
SCOTTISH STATUTORY INSTRUMENTS

2002 No. 445

The Products of Animal Origin (Third Country Imports) (Scotland) Regulations 2002 (revoked)

PART XI

OFFENCES AND PENALTIES

Obstruction

55.—(1) No person shall—

- (a) intentionally obstruct any person in the exercise of a power conferred by regulation 8 or 9 or in the performance of any other regulatory function;
- (b) without reasonable cause, fail to comply with a requirement made pursuant to regulation 8 or 9, or fail to give to any person exercising a power conferred by those regulations or performing any of the regulatory functions such assistance or information as that person may reasonably require for the purpose of exercising the power or performing the function of that person;
- (c) furnish to any person exercising a power conferred by regulation 8 or 9 or performing any of the regulatory functions any information which that person so furnishing 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 that person.

Contraventions

56. Any person who contravenes a provision of the Regulations listed in Schedule 6, or fails to comply with a notice served upon that person pursuant to regulation 8(2) or regulation 21(2) shall be guilty of an offence.

Defence of due diligence

57.—(1) In any proceedings for an offence of contravening a provision of the Regulations listed in Part I of Schedule 6, it shall be a defence for the person charged to prove that all reasonable precautions were taken and all due diligence exercised to avoid the commission of the offence by the person charged or by a person under the control of such person.

(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 at the earlier of—

- (a) a date seven clear days before the trial diet (not being a notional trial diet); or
- (b) a date twenty eight days after the first appearance of that person, before a court in connection with the alleged offence,

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that person 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 the possession of the person charged.

(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

58.—(1) A person guilty of the offence of contravening regulation 55(1)(a) or (1)(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.

(2) A person guilty of any other offence under these Regulations shall be liable—

- (a) on summary conviction to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding three months or to both;
- (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years, or to both.

Offences by bodies corporate

59.—(1) Where an offence under these Regulations committed by a body corporate or a partnership is proved to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of, any director, manager, secretary or similar officer of the body corporate, or any person who was purporting to act in any such capacity (or in the case of a partnership, a partner or a person who was purporting to act as such), that person as well as the body corporate or the partnership, as the case may be, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, the provisions of paragraph (1) shall apply in relation to the acts and defaults of a member in connection with the members' functions of management as if the member were a director of the body corporate.

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