

Scottish Statutory Instrument 2001 No. 288

The Specified Risk Material Amendment (No. 3) (Scotland) Regulations 2001

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SCOTTISH STATUTORY INSTRUMENTS

2001 No. 288

FOOD

The Specified Risk Material Amendment (No. 3) (Scotland) Regulations 2001

<i>Made</i>	<i>14th August 2001</i>
<i>Laid before the Scottish Parliament</i>	<i>16th August 2001</i>
<i>Coming into force</i>	<i>20th August 2001</i>

The Scottish Ministers, in exercise of the powers conferred by sections 16(1)(a), (b), (c), (d) and (f), (2)(a) and (3), 17, 19(1)(a), 26 and 48(1) of and paragraphs 2(1), 3(1), 5 and 6(1)(a) of Schedule 1 to the Food Safety Act 1990^[1] and of all other powers enabling them in that behalf, having had regard in accordance with section 48(4A)^[2] of that Act to relevant advice given by the Food Standards Agency and after consultation in accordance with section 48(4) and (4B)^[3] of that Act, hereby make the following Regulations:

Citation, commencement and extent

1. - (1) These Regulations may be cited as the Specified Risk Material Amendment (No. 3) (Scotland) Regulations 2001 and shall come into force on 20th August 2001.

(2) These Regulations extend to Scotland only.

Amendments to the Specified Risk Material Regulations 1997

2. - (1) The Specified Risk Material Regulations 1997^[4] are amended in accordance with the following paragraphs of this regulation.

(2) In paragraph (1) of regulation 2 (interpretation)-

(a) in the definition of "approved", for the words "the Minister", there are substituted the words "the Scottish Ministers";

(b) the following definition is inserted between the definition of "listed premises" and the definition of "official veterinary surgeon":-

" "mechanically recovered meat" means meat which-

(a) is derived from residual meat on animal bones; and

(b) has been obtained by mechanical means;"

(c) the words "(subject to paragraph (4) below)" are inserted at the beginning of paragraph (c) of the definition of "specified risk material"; and

(d) the following definition is substituted for the existing definition of "vertebral column":-

" "vertebral column" excludes the vertebrae of the tail and the transverse processes of the lumbar vertebrae but includes dorsal root ganglia;"

(3) The following paragraph is inserted at the end of regulation 2:-

" (4) Notwithstanding paragraph (c) of the definition of "specified risk material" in paragraph (1) above, where the carcase of a bovine animal containing vertebral column which is specified bovine material is consigned to a licensed cutting premises in accordance with regulation 10(12) below or has been imported in accordance with article 6(2A) of the Specified Risk Material Order 1997^[5], the part of the carcase not comprising the vertebral column shall not be regarded as specified risk material for the purposes of these Regulations."

(4) In paragraph (1) of regulation 3 (specified sheep or goat material), the words "(subject to paragraph (4) below)" are inserted before the words "specified sheep or goat material".

(5) The following paragraphs are inserted at the end of regulation 3:-

" (4) Material derived from a sheep or goat born, continuously reared and slaughtered in any of the countries specified in paragraph (5) below is not specified sheep or goat material as defined by paragraph (1) above.

(5) The countries are-

Argentina

Australia

Botswana

Brazil

Chile

Costa Rica

Namibia

New Zealand

Nicaragua

Paraguay

Singapore

Swaziland

Uruguay."

(6) The following paragraph is substituted for paragraph (1) of regulation 4 (specified bovine material)-

" (1) In these Regulations, "specified bovine material" means-

(a) (subject to paragraph (4) below) the intestines from the duodenum to the rectum of a bovine animal, regardless of where it was slaughtered or died or of its age at slaughter or death;

(b) the following material derived from a bovine animal which was slaughtered or died in the United Kingdom or Portugal-

(i) when it was aged over 6 months-

(aa) the head (excluding the tongue but including the brain, eyes, trigeminal ganglia and tonsils);

(bb) the thymus;

(cc) the spleen;

(dd) the spinal cord; and

(ii) (subject to paragraph (5) below) when it was aged over 12 months, the vertebral column; and

(c) (subject to paragraph (4) below) the following material derived from a bovine animal which was slaughtered or died elsewhere than in the United Kingdom or Portugal when it was aged over 12 months-

- (i) the skull (including the brain and eyes);
- (ii) the tonsils;
- (iii) the spinal cord; and
- (iv) (subject to paragraph (6) below) the vertebral column."

(7) The following paragraph is substituted for paragraph (3) of regulation 4:-

" (3) In each of sub-paragraphs (b) and (c) of paragraph (1) above and in paragraph (5) below, the reference to Portugal does not include a reference to the Autonomous Region of the Azores."

(8) The following paragraphs are inserted at the end of regulation 4:-

" (4) Material derived from a bovine animal born, continuously reared and slaughtered in any of the countries specified in regulation 3(5) above is not specified bovine material as defined by paragraph 1(a) or (c) above.

(5) Notwithstanding paragraph (1)(b)(ii) above, the vertebral column of a bovine animal born and continuously reared in the United Kingdom or Portugal and slaughtered there when it was aged over 12 months but no more than 30 months shall not be regarded as specified bovine material for the purpose of these Regulations.

(6) Notwithstanding paragraph (1)(c)(iv) above, the vertebral column of a bovine animal born, continuously reared and slaughtered in Austria, Finland or Sweden shall not be regarded as specified bovine material for the purposes of these Regulations."

(9) The following regulation is substituted for regulation 6 (approvals, authorisations and registrations):-

" Approvals and authorisations

6. - (1) The Scottish Ministers may, on application, approve any premises for the purposes of Part VI of these Regulations (transport and disposal of specified risk material) if they are satisfied that the premises-

- (a) are properly equipped to carry out the functions to which the approval relates; and
- (b) comply with the requirements of that Part of these Regulations.

(2) The Agency may, on application, authorise any premises under regulation 15 below (prohibition on the removal of the spinal cord of a ruminant animal) if it is satisfied that the premises-

- (a) are properly equipped to carry out the functions to which the authorisation relates; and

(b) comply with the requirements of regulation 15.

(3) Any approval or authorisation granted or made under these Regulations (including a consent given under regulation 24(7) below) shall be in writing and may be made subject to conditions.

(4) Any such approval or authorisation may be amended, suspended or revoked at any time by notice in writing served on the person to whom the approval or authorisation was granted or, if that person is no longer the occupier of the premises to which the approval or authorisation relates, on the occupier of those premises, if the Scottish Ministers are or, as the case may be, the Agency is satisfied that any provisions of these Regulations in relation to the premises or any conditions in the approval or authorisation are not being complied with."

(10) The following regulation is substituted for regulation 8 (prohibitions applying to the vertebral column)-

" Mechanically recovered meat

8. - (1) No person shall use any bovine, ovine or caprine bone for the production of mechanically recovered meat.

(2) No person shall use any mechanically recovered meat which comes from a bovine, ovine or caprine bone in the preparation of food for sale for human consumption."

(11) Regulation 9 (registration of premises on which meat is recovered by mechanical means from ruminant animals) is omitted.

(12) In paragraph (12) of regulation 10, for "is authorised pursuant to regulation 15A(5) below", there is substituted "is designated pursuant to regulation 15A(4) below".

(13) The following regulation is substituted for regulation 15A (removal of vertebral column of bovine animals in cutting premises):-

" Removal of vertebral column of bovine animals in cutting premises

15A. - (1) Where a carcase of a bovine animal containing vertebral column which is specified bovine material-

(a) is consigned to a designated cutting premises in accordance with regulation 10(12) above; or

(b) is imported and transported to a designated cutting premises in accordance with article 6(2A) of the Specified Risk Material Order 1997,

the occupier of those premises shall ensure that the vertebral column is removed from the rest of the carcase at the premises as soon as is practicable after the arrival of the carcase there.

(2) The occupier of a designated cutting premises shall permit an inspector or official veterinary surgeon, or a person acting under the responsibility of either of them, to inspect the carcase of any bovine animal consigned or transported there so that it can be checked whether the specified bovine material has been removed from

the carcase in accordance with these Regulations, and the occupier shall give to any such person such reasonable assistance as may be required.

(3) The occupier of any designated cutting premises at which vertebral column is removed in accordance with this regulation shall ensure that it is-

(a) stained in accordance with regulation 10(3) above; and

(b) disposed of as specified risk material in accordance with these Regulations.

(4) In paragraphs (1) to (3) above, "designated cutting premises" means licensed premises which the Agency has, following receipt by it of a written application, designated in writing for the purposes of this regulation.

(5) Any designation made by the Agency for the purposes of this regulation may be made subject to conditions.

(6) Any such designation may be amended, suspended or revoked at any time by notice in writing served on the person in whose favour it was granted or, if that person is no longer the occupier of the premises to which the designation relates, on the occupier of those premises, if the Agency is satisfied that any provision of these Regulations has not been complied with in relation to the premises or any condition in the designation has been breached.

(7) In paragraph (1) above, "carcase" means any whole carcase, half carcase or quarter carcase."

(14) In paragraph (1) of regulation 26 (power to give directions)-

(a) for the words "the Minister", there are substituted the words "the Scottish Ministers are or the Agency"; and

(b) the words "they or, as the case may be," are inserted before the words "the Agency".

(15) In paragraph (2) of regulation 26, for the words "the Minister" there are substituted the words "the Scottish Ministers or, as the case may be, the Agency".

(16) In paragraph 2(c) of regulation 29 (offences and penalties), for the words "the Minister" there are substituted the words "the Scottish Ministers, or as the case may be, the Agency".

SUSAN DEACON

A member of the Scottish Executive

St Andrew's House, Edinburgh

14th August 2001

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which extend to Scotland only, make further amendments to the Specified Risk Material Regulations 1997 ("the principal Regulations").

These Regulations implement the provisions of Annex XI to Regulation (EC) No. 999/2001 of the European Parliament and the Council laying down rules for the prevention, control and eradication of certain transmissible spongiform encephalopathies (O.J. No. L 147, 31.5.01, p.1). Part A of Annex XI imposes transitional measures with regard to the removal of specified risk material and was inserted into Regulation (EC) No. 999/01 by Article 3 of Commission Regulation (EC) No. 1326/2001 (O.J. No. L 177, 30.6.01, p.60).

The substantive amendments made by these Regulations to the principal Regulations are as follows-

(a) in respect of the transitional measures referred to above-

- (i) regulation 3 of the principal Regulations (which defines "specified sheep and goat material") is amended to exclude from the scope of the definition material derived from sheep and goats born, continuously reared and slaughtered in certain third countries (regulation 2(4) and (5));
- (ii) regulation 4 of the principal Regulations (which defines "specified bovine material") is substantially revised so that, in particular, material derived from bovine animals born, continuously reared and slaughtered in certain third countries is now outside the scope of the definition (regulation 2(6) to (8));
- (iii) regulation 8 of the principal Regulations (prohibition applying to the vertebral column of ruminant animals) is replaced with a provision prohibiting the use of bovine, ovine and caprine bones in the production of mechanically recovered meat (regulation 2(10)) and regulation 9 (registration of premises on which meat is recovered by mechanical means from ruminant animals) is omitted (regulation 2(11));
- (iv) a new regulation 15A dealing with the treatment of carcasses consigned to cutting premises and imported carcasses containing vertebral column, which is specified bovine material, is inserted into the principal Regulations (regulation 2(13)); and

(b) in view of the amendment made to regulation 26 of the principal Regulations by the Food Standards Act 1999 (Transitional and Consequential Provisions and Savings) (Scotland) Regulations 2000 (S.S.I. 2000/62), that regulation is further amended to enable the Scottish Ministers or the Food Standards Agency to give directions relating to the disposal of specified risk material (regulation 2(14) and (15)). A consequential amendment is also required to regulation 29(2)(c) (regulation 2(16)).

These Regulations also make consequential amendments to the principal Regulations (regulation 2(2), (3), (9) and (12)).

A Regulatory Impact Assessment, which includes a compliance cost assessment of the effect that these Regulations are likely to have on business costs, has been prepared and placed in the Scottish Parliament Information Centre. Copies may be obtained from the Food Standards Agency, St Magnus House, 25 Guild Street, Aberdeen AB11 6NJ.

Notes:

[1] 1990 c.16; sections 16(1) and (2), 19(1) and 48(1) were amended by the Food Standards Act 1999 ("the 1999 Act"), Schedule 5, paragraph 8; section 17 was amended by the 1999 Act, Schedule 5, paragraphs 8 and 12; section 26(3) was amended by Schedule 6 of the 1999 Act; amendments made by the 1999 Act shall be taken as pre-commencement enactments for the purposes of the Scotland Act 1998 (c.46) by virtue of section 40(2) of the 1999 Act. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998.[back](#)

[2] Section 48(4A) was inserted by the Food Standards Act 1999, Schedule 5, paragraph 21.[back](#)

[3] Section 48(4B) was inserted by the Food Standards Act 1999, Schedule 5, paragraph 21.[back](#)

[4] S.I. 1997/2965, amended by S.I. 1997/3062, 1998/2405 (itself amended by S.I. 1998/2431), 1999/539, S.S.I. 2000/62 and 345, 2001/3 and 86.[back](#)

[5] S.I. 1997/2964, amended by S.S.I. 2000/344, 2001/4 and 287.[back](#)

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