
STATUTORY INSTRUMENTS

2010 No. 1090

**The Beef and Pig Carcase Classification
(England) Regulations 2010 (revoked)**

PART 5

ENFORCEMENT AND OFFENCES

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 carcasses may be handled or records relating to those carcasses 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, on sworn information in writing, 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 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 continues 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

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- 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.

Enforcement notices

19.—(1) If the Secretary of State (“S”) has reason to believe that a person (“P”) has committed an offence under these Regulations, S may give P a notice (an enforcement notice) in accordance with paragraph (2).

(2) An enforcement notice must—

- (a) state S’s grounds for believing this;
- (b) specify the matter that constitutes the offence;
- (c) specify what P must stop doing, or the measure that, in S’s opinion, P must take in order to comply with these Regulations;
- (d) require P to stop doing the action specified in the notice, or take the measures specified in the notice, or measures at least equivalent to them, within the period (being not less than 14 days) specified in the notice;
- (e) inform P of the right of appeal conferred by regulation 20; and
- (f) inform P of the period within which such an appeal may be brought.

(3) Any person who contravenes or fails to comply with an enforcement notice is guilty of an offence.

Appeals against enforcement notices

20.—(1) A person may appeal to a magistrates’ court against an enforcement notice if that person has reason to believe that the notice should not have been given.

(2) A person may appeal within the period of one month beginning with the date on which the notice was given.

(3) The procedure is by way of complaint for an order, and the Magistrates’ Court Act 1980(1) applies to the proceedings.

(4) On an appeal the court may either cancel or affirm the notice and, if the court affirms the notice, it may do so either in its original form or with such modifications as the court thinks fit.

Penalty notices

21.—(1) If the Secretary of State has reason to believe that a person has committed an offence under these Regulations, the Secretary of State may give that person a notice (a penalty notice) in accordance with paragraphs (2) and (3).

(2) A penalty notice may be of any amount up to a maximum of £5,000.

(3) A penalty notice must—

- (a) give such particulars of the circumstances alleged to constitute the offence as are necessary for giving reasonable information about the offence;

(1) 1980 c. 43; sections 51 and 52 have been substituted by the Courts Act 2003 (c. 39), section 47.

- (b) state the amount of the penalty;
- (c) state the period during which, by virtue of regulation 22, proceedings will not be taken for the offence;
- (d) state the address at which the penalty may be paid; and
- (e) state that payment must not be made in cash.

Restriction on proceedings for penalty offence

- 22.**—(1) Where a person is given a penalty notice—
- (a) no proceedings may be brought against that person for the offence to which that notice relates before the end of the period of 28 days, beginning with the date on which the notice was given; and
 - (b) that person may not be convicted of the offence if the penalty is paid in accordance with regulation 23 before the end of that period.
- (2) Paragraph (1) does not apply if the penalty notice is withdrawn in accordance with regulation 24.

Payment of penalty

- 23.**—(1) Payment of any penalty must be made to the Secretary of State by sending it by post or by such method as may be specified in the notice.
- (2) In any proceedings a certificate purporting to be signed by or on behalf of the Secretary of State stating that payment of a penalty was or was not received by the date specified in the certificate is evidence of the facts stated.

Withdrawal of penalty notice

- 24.**—(1) A penalty notice may be withdrawn if the Secretary of State has reason to believe that it ought not to have been given (whether to the person named in the penalty notice or otherwise).
- (2) A penalty notice may be withdrawn by the Secretary of State giving notice to the person named in the penalty notice before or after payment of the penalty.
- (3) Where a penalty notice is withdrawn, the Secretary of State must repay any penalty paid under the penalty notice to the person named in the penalty notice within 28 days, beginning with the date on which notice of the withdrawal of the penalty notice was sent.

Offences: European beef provisions

- 25.**—(1) Subject to regulation 8 (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

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(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 2 of Part 2 of Schedule 1.

Offences: European pig provisions

26. 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

27. Any person who fails to comply with any requirement of regulation 5 (notifications by operators) is guilty of an offence.

Offences: licences (bovine carcasses)

28.—(1) If classification of a bovine carcase is carried out at an approved slaughterhouse—

- (a) without a licence granted under regulation 9, 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 carcase is carried out at an approved slaughterhouse by means of automated grading equipment—

- (a) without a licence granted under regulation 10 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 9 or 10 is guilty of an offence.

Offences: records and marks

29.—(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 carcase or part of such a carcase 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 carcase or part of such a carcase 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 carcase or part of such a carcase an indication—
 - (i) prescribed by Article 6(4) of that Regulation, or
 - (ii) closely resembling an indication prescribed by that provision, which is likely to mislead; or
 - (d) applies to a pig carcase or part of such a carcase 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.

30. Any person who—

- (a) without reasonable excuse, obstructs any person acting under these Regulations,
- (b) without reasonable cause, 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

31.—(1) Proceedings for an offence under regulation 19(3), 25, 26, 27, 28, 29(1) or 30 may be brought within a period of 12 months from the date on which the prosecutor first knows of evidence sufficient, in the prosecutor's opinion, to justify proceedings.

(2) But no such proceedings may be brought more than 18 months from the commission of the offence.

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

- (a) a certificate signed by or on behalf of the prosecutor and stating the date on which the prosecutor first knew of evidence sufficient to justify the proceedings is conclusive evidence of that fact;
- (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

32.—(1) If an offence under these Regulations committed by a body corporate is shown to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, an officer, that officer as well as the body corporate is guilty of the offence and is liable to be proceeded against and punished accordingly.

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

(3) In this regulation, "officer", in relation to a body corporate, means a director, member of the committee of management, chief executive, manager, secretary or other similar officer of the body, or a person purporting to act in any such capacity.

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Defence of due diligence

33. 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

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

- (a) regulation 19(3) (enforcement notices),
- (b) regulation 25 (European beef provisions),
- (c) regulation 26 (European pig provisions),
- (d) regulation 27 (notifications by operators),
- (e) regulation 28 (licences (bovine carcasses)),
- (f) regulation 29(1) (records), or
- (g) regulation 30 (obstruction etc.),

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 29(2) (misleading marks etc.) is liable—

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

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