars in compliance with paragraph (2) of that regulation); and

(b) on the day these Regulations come into force continues to be the occupier of the slaughterhouse in relation to which he notified those particulars,

shall not be under any obligation to give particulars as required by paragraph (1) above.

(4) Notwithstanding paragraph (3) above, an occupier described in that paragraph shall, on being required by written notice given to him by the appropriate Minister at any time, give to that Minister the particulars specified in Schedule 1 or such of those particulars as the appropriate Minister may specify in his notice, within such period (not being less than 28 days) as shall also be specified in that notice.

Special grading criterion

5. There shall be added to the grading scale which applies by virtue of Article 3(2) of the Council Regulation the additional grade referred to in Article 3(3) of that Regulation.

Weighing, etc., of carcasses of pigs

6. An occupier shall—

(a) forthwith prepare each carcase of a pig slaughtered in his slaughterhouse so that it becomes a pig carcase;

(b) except where the MLC is bound by the obligation specified in regulation 7(5)(c), weigh each such pig carcase in accordance with the provisions of Article 2(2) of the Council Regulation, make a record of the weight of each such pig carcase and thereafter calculate the weight of the cold carcase by reference to the provisions of Article 3 of the Commission Decision;

(c) except where the MLC is bound by the obligation specified in regulation 7(5)(c), grade each such pig carcase in compliance with the requirements of Article 3(1) and (2) of the Council Regulation as read with regulation 5, by the application of one of the methods authorised by the Commission Decision;

(d) except where MLC is bound by the obligation specified in regulation 7(5)(c), in the case of each such pig carcase to be marketed whole in another Member State, mark it in the manner prescribed by Article 4(1) of the Council Regulation and Article 4(1) or (2) of the Commission Regulation; and

(e) in the case of each such pig carcase to be marketed whole or in cuts in the United Kingdom or in cuts in another Member State—

(i) except where the MLC is bound by the obligation specified in regulation 7(5)(c), mark it in the manner so prescribed, or

(ii) make and, except where the MLC is bound by the obligation specified in regulation 7(5)(c), keep a record relating to it in compliance with the requirements of Article 4(2) of the Council Regulation and identify it in accordance with Article 5 of the Commission Regulation.

Undertaking of grading, etc., of certain pig carcasses by the MLC

7.—(1) An occupier may request the MLC to carry out the Community classification requirements at a slaughterhouse occupied by him.

(2) An occupier shall, subject to paragraphs (3) and (4) below—

- (a) make such a request by written notice, to be given to the MLC not less than six months before the date on which he requires the MLC to commence the carrying out of the Community classification requirements at the slaughterhouse concerned; and
- (b) within 30 days from the date of such notice, agree with the MLC a classification charge.

(3) The MLC may—

- (a) notwithstanding paragraph (2)(a) above, accept a notice of less than six months; and
- (b) notwithstanding paragraph (2)(b) above, agree with an occupier a classification charge at any time.

(4) If the occupier and the MLC fail to agree a classification charge, the MLC may refuse to carry out the Community classification requirements and in such event shall notify the occupier in writing of such refusal.

(5) Where the MLC has received a notice to carry out the Community classification requirements at a slaughterhouse and agreed with the occupier a classification charge, the MLC shall—

- (a) forthwith notify that occupier in writing of—
 - (i) its agreement to carry out the Community classification requirements at that slaughterhouse,
 - (ii) the classification charge and the period for which such charge is to apply, as agreed between the MLC and that occupier, and
 - (iii) the date of commencement;
- (b) forthwith notify the appropriate Minister in writing of its agreement to carry out the Community classification requirements at that slaughterhouse and the date of commencement;
- (c) subject to paragraphs (6), (7) and (9) below, from the date of commencement carry out the Community classification requirements in respect of every pig carcase, other than any exempt carcase, obtained in that slaughterhouse and presented by the occupier; and
- (d) as soon as reasonably practicable after carrying out such Community classification requirements provide the occupier with—
 - (i) the particulars specified in Schedule 2,
 - (ii) the particulars relating to each pig carcase to be recorded under regulation 6(e)(ii), and
 - (iii) any other details relating to such Community classification requirements or any pig carcase as the occupier may reasonably require so as to enable him to comply with these Regulations or any Community provision.

(6) The MLC having agreed to carry out the Community classification requirements at a slaughterhouse in accordance with paragraph (5) above may suspend or revoke that agreement if the occupier of that slaughterhouse—

- (a) fails to pay to the MLC on demand the classification charge;
- (b) fails to present to the MLC for such Community classification pig carcasses that fully comply with the definition of "pig carcase" in regulation 2(1);
- (c) fails to provide such information and assistance as the MLC may

reasonably request so as to enable it to carry out the Community classification requirements;

(d) carries out or allows any other person to carry out the Community classification requirements in respect of any pig carcase obtained in that slaughterhouse at any time after the date of commencement; or

(e) fails at any time after the date of commencement to present to the MLC any pig carcase, other than an exempt carcase, obtained in that slaughterhouse so as to enable the MLC to carry out the Community classification requirements in respect of that pig carcase,

and the obligation specified in paragraph (5)(c) above shall not bind the MLC during the period of effect of such suspension or, as the case may be, from the date of effect of such revocation.

(7) The MLC having agreed to carry out the Community classification requirements at a slaughterhouse may suspend or revoke that agreement if the period referred to in paragraph (5)(a)(ii) above has expired without the MLC and that occupier agreeing a classification charge for a further period, and the obligation specified in paragraph (5)(c) above shall not bind the MLC during the period of effect of such suspension or, as the case may be, from the date of effect of such revocation.

(8) The MLC shall forthwith give written notice to the occupier and the appropriate Minister of any action it may have taken under paragraph (6) or (7) above.

(9) Where the MLC has agreed with an occupier to carry out the Community classification requirements at his slaughterhouse and has agreed with that occupier a classification charge, that occupier shall not revoke that first-mentioned agreement except—

(a) by giving to the MLC a further notice in writing to take effect forthwith or on such date as may be specified in that notice where, for whatever reason, the MLC has failed to carry out the Community classification requirements in respect of every pig carcase obtained in that slaughterhouse for a continuous period of 2 days (excluding days on which, under that agreement, the MLC is not obliged to carry out such requirements);

(b) by agreement with the MLC; or

(c) by giving to the MLC a further notice in writing of not less than six months provided that the occupier shall not give such notice during the first six months from the date of commencement,

but from the date of effect of any revocation in accordance with this paragraph the obligation specified in paragraph (5)(c) above shall not bind the MLC.

(10) The occupier shall forthwith give written notice to the appropriate Minister of any action he may have taken under paragraph (9) above.

(11) In this regulation—

"classification charge" means the amount which the occupier of a slaughterhouse may from time to time agree with the MLC to pay to it for the Community classification requirements to be carried out by the MLC at that slaughterhouse in accordance with this regulation;

"Community classification requirements" means the requirements imposed on occupiers of slaughterhouses by regulation 6(b) to (e), except the requirements to keep a record and to identify each carcase specified in subparagraph (ii) of the said regulation 6(e);

"date of commencement" means the date, agreed between the MLC and an occupier of a slaughterhouse, from which the MLC will carry out the

Community classification requirements at that slaughterhouse.

(12) In Part I of Schedule 1 to the Agriculture Act 1967, after paragraph 10A there shall be inserted the following paragraph—

"10B. Functions under regulation 7 of the Pig Carcase (Grading) Regulations 1994 (undertaking of grading, etc., of certain pig carcasses)."

Powers of authorised officers

8.—(1) An authorised officer may at all reasonable hours and on producing, if so required, a duly authenticated document showing his authority, for the purpose of ascertaining whether any Community provision or these Regulations have been or are being complied with—

- (a) enter any slaughterhouse or any other premises which he reasonably suspects to be a slaughterhouse;
- (b) inspect any pig carcase or part of such a carcase or any carcase or part of a carcase which he reasonably suspects to be a pig carcase or part of such a carcase in that slaughterhouse;
- (c) examine any records which an operator is required to keep under regulation 6(e)(ii) and any other records in the possession or under the control of an occupier relating to the slaughter of pigs at any slaughterhouse of that occupier and where any such record is kept by means of a computer, have access to and inspect and check the operation of any computer and associated apparatus or material which is or has been in use in connection with that record;
- (d) require that copies of or extracts from any such record be produced and, where such record is kept by means of a computer, require it to be produced in a form in which it may be taken away;
- (e) retain any such record which he has reason to believe may be required as evidence in proceedings under these Regulations.

(2) An authorised officer entering any slaughterhouse or other premises by virtue of this regulation may take with him such other persons and such equipment as he considers necessary.

(3) Where any record referred to in paragraph (1)(c) above is in the possession or under the control of the MLC, the MLC shall on request produce such record to an authorised officer and the provisions of paragraph (1)(c), (d) and (e) above shall apply in relation to such record.

Assistance to authorised officers

9.—(1) An occupier shall give to an authorised officer such assistance as the authorised officer may reasonably request so as to enable the authorised officer to exercise any power conferred under regulation 8.

(2) In paragraph (1) above "occupier" includes the MLC when carrying out the Community classification requirements under regulation 7.

Notices

10. Any notice to be given under these Regulations may be given—

- (a) by delivering it to that person;
- (b) by leaving it or sending it in a prepaid letter addressed to him, at his usual or last known place of business or residence;
- (c) in the case of a notice to be given to the MLC, by delivery or by post in a registered letter or by recorded delivery service to its Head Office; or
- (d) in the case of a notice to be given to a body corporate, by delivery or by

post in a registered letter or by recorded delivery service to its registered office or principal place of business in Great Britain.

Offences and penalties

11.—(1) If any person—

(a) intentionally obstructs an authorised officer in the exercise of the powers conferred by regulation 8; or

(b) fails to comply with a notice given under regulation 4(4), a requirement made under regulation 8(1)(d) or a request made under regulation 9,

he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(2) If any person fails to comply with any other requirement imposed on him by these Regulations he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(3) If any person—

(a) makes an entry which he knows to be false in any record which is required to be kept by virtue of regulation 6(e)(ii) or, with intent to deceive, makes use of any entry which he knows to be false;

(b) with intent to deceive applies or as the case may be attaches to a pig carcase or part of such a carcase—

(i) a mark prescribed by Article 4(1) of the Council Regulation or Article 4(1) or (2) of the Commission Regulation, or

(ii) a label prescribed by Article 4(3) of the Commission Regulation;

or

(c) applies to a pig carcase or part of such a carcase a mark so closely resembling a mark prescribed by Article 4(1) of the Council Regulation or Article 4(1) or (2) of the Commission Regulation as to be calculated to deceive or applies to a label attached by virtue of Article 4(3) of the Commission Regulation an indication so closely resembling an indication prescribed by that Article as to be calculated to deceive,

he shall be guilty of an offence and liable on summary conviction to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding three months or both, or on conviction on indictment to a fine or to imprisonment for a term not exceeding two years or both.

(4) Any proceedings for an offence under paragraph (1) or (2) above or summary proceedings in Scotland for an offence under paragraph (3) above may, subject to paragraph (5) below, be commenced within a period of six months from the date on which evidence sufficient in the opinion of the prosecutor to warrant proceedings came to his knowledge.

(5) No such proceedings shall be commenced by virtue of paragraph (4) above more than twelve months after the commission of the offence.

(6) For the purposes of paragraph (4) above—

(a) a certificate signed by or on behalf of the prosecutor and stating the date on which evidence sufficient in his opinion to warrant the proceedings came to his knowledge shall be conclusive evidence of that fact; and

(b) a certificate stating that matter and purporting to be so signed shall be deemed to be so signed unless the contrary is proved.

(7) In relation to proceedings in Scotland, subsection (3) of section 331 of the Criminal Procedure (Scotland) Act 1975^[12](date of commencement of proceedings) shall apply for the purposes of paragraphs (4) and (5) above as it applies for the

purposes of that section.

(8) Where an offence under this regulation which has been committed by a body corporate is proved to have been committed with the consent or connivance, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he as well as the body corporate shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(9) Where the affairs of a body corporate are managed by its members, the provisions of paragraph (8) of this regulation shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

(10) Where an offence under this regulation is committed in Scotland by a Scottish partnership and 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.

Defence of due diligence

12. In any proceedings for an offence under these Regulations it shall be a defence for the accused to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

Revocation

13. The Pig Carcase (Grading) Regulations 1988 and the Pig Carcase (Grading) (Amendment) Regulations 1989^[13] are hereby revoked.

In witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 9th August 1994.

William Waldegrave

Minister of Agriculture, Fisheries and Food

Hector Munro

Parliamentary Under Secretary of State,
Scottish Office

5th August 1994

Notes:

[1] S.I. 1972/1811. back

[2] 1972 c. 68. back

[3] OJ No. L105, 26.4.88, p.15. back

[4] OJ No. L234, 24.8.88, p.17. back

[5] OJ No. L358, 8.12.92, p.22. back

[6] OJ No. L208, 19.8.93, p.36. back

[7] OJ No. L150, 16.6.94, p.34. back

[8] OJ No. L285, 25.10.85, p.39. back

[9] OJ No. L301, 20.11.84, p.1. back

[10] OJ No. L326, 21.11.86, p.8. back

[11] OJ No. L320, 22.12.93, p.5. back

[12] 1967 c. 22. back

[13] S.I. 1988/1180, amended by S.I. 1989/644. back

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