

2006 No. 4

AGRICULTURE

The Older Cattle (Disposal) (Scotland) Regulations 2006

Made - - - - *9th January 2006*

Laid before the Scottish Parliament *10th January 2006*

Coming into force - - *23rd January 2006*

The Scottish Ministers, in exercise of the powers conferred by section 2(2) of the European Communities Act 1972(a) and of all other powers enabling them in that behalf, hereby make the following Regulations:

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Older Cattle (Disposal) (Scotland) Regulations 2006 and shall come into force on 23rd January 2006.

(2) These Regulations extend to Scotland only.

Interpretation

2. In these Regulations—

“the Commission Regulation” means Commission Regulation (EC) No. 716/96 adopting exceptional support measures for the beef market in the United Kingdom, as amended(b);

“inspector” means a person appointed as such for the purposes of these Regulations by the Scottish Ministers;

“incineration plant” means an incineration plant as defined in Directive 2000/76 of the European Parliament and of the Council on the incineration of waste(c);

“occupier”, in relation to any premises, means any person carrying on a business there;

“rendering plant” means a processing plant as defined in Regulation (EC) No. 1774/2002 of the European Parliament and of the Council laying down health rules concerning animal by-products not intended for human consumption(d); and

“slaughterhouse” means any establishment approved as a slaughterhouse in accordance with Article 3 of Regulation (EC) No. 854/2004 of the European Parliament and of the Council laying down specific rules for the organisation of official controls on products of animal origin intended for human consumption(e).

(a) 1972 c.68. Section 2(2) was amended by the Scotland Act 1998 (c.46), Schedule 8, paragraph 15(3). The functions conferred upon the Minister of the Crown under section 2(2) of the 1972 Act, insofar as within devolved competence, were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998.

(b) O.J. No. L 99, 20.4.96, p.14, as last amended by Commission Regulation (EC) No. 2109/2005 (O.J. No. L 337, 22.12.2005, p.25).

(c) O.J. No. L 332, 28.12.00, p.91.

(d) O.J. No. L 273, 10.10.02, p.1.

(e) O.J. No. L 139, 30.4.2004, p.206. The revised text of the Regulation is contained in a corrigendum (O.J. No. L 226, 25.6.2004, p.83).

Electronic communications

3. Anything required to be done in writing or produced in written form under these Regulations may be done by an electronic communication, as defined in the Electronic Communications Act 2000(a) which can subsequently be used for reference.

Occupiers of slaughterhouses, incineration or rendering plants

4.—(1) Any occupier of a slaughterhouse shall comply with the provisions of the Commission Regulation referred to in Part I of the Schedule to these Regulations.

(2) Any occupier of an incineration plant or rendering plant shall comply with the provisions referred to in Part II of the Schedule to these Regulations.

Powers of inspectors

5.—(1) An inspector may, on producing, if required to do so, some duly authenticated document showing the authority of that inspector, enter at all reasonable hours any land or premises (other than any premises used only as a dwelling) for the purpose of ensuring that the Commission Regulation and these Regulations are complied with; and in this regulation “premises” includes any vehicle or container.

(2) An inspector may—

- (a) seize any animal by-products and dispose of them as necessary;
- (b) carry out any inquiries, examinations and tests;
- (c) take any samples;
- (d) have access to, and inspect and copy any records (in whatever form they are held) kept in connection with the requirements of the Commission Regulation or of these Regulations, or remove such records to enable them to be copied;
- (e) have access to, inspect and check the operation of, any computer and any associated apparatus or material which is or has been in use in connection with the records; and for this purpose may require any person having charge of, or otherwise concerned with the operation of, the computer, apparatus or material to give the inspector any assistance the inspector may reasonably require (including providing the inspector with any necessary passwords) and, where a record is kept by means of a computer, may require the records to be produced in a form in which they may be taken away;
- (f) mark any animal, animal by-product or other thing for identification purposes; and
- (g) be accompanied by such other person as the inspector considers necessary.

(3) No person shall deface, obliterate or remove any mark applied under paragraph (2).

(4) Any inspector who enters any unoccupied premises shall leave them as effectively secured against unauthorised entry as that inspector found them.

Notice requiring the disposal of animal by-products

6. If an inspector considers it necessary for animal or public health purposes or if any provision of the Commission Regulation or of these Regulations is not being complied with, that inspector may serve a notice on any person in possession or control of any animal by-product—

- (a) requiring that person to dispose of the animal by-product in such manner as may be specified in the notice; and
- (b) specifying how the animal by-product is to be stored pending disposal.

(a) 2000 c.7.

Compliance with notices

7.—(1) Any notice served under these Regulations shall be complied with at the expense of the person on whom the notice is served, and if it is not complied with, an inspector may take any steps that the inspector considers necessary to ensure that the requirements of the notice are met.

(2) The person in default shall reimburse any reasonable expenses incurred in taking such steps and any such reimbursement is recoverable as a debt.

Obstruction

8.—(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 for the purpose of carrying out the functions of that person under these Regulations; or
- (c) furnish to any person acting in the execution of these Regulations 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 if to do so might incriminate that person.

Offences

9.—(1) Where a person contravenes or fails to comply with any provision of these Regulations, that person shall be guilty of an offence.

(2) Where an offence under these regulations committed by a Scottish partnership or a body corporate is proved to have been committed with the consent or connivance of, or to be 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 person who was purporting to act as such), that person as well as the partnership or body corporate shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Penalties

10. A person who is guilty of an offence under these Regulations is liable—

- (a) 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 both, or
- (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years or both.

Enforcement

11. These Regulations shall be enforced by the Scottish Ministers.

Revocation

12. The Bovine Animals (Enforcement of Community Purchase Scheme) Regulations 1996^(a) are revoked in so far as they apply in Scotland.

St Andrew's House,
Edinburgh
9th January 2006

ROSS FINNIE
A member of the Scottish Executive

^(a) S.I. 1996/1193.

SCHEDULE

Regulation 4

PROVISIONS OF COMMISSION REGULATION (EC) NO. 716/96

PART I

PROVISIONS APPLICABLE TO OPERATORS OF SLAUGHTERHOUSES

Provision of the Commission Regulation	Subject matter
Article 1(2)	Requirement that heads, internal organs and carcasses be permanently stained.
Article 1(2)	Requirement that stained material be transported in sealed containers to specially authorised incineration or rendering plants.
Article 1(2)	Prohibition on any part of an animal slaughtered under the Commission Regulation entering the human or animal food chains or being used for cosmetic or pharmaceutical products.
Article 1(3)	Requirement that no bovine animal intended for human consumption be present in a slaughterhouse when animals are being slaughtered under the Commission Regulation
Article 1(3)	Requirement that, where animals to be slaughtered under the Commission Regulation need to be put in lairage prior to slaughter, they are kept separate from bovine animals intended for human or animal consumption.
Article 1(3)	Requirement that, where it is necessary to store products derived from animals slaughtered under the Commission Regulation, such products shall be stored separately from any storage facility used for meat or other products intended for human or animal consumption.

PART II

PROVISIONS APPLICABLE TO OPERATORS OF INCINERATION OR RENDERING PLANTS

Provision of the Commission Regulation	Subject matter
Article 1(2)	Requirement that stained material be processed and destroyed.
Article 1(2)	Prohibition on any part of an animal slaughtered under the Commission Regulation entering the human or animal food chains or being used for cosmetic or pharmaceutical products.

Provision of the Commission Regulation	Subject matter
Article 1(3)	Requirement that, where it is necessary to store products derived from animals slaughtered under the Commission Regulation, such products shall be stored separately from any storage facility used for meat or other products intended for human or animal consumption.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision for the enforcement of Commission Regulation (EC) No. 716/96, adopting exceptional support measures for the beef market in the United Kingdom (O.J. No. L 99, 20.4.96, p.14; “the Commission Regulation”), following the entry into force of Commission Regulation (EC) No. 2109/2005 (O.J. No. L 331, 22.12.2005, p.25). The Commission Regulation provides for a Community co-financed scheme authorising the United Kingdom competent authority to purchase any bovine animal born or reared within the United Kingdom before 1st August 1996 which does not exhibit any clinical sign of BSE and which was, during a period of at least six months prior to its sale, present on a holding located in the United Kingdom. The Commission Regulation also contains provisions relating to the slaughter and disposal of such animals.

Regulation 4 provides that any occupier of a slaughterhouse shall comply with the provisions of the Commission Regulation referred to in Column 1 (and described in Column 2) of Part I of the Schedule to the Regulations and that any occupier of an incineration plant or rendering plant shall comply with the provisions of the Commission Regulation referred to in Column 1 (and described in Column 2) of Part II of the Schedule to the Regulations.

Regulations 5 to 8 provide for the powers of inspectors and the consequences of failure to comply with, or of obstructing, the inspectors.

Regulation 9 provides that it is an offence to contravene or to fail to comply with any provision in the Regulations. Regulation 10 provides that an offence shall be punishable on summary conviction to a fine not exceeding level 5 on the standard scale or three months imprisonment or both. On indictment the penalty is an unlimited fine or two years imprisonment or both.

Regulation 11 provides that these Regulations are to be enforced by the Scottish Ministers.

A full Regulatory Impact Assessment has not been produced for this instrument as it has no impact on the costs of business.

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£3.00

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