

Statutory Instrument 1996 No. 2265

The Bovine Products (Despatch to other Member States) Regulations 1996

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STATUTORY INSTRUMENTS

1996 No. 2265

AGRICULTURE

The Bovine Products (Despatch to other Member States) Regulations 1996

Made 3rd September 1996

Laid before Parliament 3rd September 1996

Coming into force 4th September 1996

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

Title, commencement and extent

1. These Regulations may be cited as the Bovine Products (Despatch to other Member States) Regulations 1996, shall come into force on 4th September 1996 and shall extend to Great Britain.

Interpretation

2. In these Regulations—

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

"inspector" means a person appointed as such by the Minister or any veterinary surgeon appointed under regulation 3(1)(b) below, and includes a veterinary inspector;

"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;

"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; and

"veterinary inspector" means a veterinary inspector of the Minister.

Meat and other products from bovine animals slaughtered outside the United Kingdom

3.—(1) No person shall despatch from Great Britain to another member State any relevant goods unless—

- (a) each stage of the production of those goods which took place in the United Kingdom took place in an establishment approved by the Minister for the purposes of this regulation;
- (b) each stage of the production of those goods was under the control of a veterinary surgeon appointed by the Minister;
- (c) the goods are accompanied by a health certificate issued by that 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 1992^[3] or Part II of the Animals and Animal Products (Import and Export) Regulations 1995^[4].

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

(3) The Minister may withdraw an approval granted pursuant to paragraph (2) above where the requirements of that paragraph are no longer satisfied.

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

- (a) the goods are accompanied by the required documents;
- (b) all of the goods listed in those documents are present; and
- (c) all packaging is sealed and has not been opened since completion of the documents.

(5) For the purposes of paragraph (4) above "the required documents" means—

(a) in respect of goods originating in another member State, the documents required for the import of those goods by the relevant directive listed in Schedule 3 to the Products of Animal Origin (Import and Export) Regulations 1992 or Schedule 3 to the Animal and Animal Products (Import and Export) Regulations 1995; and

(b) in respect of goods originating in a third country, the certificate referred to in regulation 15(3)(a) of the Products of Animal Origin (Import and Export) Regulations 1992.

Fees

4. 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 approval of an establishment pursuant to regulation 3 above;

(b) the control exercised under regulation 3(1)(b) above by a veterinary surgeon appointed by him; and

(c) the issue of a health certificate under regulation (3)(1)(c) above.

Powers of inspectors

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

(2) An inspector shall, on producing, if required to do so, some duly authenticated document showing his authority, have the right at all reasonable hours to enter any establishment approved for the purposes of regulation 3 above in order to ascertain whether the requirements of that regulation are satisfied in that establishment.

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

(a) carry out inspections of any land or premises from which material derived from bovine animals is consigned to an establishment approved for the purposes of regulation 3 above;

(b) carry out inspections of anything used for the marking and identification of products and materials;

(c) take samples (and, if necessary, send the samples for laboratory testing) from any product or material;

(d) examine documentary or data processing material relevant to the checks carried out under these Regulations;

(e) take with him any person he deems necessary to carry out the necessary checks and examinations; and

(f) take with him a representative of the European Commission acting for the purposes of Commission Decision 96/239/EC^[5].

(4) Where an inspector has a reasonable suspicion that a consignment of any relevant goods is falsely described in a health certificate issued under regulation 3 above, he may require the person in control of the certificate to deliver it and any copies of it to the inspector on demand and may, in respect of the consignment or any part of it—

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

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

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

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

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

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

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

(6) If it appears to a justice of the peace, on the basis of such evidence as he considers to be appropriate in the circumstances, that a consignment is falsely described, he shall order that the consignment be destroyed and any expenses reasonably incurred in connection with such destruction be defrayed by the owner of the consignment, unless he is satisfied that, if the consignment is returned to the owner, the owner will not despatch it to another member State, in which case the consignment shall be so returned.

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

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

(9) In the application of this regulation to Scotland—

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

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

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

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

Obstruction

6.—(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

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

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

(3) Section 20 of the Food Safety Act 1990^[6] 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

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

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

(b) any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of the offence and be liable to be proceeded against and punished accordingly.

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

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

Amendment of the Products of Animal Origin (Import and Export) Regulations 1992 and the Animals and Animal Products (Import and Export) Regulations 1995

9.—(1) The following paragraph shall be added at the end of regulation 5 of the Products of Animal Origin (Import and Export) Regulations 1992 and of regulation 6 of the Animals and Animal Product (Import and Export) Regulations 1995—

" (5) This regulation shall apply without prejudice to the requirements of the Bovine Products (Despatch to other Member States) Regulations 1996."

Angela Browning

Parliamentary Secretary, Ministry of Agriculture, Fisheries and Food

1st September 1996

Lindsay

Parliamentary Under-Secretary of State, Scottish Office

3rd September 1996

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations implement in part Commission Decision 96/239/EC on emergency measures to protect against Bovine Spongiform Encephalopathy, as amended by Commission Decision 96/362/EC.

They control the despatch to other member States of meat and other products from bovine animals slaughtered outside the United Kingdom (regulation 3).

They make provision for the Minister to charge fees (regulation 4) and contain provisions on enforcement, obstruction, offences and penalties (regulations 5 to 8).

They amend the Products of Animal Origin (Import and Export) Regulations 1992 (S.I. [1992/3292](#)) and the Animals and Animal Products (Import and Export) Regulations 1995 (S.I. [1995/2428](#)) so that those Regulations apply without prejudice to these Regulations (regulation 9).

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

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Notes:

[1] S.I. 1972/1811. [back](#)

[2] 1972 c. 68. [back](#)

[3] S.I. [1992/3298](#), to which there are amendments not relevant to these Regulations. [back](#)

[4] S.I. [1995/2428](#). [back](#)

[5] OJ No. L78, 28.3.96, p.47. Commission Decision 96/239/EC was amended by Commission Decision 96/362/EC, OJ No. L139, 12.6.96, p.17. [back](#)

[6] 1990 c. 16. [back](#)