
SCOTTISH STATUTORY INSTRUMENTS

2001 No. 252

AGRICULTURE

The Beef Labelling (Enforcement) (Scotland) Regulations 2001

<i>Made</i>	- - - -	<i>28th June 2001</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>28th June 2001</i>
<i>Coming into force</i>	- -	<i>29th June 2001</i>

The Scottish Ministers, in exercise of the powers conferred by section 2(2) of the European Communities Act 1972⁽¹⁾ 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 Beef Labelling (Enforcement) (Scotland) Regulations 2001 and shall come into force on 29th June 2001.

(2) These Regulations extend to Scotland only.

Interpretation

2. In these Regulations—

“authorised officer” means any person (whether or not an officer of the Scottish Ministers or of a local authority) who is authorised for the purposes of these Regulations by the Scottish Ministers or a local authority;

“Commission Regulation 1141/97” means Commission Regulation (EC) No. 1141/97 laying down detailed rules for the application of Council Regulation (EC) No. 820/97 as regards the labelling of beef and beef products⁽²⁾ as amended by Commission Regulation (EC) No. 2406/97⁽³⁾ and Commission Regulation (EC) No. 824/98⁽⁴⁾;

“Commission Regulation 1825/2000” means Commission Regulation (EC) No. 1825/2000 laying down detailed rules for the application of Regulation (EC) No. 1760/2000 of the European Parliament and of the Council as regards the labelling of beef and beef products⁽⁵⁾;

(1) 1972 c. 68; section 2(2) was amended by the Scotland Act 1998 (c. 46), Schedule 8, paragraph 15(3). The function conferred upon the Minister of the Crown under section 2(2) of the European Communities Act 1972, insofar as within devolved competence, was transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998.

(2) O.J. No. L 165, 24.6.97, p.7.

(3) O.J. No. L 332, 4.12.97, p.36.

(4) O.J. No. L 117, 21.4.98, p.4.

(5) O.J. No. L 216, 26.8.00, p.8.

“justice of the peace” means a full justice as defined by section 9 of the Districts Courts (Scotland) Act 1975(6);

“local authority” means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994(7);

“Regulation 1760/2000” means Regulation (EC) No. 1760/2000 of the European Parliament and of the Council establishing a system for the identification and registration of bovine animals and regarding the labelling of beef and beef products and repealing Council Regulation (EC) No. 820/97(8).

Competent authority and authorities responsible for enforcement

3.—(1) The Scottish Ministers shall be the competent authority for the purposes of Commission Regulation 1141/97, Title II of Regulation 1760/2000 and Commission Regulation 1825/2000.

(2) These Regulations shall be enforced by—

- (a) the Scottish Ministers for the purposes of ascertaining whether there is or has been any contravention of these Regulations in slaughterhouses, cutting plants or wholesalers; and
- (b) local authorities for the purposes of ascertaining whether there is or has been any contravention of these Regulations in places other than in slaughterhouses, cutting plants or wholesalers.

Enforcement of compulsory and voluntary labelling requirements

4.—(1) Any person engaged in the marketing of beef who fails to comply—

- (a) in respect of beef derived from animals slaughtered on or after 1st September 2000, with the compulsory and voluntary labelling requirements imposed on that person by or under Title II of Regulation 1760/2000 and Commission Regulation 1825/2000; or
- (b) in respect of beef derived from animals slaughtered before 1st September 2000, with the voluntary labelling requirements imposed on that person by or under Commission Regulation 1141/97,

shall be guilty of an offence.

(2) For the purposes of this regulation, the term “marketing” shall include the supply of beef, otherwise than on sale, in the course of a business.

(3) Where beef has been labelled or marketed in a manner which does not comply—

- (a) in respect of beef derived from animals slaughtered on or after 1st September 2000, with any of the compulsory and voluntary labelling requirements of Title II of Regulation 1760/2000 and Commission Regulation 1825/2000; or
- (b) in respect of beef derived from animals slaughtered before 1st September 2000, with any of the voluntary labelling requirements of Commission Regulation 1141/97,

an authorised officer may serve a notice on the person in possession of such beef requiring its removal from sale until the beef is re-labelled in accordance with those requirements.

(4) A notice served under paragraph (3)(a) above may authorise that the beef may be sent directly for processing into products other than those indicated in the first indent of Article 12 of Regulation 1760/2000.

(6) 1975 c. 20. The definition of “full justice” was inserted by section 8 of the [Bail, Judicial Appointments etc. \(Scotland\) Act 2000 \(asp 9\)](#).

(7) 1994 c. 39.

(8) O.J. No. L 204, 11.8.00, p.1.

(5) Any person who fails to comply with the provisions of a notice served under paragraph (3) above shall be guilty of an offence.

Powers of entry

5.—(1) An authorised officer shall, on producing, if so required, some duly authenticated document showing the officer's authority, have the right at all reasonable hours to enter any premises (excluding premises used only as a dwelling) for the purpose of ascertaining whether—

- (a) there is or has been on the premises any contravention of any provisions of these Regulations; or
- (b) there is on the premises any evidence of any contravention of any provisions of these Regulations.

(2) If a justice of the peace or a sheriff, on sworn information, is satisfied that there is reasonable ground for entry into any premises (excluding premises used only as a dwelling) for any such purpose as is mentioned in paragraph (1) above 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 occupier; 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 occupier temporarily absent,

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

(3) Every warrant granted under paragraph (2) shall continue in force for a period of one month.

(4) An authorised officer entering any premises by virtue of this regulation, or of a warrant issued under it, may be accompanied by other persons as considered necessary; and on leaving any unoccupied premises which the officer has entered by virtue of such a warrant shall leave them as effectively secured against unauthorised entry as the officer found them.

(5) Where any land or other property is damaged in the exercise of a power of entry conferred by this section, compensation in respect of that damage may be recovered by any person interested in the land or property from the Scottish Ministers or the relevant local authority, as the case may be.

Powers of inspection and sampling etc.

6. An authorised officer entering any premises by virtue of regulation 5 above, or of a warrant issued under it, may—

- (a) inspect any beef present on those premises;
- (b) take samples (and, if necessary, send the samples for laboratory testing) from any beef present on those premises;
- (c) inspect any beef label and relevant business records in whatever form they are held, and take copies of these labels and records;
- (d) remove and retain any such label, beef and records which are believed to be required as evidence in proceedings under any of the provisions of these Regulations;
- (e) have access to, and inspect and check the operation of, any computer and any associated apparatus or material which is or has been used in connection with any such records mentioned in sub-paragraph (c) above, and require any person having charge of, or otherwise concerned with the operation of, the computer, apparatus or material to afford such assistance as that person may reasonably require;

- (f) where records are kept by means of a computer, require the records to be produced in a visible and legible form in which they may be taken away.

Protection of officers acting in good faith

7.—(1) No authorised officer shall be personally liable in respect of any act done—

- (a) in the execution or purported execution of these Regulations; and
- (b) within the scope of that officer's employment,

if the authorised officer did that act in the honest belief that these Regulations required it to be done.

(2) Nothing in paragraph (1) above shall be construed as relieving the Scottish Ministers or the relevant local authority from any liability in respect of the acts of authorised officers.

(3) Where an action has been brought against an authorised officer in respect of an act—

- (a) in the execution or purported execution of these Regulations; and
- (b) outside the scope of that officer's employment,

the Scottish Ministers or the relevant local authority may indemnify the authorised officer against the whole or part of any damages which that officer has been ordered to pay or any costs which that officer may have incurred if they are satisfied that that officer honestly believed that the act complained of was within the scope of that officer's employment.

Obstruction

8.—(1) Any person who—

- (a) intentionally obstructs any person acting in the execution of these Regulations;
- (b) without reasonable cause, fails to give any person acting in execution of these Regulations any assistance or information which that person may reasonably require for the purpose of carrying out functions under these Regulations; or
- (c) furnishes to any person acting in the execution of these Regulations any information which is known by that person to be false or misleading,

shall be guilty of an offence.

(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.

Offence by bodies corporate

9.—(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 (in the case of a body corporate) any director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, (in the case of a partnership) a partner or a person who was purporting to act as such, that officer, partner or person as well as the body corporate or the partnership (as the case may be) shall be guilty of the offence and 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) above 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.

Defence of due diligence

10.—(1) In any proceedings for an offence under any provision of these Regulations it shall, subject to paragraph (2) below, 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 that person or by a person under that person's control.

(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—

- (a) at least seven clear days before the hearing; and
- (b) where that person has previously appeared before a court in connection with the alleged offence, within one month of that first appearance,

the person charged 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

11.—(1) Subject to the following paragraphs of this regulation, a person guilty of an offence under any provisions of these Regulations shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(2) A person guilty of an offence under regulation 8(1)(a) or (b) above 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.

(3) A person guilty of an offence under regulation 8(1)(c) above 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 six months or to both.

Revocation of the Beef Labelling (Enforcement) Regulations 1998

12. The Beef Labelling (Enforcement) Regulations 1998(9) are revoked.

Pentland House, Edinburgh
28th June 2001

ROSS FINNIE
A member of the Scottish Executive

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide for the enforcement in Scotland of—

- (a) in respect of beef derived from animals slaughtered on or after 1st September 2000, Title II of Regulation (EC) No. 1760/2000 of the European Parliament and of the Council establishing a system for the identification and registration of bovine animals and regarding the labelling of beef and beef products and Commission Regulation (EC) No. 1825/2000 laying down detailed rules for the application of Regulation (EC) No. 1760/2000 as regards the labelling of beef and beef products; and
- (b) in respect of beef derived from animals slaughtered before 1st September 2000, Commission Regulation (EC) No. 1141/97 laying down detailed rules for the implementation of Council Regulation (EC) No. 820/97 as regards the labelling of beef and beef products.

The Regulations, which revoke and replace the Beef Labelling (Enforcement) Regulations 1998, provide for the enforcement of the compulsory and voluntary beef labelling schemes established by the above Community instruments. Regulation 3(1) provides that the Scottish Ministers are the competent authority for the purposes of those schemes. The Scottish Ministers enforce these Regulations in slaughterhouses, cutting plants and wholesalers, the relevant local authority in all other places (regulation 3(2)).

By regulation 4 it is made an offence for persons engaged in the marketing of beef to fail to comply with the applicable requirements of the compulsory and voluntary beef labelling schemes. It is also made an offence to fail to comply with the requirements of a notice served by an authorised officer requiring the removal from sale of beef which has been wrongly labelled or marketed. These offences are punishable on summary conviction to a fine not exceeding level 5 on the standard scale (currently £5,000) (regulation 11(1)).

The Regulations also confer powers of entry, inspection, sampling and removing labels etc on authorised officers (regulations 5 and 6) and make provision for the protection of officers acting in good faith (regulation 7). Regulation 8 creates offences in respect of the obstruction of any person acting in the execution of the Regulations. These offences may be punishable on summary conviction by a fine not exceeding level 5 on the standard scale or imprisonment of up to three months or imprisonment of up to six months, depending on the offence (regulation 11(2) and (3)). Further provision is made in respect of offences by bodies corporate (regulation 9) and the defence of due diligence (regulation 10).

A Regulatory Impact Assessment has not been prepared in respect of these Regulations.