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SCOTTISH STATUTORY INSTRUMENTS

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**2004 No. 280**

**The Beef Carcase (Classification) (Scotland) Regulations 2004**

**Citation, commencement and extent**

1.—(1) These Regulations may be cited as the Beef Carcase (Classification) (Scotland) Regulations 2004 and shall come into force on 2nd July 2004.

(2) These Regulations extend to Scotland only.

**Interpretation**

2.—(1) In these Regulations—

“1991 Regulations” means the Beef Carcase (Classification) Regulations 1991(1);

“1995 Regulations” means the Fresh Meat (Hygiene and Inspection) Regulations 1995(2);

“adult bovine animal” has the meaning assigned to it by Article 1(2) of Council Regulation (EC) No. 1254/1999 on the common organisation of the market in beef and veal(3);

“approval number” means (in relation to a regulated slaughterhouse) the unique number of that regulated slaughterhouse required to be specified in the centre of a health mark (as defined in regulation 2(1) of the 1995 Regulations);

“authorised officer” means a person authorised by the Scottish Ministers for the purposes of these Regulations;

“classification” means the classification of regulated carcasses in accordance with Articles 3 and 4(1) of Council Regulation (EEC) No. 1208/81 determining the Community scale for the classification of carcasses of adult bovine animals(4);

“classification requirements” means the requirements relating to the classification and identification of carcasses specified in the Community provisions and in regulations 5, 6 and 7 of these Regulations;

“Commission Regulation” means Commission Regulation (EEC) No. 344/91 laying down detailed rules for applying Council Regulation (EEC) No. 1186/90 extending the scope of the Community scale for the classification of adult bovine animals(5);

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(1) S.I.1991/2242, amended by S.I. 1994/2853 and S.I. 1998/12.

(2) S.I. 1995/539, amended by S.I. 1995/1763, S.I. 1995/2148, S.I. 1995/2200, S.I. 1996/1148, S.I. 1996/2235, S.I. 1997/1729, S.I. 1997/2074, S.S.I. 2000/62, S.S.I. 2000/171, S.S.I. 2000/288, S.S.I. 2001/160, S.S.I. 2001/358, S.S.I. 2001/429, S.S.I. 2002/35 and S.S.I. 2002/234.

(3) O.J. No. L 160, 26.6.1999, p.21., amended by Council Regulation (EC) No. 1455/01, O.J. No. L 198, 21.7.2001, p.58, Council Regulation (EC) No. 1512/01, O.J. No. L 201, 26.7.2001, p.1, Commission Regulation 2345/01, O.J. No. L 315, 1.12.2001, p.29, Council Regulation (EC) 806/03, O.J. No. L 122, 16.5.2003, p.1, Council Regulation (EC) No. 1782/03, O.J. No. L 270, 21.10.2003, p.1, and the Act of Accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic, O.J. No. L 236, 23.9.2003, p.33.

(4) O.J. No. L 123, 7.5.81, p.3, amended by Council Regulation (EEC) No. 1026/91, O.J. No. L 106, 26.4.1991, p.2.

(5) O.J. No. L 41, 14.2.91, p.15, amended by Commission Regulation (EEC) No. 3087/91, O.J. No. L 291, 23.10.1991, p.15, Commission Regulation (EEC) No. 2191/93, O.J. No. L 196, 5.8.1993, p.17, Commission Regulation (EC) No. 1993/95, O.J. L 194, 17.8.1995, p.7, and Commission Regulation (EC) No. 1215/03, O.J. No. L 169, 8.7.03, p.32.

“Community provision” means a provision of a Regulation of the European Community referred to in column 1 of Schedule 1 to these Regulations which is specified in column 2, and the subject matter of which is described in column 3, of that Schedule;

“exempt carcase” means a regulated carcase which has been obtained in the circumstance specified in the second indent to Article 2(2) of the Commission Regulation;

“exempt occupier” means an occupier of a regulated slaughterhouse to which the first indent to Article 2(2) of the Commission Regulation applies;

“MLC” means the Meat and Livestock Commission established under section 1 of the Agriculture Act 1967(6);

“occupier” means a person carrying on the business of a regulated slaughterhouse;

“prescribed communication” means a communication of the results of classification as required by Article 1(2) of Council Regulation (EEC) No. 1186/90 extending the scope of the Community scale for the classification of carcasses of adult bovine animals(7);

“regulated carcase” means the carcase or half-carcase of an adult bovine animal which has been marked in accordance with regulation 11 of, and Schedule 12 to, the 1995 Regulations(8); and

“regulated slaughterhouse” means a slaughterhouse (as defined by regulation 2(1) of the 1995 Regulations) licensed in accordance with regulation 4 of the 1995 Regulations(9).

(2) Other expressions used in these Regulations have, in so far as the context requires, the same meanings as in the Community provisions.

### **Exemption**

3. The classification requirements shall not be compulsory in relation to an exempt occupier or an exempt carcase.

### **Registration**

4.—(1) Every person who on 3rd July 2004 is, or who on a subsequent date becomes, an occupier shall within 28 days of that date give written notice to the Scottish Ministers of the particulars specified in Schedule 2.

(2) A person who has given notice pursuant to regulation 4(1) of the 1991 Regulations to the Secretary of State of the particulars specified in Schedule 2 to those Regulations shall be deemed to have given notice pursuant to paragraph (1).

(3) Where any change occurs in any of the particulars required to be notified under paragraph (1) the occupier shall within 28 days of the change give written notice to the Scottish Ministers of particulars of the change.

(4) Where an occupier ceases to be an occupier that person shall, within 10 days of such cessation, give written notice to the Scottish Ministers of—

- (a) the date of such cessation; and
- (b) the person (if any) succeeding that person as occupier of that slaughterhouse.

(5) Where a regulated slaughterhouse ceases to be such a slaughterhouse its occupier shall, within 10 days of such cessation, give written notice to the Scottish Ministers of the date of such cessation.

(6) 1967 c. 22; section 1 was amended by section 7 of the Agriculture Act 1986 (c. 49).

(7) O.J. No. L 119, 11.5.90 p.32, amended by the Act of Accession of the Kingdom of Norway, Republic of Austria, Republic of Finland and Kingdom of Sweden O.J. C241. 29.8.94, p.122.

(8) Regulation 11 was amended by S.S.I. 2000/62, and Schedule 12 was amended by S.S.I. 2000/288, S.S.I. 2001/358, S.S.I. 2001/429 and S.S.I. 2002/35.

(9) Regulation 4 was amended by S.I. 1995/3189, S.I. 1996/2235, S.S.I. 2000/62 and S.S.I. 2000/171.

## Labelling instead of marking

### 5. Subject to—

- (a) the final paragraph of Article 1(2) of the Commission Regulation;
- (b) Article 4(3)(b) and (c) of Commission Regulation (EC) No. 562/00 laying down detailed rules for the application of Council Regulation (EC) No. 1254/1999 as regards the buying-in of beef<sup>(10)</sup>; and
- (c) Article 3(2)(a) of Commission Regulation (EC) No. 907/00 laying down detailed rules for the application of Council Regulation (EC) No. 1254/1999 as regards aid for private storage in the beef and veal sector<sup>(11)</sup>,

an occupier may, instead of marking a regulated carcase in accordance with Article 1(1) of the Commission Regulation, label it in accordance with Article 1(2) of that Regulation, and such labels shall be applied on the positions specified in Article 1(1) of that Regulation.

## Licensed classifiers

6.—(1) Classification shall not be carried out by any person unless that person holds a licence granted under this regulation and complies with the terms and conditions of that licence.

(2) The Scottish Ministers may grant a licence to any person appearing to them to be qualified to carry out classification.

### (3) A licence under this regulation—

- (a) shall come into force on the day it is issued;
- (b) shall be in the form prescribed in Schedule 3;
- (c) shall be subject to the conditions specified in the licence; and
- (d) may be suspended or revoked—
  - (i) for contravention of any condition specified in that licence, or
  - (ii) in the circumstances referred to in the fifth paragraph of Article 3(2) of the Commission Regulation.

## Licence for automated grading

7.—(1) Classification shall not be carried out by means of automated grading equipment at any premises unless the occupier holds a licence granted under this regulation for the use of that equipment at those premises, and complies with the terms and conditions of that licence.

(2) The Scottish Ministers may grant a licence to an occupier pursuant to Article 3(1a) of the Commission Regulation authorising the use of automated grading equipment for classification at specified premises in Scotland.

### (3) A licence under this Regulation—

- (a) shall come into force on the date it is issued;
- (b) shall be in the form prescribed in Schedule 4;
- (c) shall be subject to the conditions specified in the licence; and
- (d) may be suspended or revoked—

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(10) O.J. No. L 68, 16.3.00, p.22, amended by Commission Regulation (EC) No. 2734/00, O.J. No. L 316, 15.12.2000, p.45, Commission Regulation (EC) No. 283/01, O.J. No. L 41, 10.2.2001, p.22, Commission Regulation (EC) No. 503/01, O.J. No. L 73, 15.3.2001, p.16, Commission Regulation (EC) No. 590/01, O.J. No. L 86, 27.3.2001, p.30, Commission Regulation (EC) No. 1082/01, O.J. No. L 149, 2.6.2001, p.19, Commission Regulation (EC) No. 1564/01, O.J. No. L 208, 1.8.2001, p.14, Commission Regulation (EC) No. 1592/01, O.J. No. L 210, 3.8.01, p.18.

(11) O.J. No. L 105, 3.5.00, p.6.

- (i) for contravention of any condition specified in the licence, or
- (ii) in the circumstances referred to in the fifth paragraph of Article 3(2) of the Commission Regulation.

### **Keeping, retention and production of records**

- 8.**—(1) An occupier who is not an exempt occupier shall—
- (a) keep a record of the particulars specified in Part I of Schedule 5 relating to each regulated carcass which is classified in a regulated slaughterhouse occupied by that person; and
  - (b) keep a record of the particulars specified in Part II of Schedule 5 relating to each exempt carcass which is obtained in a regulated slaughterhouse occupied by that person.
- (2) An exempt occupier shall keep a record of the particulars specified in Part III of Schedule 5.
- (3) A person required, under paragraph (1) or (2) or under a Community provision, to keep a record shall—
- (a) retain that record for a period of two years from the end of the calendar year to which the record relates; and
  - (b) upon demand by an authorised officer produce or cause to be produced the record for inspection by the authorised officer and shall permit that authorised officer to take copies and make extracts from it.

### **Classifications by the MLC**

- 9.**—(1) The MLC may make an agreement with an occupier to the effect that the MLC may carry out the classification requirements in respect of regulated carcasses at a regulated slaughterhouse occupied by the occupier.
- (2) Where an agreement is made under paragraph (1) the MLC shall immediately give written notice to the Scottish Ministers of that agreement.
- (3) The MLC shall, as soon as is reasonably practicable after carrying out classification requirements, provide the occupier with the particulars specified in paragraphs 1, 3 and 5 of Part I of Schedule 5 and any other details relating to those classification requirements as the occupier may reasonably require so as to enable the occupier to give a prescribed communication and to comply with regulation 8.
- (4) Where the MLC suspends or revokes an agreement under paragraph (1), it shall immediately give written notice to the occupier and the Scottish Ministers of that fact.
- (5) Where the occupier suspends or revokes an agreement under paragraph (1), the occupier shall immediately give written notice to the MLC and the Scottish Ministers of that fact.

### **Powers of authorised officers**

- 10.**—(1) An authorised officer may at all reasonable hours and on producing, if so required, a duly authenticated document showing the officer's authority, for the purpose of ascertaining whether any Community provision or these Regulations have been or are being complied with—
- (a) enter any regulated slaughterhouse or any slaughterhouse which that officer reasonably suspects to be a regulated slaughterhouse;
  - (b) inspect any regulated carcass or part of such a carcass, or any carcass or part of a carcass which that officer reasonably suspects to be a regulated carcass or part of a regulated carcass, in that slaughterhouse;

- (c) examine any records which an occupier is required to keep, under regulation 8 or a Community provision, 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; and
- (e) retain any such record which the officer has reason to believe may be required as evidence in proceedings under these Regulations.

(2) An authorised officer entering a regulated slaughterhouse or other slaughterhouse by virtue of this regulation may be accompanied by such other persons, to assist the authorised officer for the purposes of these Regulations, and such equipment as the officer considers necessary.

### **Assistance to authorised officers**

**11.** An occupier and the MLC when carrying out the classification requirements under regulation 9 shall give to an authorised officer such assistance as the authorised officer reasonably requests so as to enable the officer to exercise any power conferred under regulation 10.

### **Notices**

**12.—(1)** A written notice to be given under regulations 4 or 9 or any prescribed communication may be given—

- (a) by delivering it to the specified person; or
- (b) by leaving or sending it in a pre-paid letter addressed to the specified person, at the usual or last known place of business or residence of the specified person, or in the case of a body corporate its principal place of business in Great Britain or registered office, or in the case of the MLC its head office, or in the case of the Scottish Ministers at such address as they may specify for these purposes.

(2) Any reference in these Regulations to anything done in writing or produced in written form includes a reference to an electronic communication as defined in the Electronic Communications Act 2000<sup>(12)</sup>, which has been recorded and is consequently capable of reproduction.

(3) A written notice or prescribed communication may be sent to a person as an electronic communication only if that person has consented in writing to the use of that method of communication.

(4) A written notice or prescribed communication sent to a person as an electronic communication shall be regarded as sent when the text of it is received in a legible form.

### **Offences and penalties**

**13.—(1)** If any person—

- (a) intentionally obstructs an authorised officer (or a person assisting the authorised person in accordance with regulation 10) in the exercise of the powers conferred by regulation 10; or
- (b) fails to comply with a request under regulation 8(3)(b) , 10(1)(d) or 11,

that person 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—

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<sup>(12)</sup> 2000 c. 7.

- (a) fails to comply with any other requirement imposed on that person under a Community provision or these Regulations;
- (b) contravenes any prohibition contained in a Community provision or these Regulations;
- (c) for the purpose of obtaining a licence under regulation 6 or 7, knowingly or recklessly makes a statement which is false in a material particular; or
- (d) makes an alteration to a licence obtained under regulation 6 or 7,

that person shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(3) Proceedings for an offence under paragraph (1) or (2) above may, subject to paragraph (4), be commenced within a period of six months from the date on which evidence sufficient in the opinion of the procurator fiscal to warrant proceedings came to the knowledge of the procurator fiscal.

(4) No such proceedings shall be commenced by virtue of paragraph (3) more than twelve months from the commission of the offence.

(5) For the purposes of paragraph (3)–

- (a) a certificate signed by or on behalf of the procurator fiscal and stating the date on which evidence sufficient in the opinion of the procurator fiscal to warrant the proceedings came to the knowledge of the procurator fiscal 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.

(6) If any person–

- (a) makes an entry which that person knows to be false in any record which is required to be kept by virtue of regulation 8(1) or (2) or with intent to deceive makes use of any entry which that person knows to be false; or
- (b) with intent to deceive–
  - (i) applies to a regulated carcass or part of such a carcass a mark prescribed by Article 1(1) of the Commission Regulation, or
  - (ii) applies to a label attached by virtue of regulation 5 an indication prescribed by Article 1(2) of that Regulation; or
- (c) applies to a regulated carcass or part of such a carcass a mark so closely resembling a mark prescribed by Article 1(1) of the Commission Regulation as to be calculated to deceive; or
- (d) applies to a label attached by virtue of regulation 5 an indication so closely resembling an indication prescribed by Article 1(2) of the Commission Regulation as to be calculated to deceive,

that person 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.

(7) Where a body corporate or a partnership 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 be attributable to any neglect on the part of–

- (a) any director, manager, secretary or other similar officer of the body corporate;
- (b) any person who was purporting to act in any such capacity; or
- (c) in the case of a partnership, a partner or person who was purporting to act as such,

any such person, as well as the body corporate or partnership, shall be guilty of the offence and be liable to be proceeded against and punished accordingly.

(8) For the purposes of paragraph (7), “director”, in relation to a body corporate whose affairs are managed by its members, means a member of the body corporate.

#### **Defence of due diligence**

**14.** It shall be a defence for a person charged with an offence under these Regulations to prove that the person took all reasonable precautions and exercised all due diligence to avoid the commission of the offence or its commission by a person under the control of the person so charged.

#### **Amendment of the Agriculture Act 1967**

**15.** For paragraph 10A of Part I of Schedule 1 to the Agriculture Act 1967(**13**) substitute—

“**10A.** Functions under regulation 9 of the Beef Carcase (Classification) (Scotland) Regulations 2004 (classification by the MLC of certain carcasses).”.

#### **Licences, records and agreements under the 1991 Regulations**

**16.** Any licence issued under regulation 6, record kept under regulation 8 or agreement with the MLC under regulation 9 shall be treated as if issued, made or kept under these Regulations.

#### **Revocations**

**17.** The 1991 Regulations, the Beef Carcase (Classification) (Amendment) Regulations 1994(**14**) and the Beef Carcase (Classification) (Amendment) Regulations 1998(**15**) are hereby revoked.

St Andrew’s House, Edinburgh  
9th June 2004

*ROSS FINNIE*  
A member of the Scottish Executive

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(13) Paragraph 10A was inserted by S.I. [1991/2242](#).

(14) S.I. [1994/2853](#).

(15) S.I. [1998/12](#).