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SCOTTISH STATUTORY INSTRUMENTS

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**2010 No. 330**

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

**PART 5**

**ENFORCEMENT, OFFENCES AND SUPPLEMENTAL PROVISIONS**

**Powers of entry**

17.—(1) An authorised officer may at any reasonable hour and on producing, if so required, a duly authenticated authorisation, enter an approved slaughterhouse and any associated premises in which carcases may be handled or records relating to those carcases may be kept, for the purpose of ascertaining whether—

- (a) any offence under these Regulations is being or has been committed on the premises; or
- (b) there is on the premises any evidence of any such offence.

(2) The officer may be accompanied by such other persons as the officer considers necessary, including any representative of the European Commission.

(3) If a justice of the peace or sheriff, by evidence on oath, is satisfied that there is reasonable ground for entry into premises for any purpose in paragraph (1) and that either—

- (a) admission to the premises has been refused, or a refusal is anticipated, and that notice of the intention to apply for a warrant has been given to the operator; or
- (b) an application for admission, or the giving of such notice, would defeat the object of the entry, or that the case is one of urgency, or that the premises are unoccupied or the operator temporarily absent,

the justice of the peace or sheriff may by signed warrant authorise an authorised officer to enter the premises, if need be by reasonable force.

(4) A warrant granted under this regulation remains in force for three months.

(5) An officer who enters any unoccupied premises, or premises in which the operator is temporarily absent, must leave them as effectively secured against unauthorised entry as they were before entry.

**Powers of authorised officers**

18. An authorised officer entering premises under these Regulations may—

- (a) inspect any bovine carcase or pig carcase or part of such a carcase, or any carcase or part of a carcase which the officer reasonably suspects to be a bovine carcase or pig carcase or part of such a carcase, on those premises;
- (b) examine any record which an operator is required to keep under regulation 12 or 16 or under the Commission Regulation, 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;
- (c) 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
- (d) retain any such record which the officer has reason to believe may be required as evidence in proceedings under these Regulations.

**Offences: European beef provisions**

- 19.—(1) Subject to regulation 7 (labelling instead of marking), any person who—
- (a) fails to comply with any requirement under a European beef provision; or
  - (b) contravenes any prohibition contained in a European beef provision,
- is guilty of an offence.
- (2) But a person falling within paragraph (3) does not commit an offence if that person—
- (a) fails to comply with any requirement under a Part 2 European beef provision; or
  - (b) contravenes any prohibition contained in a Part 2 European beef provision.
- (3) A person falls within this paragraph if the person is—
- (a) an operator of an approved slaughterhouse which itself bones all the bovine carcasses which it obtains; or
  - (b) responsible for the classification of bovine carcasses in such a slaughterhouse.
- (4) In this regulation, “Part 2 European beef provision” means a provision of the Commission Regulation which is specified in column 1 of Part 2 of Schedule 1.

**Offences: European pig provisions**

20. Subject to regulation 15 (records instead of marking), any person who—
- (a) fails to comply with any requirement under a European pig provision; or
  - (b) contravenes any prohibition contained in a European pig provision,
- is guilty of an offence.

**Offences: notifications by operators**

21. Any person who fails to comply with any requirement of regulation 4 (notifications by operators) is guilty of an offence.

**Offences: licences (bovine carcasses)**

- 22.—(1) If classification of a bovine carcass is carried out at an approved slaughterhouse—
- (a) without a licence granted under regulation 8; or
  - (b) in breach of any term or condition of such a licence,
- the person who carries out the classification and the operator of that slaughterhouse are each guilty of an offence.
- (2) If classification of a bovine carcass is carried out at an approved slaughterhouse by means of automated grading equipment—
- (a) without a licence granted under regulation 9 for the use of that equipment at that slaughterhouse; or

(b) in breach of any term or condition of such a licence,  
the person who carries out the classification and the operator of that slaughterhouse are each guilty of an offence.

(3) Any person who makes an alteration to a licence granted under regulation 8 or 9 with the intent to deceive is guilty of an offence.

#### **Offences: records and marks**

**23.**—(1) Any person who fails to comply with any requirement of regulation 12 (records: bovine carcasses) or regulation 16 (records: pig carcasses) is guilty of an offence.

(2) Any person who—

(a) applies to a bovine carcass or part of such a carcass a mark—

(i) prescribed by Article 6(3) of the Commission Regulation; or

(ii) closely resembling a mark prescribed by that provision,  
which is likely to mislead;

(b) applies to a pig carcass or part of such a carcass a mark—

(i) prescribed by Article 21(3) of the Commission Regulation; or

(ii) closely resembling a mark prescribed by that provision,  
which is likely to mislead;

(c) applies to a label relating to a bovine carcass or part of such a carcass an indication—

(i) prescribed by Article 6(4) of the Commission Regulation; or

(ii) closely resembling an indication prescribed by that provision,  
which is likely to mislead; or

(d) applies to a pig carcass or part of such a carcass a label prescribed by the last sub-paragraph of Article 21(3) of the Commission Regulation which is likely to mislead,

is guilty of an offence.

#### **Offences: obstruction etc.**

**24.** Any person who—

(a) without reasonable excuse, intentionally obstructs any person acting under these Regulations;

(b) without reasonable excuse, fails to give any person acting under these Regulations any assistance or information that that person may reasonably require for the purpose of carrying out functions under these Regulations;

(c) gives any person acting under these Regulations any information knowing it to be false or misleading; or

(d) fails to produce any document or record when required to do so by any person acting under these Regulations;

is guilty of an offence.

#### **Period for bringing prosecution**

**25.**—(1) Proceedings for an offence under regulation 19, 20, 21, 22, 23(1) or 24 may be brought within a period of 6 months from the date on which the procurator fiscal first knows of evidence sufficient, in the procurator fiscal's opinion, to justify proceedings.

(2) But no such proceedings may be brought more than 12 months from the commission of the offence.

(3) For the purposes of paragraph (1)—

- (a) a certificate signed by or on behalf of the procurator fiscal and stating the date on which the procurator fiscal first knew of evidence sufficient to justify the proceedings is conclusive evidence of that fact; and
- (b) a certificate stating that matter and purporting to be so signed is deemed to be so signed unless the contrary is proved.

### **Offences by bodies corporate**

**26.**—(1) Where—

- (a) an offence under these Regulations has been committed by a body corporate or a Scottish partnership or other unincorporated association;
- (b) it is proved that the offence was committed with the consent or connivance of, or was attributable to any neglect on the part of—
  - (i) a relevant individual; or
  - (ii) an individual purporting to act in the capacity of a relevant individual,

the individual as well as the body corporate, Scottish partnership or unincorporated association is guilty of the offence and is liable to be proceeded against and punished accordingly.

(2) In paragraph (1), “relevant individual” means—

- (a) in relation to a body corporate—
  - (i) a director, manager, secretary or other similar officer of the body;
  - (ii) where the affairs of the body are managed by its members, the members;
- (b) in relation to a Scottish partnership, a partner;
- (c) in relation to an unincorporated association other than a Scottish partnership, a person who is concerned in the management or control of the association.

### **Defence of due diligence**

**27.** It is a defence for a person charged with an offence under these Regulations (“P”) to prove that P took all reasonable precautions and exercised all due diligence to avoid the commission of the offence by P or by a person under P’s control.

### **Offences: punishment**

**28.**—(1) A person guilty of an offence under—

- (a) regulation 19 (European beef provisions);
- (b) regulation 20 (European pig provisions);
- (c) regulation 21 (notifications by operators);
- (d) regulation 22 (licences);
- (e) regulation 23(1) (records); or
- (f) regulation 24 (obstruction),

is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(2) A person guilty of an offence under regulation 23(2) (misleading marks) is liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum; or
- (b) on conviction on indictment, to a fine.

### **Revocations**

**29.** The instruments specified in Schedule 5 are revoked.

### **Transitional provisions**

**30.—(1)** The revocation of the 2004 Regulations shall not affect the validity of any operator's licence issued under regulation 6 of the 2004 Regulations and the licence shall be treated for the purposes of these Regulations as if it were a licence granted under regulation 8 of these Regulations.

(2) The revocation of the 2004 Regulations shall not affect the validity of any operator's licence issued under regulation 7 of the 2004 Regulations and the licence shall be treated for the purposes of these Regulations as if it were a licence granted under regulation 9 of these Regulations.