
SCOTTISH STATUTORY INSTRUMENTS

2010 No. 330

**The Beef and Pig Carcase Classification
(Scotland) Regulations 2010**

PART 3

BOVINE CARCASSES

Application of these Regulations to small-scale bovine operators

5.—(1) These Regulations do not apply to a small-scale bovine operator if that operator does not classify bovine carcasses.

(2) But if a small-scale bovine operator chooses to classify bovine carcasses, these Regulations apply in relation to that operator and the classification of those carcasses.

(3) In paragraphs (1) and (2), “classify” means classify in accordance with the European beef provisions or otherwise than in accordance with those provisions, and “classification” is to be construed accordingly.

(4) In this regulation, “small-scale bovine operator” means an operator of an approved slaughterhouse at which not more than 75 adult bovine animals per week as an annual average are slaughtered.

(5) Nothing in this regulation prevents the application of these Regulations to an operator in relation to pig carcasses if pigs are also slaughtered in that operator’s slaughterhouse.

Competent authority etc.: bovine carcasses

6.—(1) The Scottish Ministers are the competent authority for the purposes of—

- (a) Article 9 of the Commission Regulation (authorisation of automated grading techniques);
- (b) Article 10(2)(b) of the Commission Regulation (classification by automated grading techniques); and
- (c) Article 16 of the Commission Regulation (reporting of weekly prices to the competent authority and calculation of weekly prices).

(2) The Scottish Ministers are responsible for on-the-spot checks as described in Article 11 of the Commission Regulation.

Labelling instead of marking

7. Subject to—

- (a) the final paragraph of Article 6(4) of the Commission Regulation;

- (b) Article 4(3)(c) of [Commission Regulation \(EC\) No. 1669/2006](#) laying down detailed rules for the application of Council Regulation (EC) No. 1254/1999 as regards the buying-in of beef⁽¹⁾; and
- (c) point I(a) of Annex I to [Commission Regulation \(EC\) No. 826/2008](#) laying down common rules for the granting of private storage aid for certain agricultural products⁽²⁾,

an operator may, instead of marking a bovine carcase in accordance with Article 6(3) of the Commission Regulation, label it in accordance with Article 6(4) of that Regulation.

Licence to carry out classification

8.—(1) The Scottish Ministers must grant a licence to carry out classification of bovine carcasses to any person who applies for such a licence and who appears to the Scottish Ministers to be qualified to carry out classification, but the Scottish Ministers may refuse to grant such a licence if the Scottish Ministers are satisfied that the applicant is not a fit and proper person to carry out the classification of bovine carcasses.

(2) Where the Scottish Ministers grant a licence under paragraph (1), the Scottish Ministers may impose such conditions as they consider appropriate.

(3) The Scottish Ministers may—

- (a) vary a licence or any condition of a licence;
- (b) revoke a licence in the circumstances mentioned in Article 12(2) of the Commission Regulation (incorrect classifications or identifications);
- (c) suspend or revoke a licence if the person has contravened any of the terms or conditions of that licence; or
- (d) suspend or revoke a licence if the Scottish Ministers are satisfied that the person holding that licence is no longer a fit and proper person to carry out the classification.

(4) Where the Scottish Ministers take any decision in relation to a licence under this regulation in respect of which there is a right to apply for a review under regulation 10, the Scottish Ministers must inform the person concerned of—

- (a) the right to apply for a review; and
- (b) the manner in which, and the time limits within which, such an application may be made.

Licence for automated grading

9.—(1) The Scottish Ministers may grant to the operator of an approved slaughterhouse a licence authorising the use of automated grading equipment for classification of bovine carcasses at that slaughterhouse.

(2) Where the Scottish Ministers grant a licence under paragraph (1), the Scottish Ministers may impose such conditions as they consider appropriate.

(3) The Scottish Ministers may—

- (a) vary a licence or any condition of a licence;
- (b) revoke a licence in the circumstances mentioned in Article 12(2) of the Commission Regulation (incorrect classifications or identifications);
- (c) suspend or revoke a licence if the person has contravened any of the terms or conditions of that licence; or

(1) O.J. No. L 312, 11.11.2006, p.6, to which there are amendments not relevant to these Regulations.

(2) O.J. No. L 223, 21.8.2008, p.3, to which there are amendments not relevant to these Regulations.

- (d) suspend or revoke a licence if the Scottish Ministers consider that the automated grading equipment no longer meets the standards required by Article 9 of, and Annex II to, the Commission Regulation, whether for reasons connected with the equipment itself or with the operator's manner of use of the equipment.

(4) Where the Scottish Ministers take any decision in relation to a licence under this regulation in respect of which there is a right to apply for a review under regulation 10, the Scottish Ministers must inform the person concerned of—

- (a) the right of appeal; and
- (b) the manner in which, and the time limits within which, such an application may be made.

Review of a decision by the Scottish Ministers

10.—(1) A licence holder or applicant may apply in writing to the Scottish Ministers for a review of a decision.

(2) An application for review—

- (a) must be made within 21 days after the date that notice of a decision is received by the licence holder or applicant; and
- (b) may include any written explanation that the licence holder or applicant considers appropriate.

(3) A decision which is the subject of an application for review shall, unless the Scottish Ministers direct otherwise in writing, have effect until the date of determination of that application.

(4) The application for review shall be determined by the Scottish Ministers in accordance with paragraphs (5) to (10).

(5) The Scottish Ministers shall appoint a person to carry out the functions in paragraph (8) (“the appointed person”).

(6) The Scottish Ministers shall inform the licence holder or applicant in writing—

- (a) of the name and address of the appointed person;
- (b) of the role of that person; and
- (c) that the licence holder or applicant may give a written explanation (or further explanation) to that person.

(7) Any written explanation referred to in paragraph (6) shall be given to the appointed person within 14 days after the date of intimation to the licence holder or applicant under that paragraph.

(8) The appointed person shall—

- (a) examine the merits of the decision;
- (b) consider any written explanation given by the licence holder or applicant;
- (c) report to the Scottish Ministers following that examination; and
- (d) include in that report such recommendation (if any) for determination of the application as the appointed person shall think fit.

(9) The Scottish Ministers shall consider the report of, and any recommendation by, the appointed person and make a determination.

(10) The Scottish Ministers shall inform the licence holder or applicant in writing of the result of the determination of the review.

(11) In this regulation “decision” means—

- (a) a decision by the Scottish Ministers to refuse an application for a licence under regulation 8 or 9;

- (b) a decision by the Scottish Ministers to impose a term or condition in a licence granted under regulation 8 or 9; and
- (c) a decision by the Scottish Ministers to revoke, suspend or vary a licence granted under regulation 8 or 9.

Appeals

11.—(1) An applicant or licence holder may appeal to the sheriff against a determination of a review by the Scottish Ministers under regulation 10.

(2) The Scottish Ministers may be a party to an appeal under this regulation.

(3) An appeal under this regulation shall be made by way of summary application and shall be lodged with the sheriff clerk within the period of 28 days from the day on which the determination was made.

(4) On good cause being shown, the sheriff may hear an appeal under this regulation notwithstanding that it was not lodged within the time mentioned in paragraph (3) above.

(5) For the purposes of an appeal under this regulation, the sheriff may require the Scottish Ministers to give reasons for that decision, and the Scottish Ministers shall comply with such a requirement.

(6) The sheriff may uphold an appeal under this regulation only if the sheriff considers that the Scottish Ministers, in arriving at their determination—

- (a) erred in law;
- (b) based their determination on any incorrect material fact;
- (c) acted contrary to natural justice; or
- (d) exercised their discretion in an unreasonable manner.

(7) In considering an appeal under this regulation, the sheriff may hear evidence by or on behalf of any party to the appeal.

(8) On upholding an appeal under this regulation, the sheriff may—

- (a) remit the case with the reasons for such decision to the Scottish Ministers for reconsideration of their determination; or
- (b) reverse or modify their determination.

(9) On remitting a case under paragraph (8)(a) above, the sheriff may—

- (a) specify a date by which the reconsideration by the Scottish Ministers must take place;
- (b) modify any procedural steps which otherwise would be required in relation to the matter by or under any enactment (including these Regulations).

(10) The sheriff may include in the decision on an appeal under this regulation such order as to the expenses of the appeal as the sheriff thinks proper.

(11) The decision of the sheriff is final.

Records: bovine carcasses

12.—(1) An operator of an approved slaughterhouse must keep a record of the particulars specified in Schedule 3 relating to each bovine carcase which is classified in that slaughterhouse.

(2) The operator must retain each record for a period of 2 years from the end of the calendar year to which the record relates.

