
 STATUTORY INSTRUMENTS

1983 No. 1372 (S.121)

FOOD

The Poultry Meat (Water Content) (Scotland) Regulations 1983

<i>Made - - - -</i>	<i>2nd September 1983</i>
<i>Laid before Parliament</i>	<i>21st September 1983</i>
<i>Coming into Operation</i>	<i>1st November 1983</i>

In exercise of the powers conferred on me by section 2(2) of the European Communities Act 1972 (a) (being one of the Ministers designated (b) for the purposes of that section in relation to the common agricultural policy of the European Economic Community), and by section 56A of the Food and Drugs (Scotland) Act 1956 (c), and of all other powers enabling me in that behalf, I hereby make the following regulations:—

Citation, extent, commencement and revocation

1.—(1) These regulations, which may be cited as the Poultry Meat (Water Content) (Scotland) Regulations 1983, shall apply to Scotland and shall come into operation on 1st November 1983.

(2) The Poultry Meat (Slaughterhouse Checks on the Absorption of Water) (Scotland) Regulations 1977 (d) are hereby revoked.

Interpretation

2. In these regulations, unless the context otherwise requires—

“the Act” means the Food and Drugs (Scotland) Act 1956;

“analysis” and “counter-analysis” mean analysis and counter-analysis respectively performed pursuant to article 4 of the Council regulation;

“authorised officer” means an authorised officer of a local authority;

“Community provision” means any provision of the Council regulation or the Commission regulation;

“the Commission regulation” means Commission Regulation (EEC) No. 2785/80 (e) introducing detailed rules for implementing the Council Regulation, as amended (f);

“the Council regulation” means Council Regulation (EEC) No. 2967/76 (g) laying down common standards for the water content of frozen and deep-frozen chickens, hens and cocks, as amended (h);

(a) 1972 c.68.

(b) S.I. 1972/1811.

(c) 1956 c.30; section 56A was inserted by section 4(1) of, and paragraph 3(2)(a) and (b) of Schedule 4 to, the European Communities Act 1972.

(d) S.I. 1977/1804.

(e) O.J. No. L288, 31.10.80, p. 13.

(f) The amending instrument is Commission Regulation No. 3134/81 (O.J. No. L312, 31.10.81, p. 59).

(g) O.J. No. L339, 8.12.76, p. 1.

(h) The relevant amending instruments are Council Regulations (EEC) Nos. 1691/77 (O.J. No. L188, 28.7.77, p. 10), 641/79 (O.J. No. L82, 31.3.79, p. 4) and 2835/80 (O.J. No. L292, 1.11.80, p. 75) and Commission Regulation (EEC) No. 2632/80 (O.J. No. L270, 15.10.80, p. 14). Council Regulation (EEC) No. 2835/80, as published in the Official Journal, is to be read with the corrigendum published at O.J. No. L299, 8.11.80, p.28.

“local authority” means the council of an islands area or district and in relation to any land or premises the local authority within whose area the land or premises is situated;

“poultry carcasses” means frozen or deep-frozen whole eviscerated carcasses of chickens, hens or cocks, with or without edible offal;

“sell” includes offer or expose for sale or have in possession for sale.

Enforcement

3. Each local authority shall secure the enforcement and execution within its area of the Community provisions and the provisions of these regulations, and is hereby designated as the responsible authority within its area for the purposes of article 6 of the Council regulation.

Powers of authorised officers

4.—(1) For the purpose of enforcing or executing any Community provision or any provision of these regulations, an authorised officer shall, on producing, if so required, some duly authenticated document showing his authority, have a right—

- (a) to enter at all reasonable hours any premises (other than premises used only as a dwelling) where any activity regulated by a Community provision is being, or is reasonably suspected of being, carried on;
- (b) to conduct on such premises such tests and checks as may reasonably be necessary;
- (c) to require any person not to remove or cause to be removed from such premises such number of poultry carcasses as may be reasonable in the circumstances pending the result of any test, check, analysis or counter-analysis;
- (d) to detain or cause to be detained at any place suitable for the purpose such number of poultry carcasses as may be reasonable in the circumstances, pending the result of any test, check, analysis or counter-analysis;
- (e) notwithstanding anything in section 29(1) of the Act, to carry out initial checks on the water content of any poultry carcass in accordance with the rapid detection method described in Annex II to the Council regulation, as provided in article 4(1) of that regulation.
- (f) to require the production of the register which slaughterhouses are required to keep by virtue of article 2(1) of the Council regulation.

(2) The provisions of paragraph (1) of this regulation shall apply in relation to any ship, aircraft or vehicle and any land or place other than premises (other than any ship, aircraft, vehicle, land or place used only as a dwelling) as they apply in relation to premises.

(3) An authorised officer entering any premises, ship, aircraft, vehicle, land or other place by virtue of this regulation may take with him such other persons and such equipment as are reasonably necessary.

Identification of slaughterhouse from which poultry carcass originates

5.—(1) There shall be made on, or visibly beneath, the wrapper of every poultry carcass, or on a ticket or notice attached to it, a marking sufficient to identify to an authorised officer the slaughterhouse from which the carcass originates.

- (2) Poultry carcasses sent in large sealed packages—
- (a) from a slaughterhouse to cutting premises for cutting or boning therein, or
 - (b) from a slaughterhouse or cutting premises to a manufacturer for the purposes of his manufacturing business, or
 - (c) from a slaughterhouse or cutting premises to a caterer for the purposes of his catering business,

shall be exempt from the requirement to be individually marked in accordance with paragraph (1) of this regulation, if there is made on the external surface of each large package a marking sufficient to identify to an authorised officer the slaughterhouse from which the poultry carcasses in that package originate.

(3) In this regulation “cutting premises” means premises used for the purpose of cutting or boning poultry meat intended for sale for human consumption, which is not subject to any preservation process on those premises other than chilling or freezing, but does not include any premises used for the purpose of catering or sales by retail.

(4) No person shall sell any poultry carcass which does not comply with this regulation.

Analysis

6.—(1) An authorised officer who procures a sample of poultry carcasses shall, unless either—

- (a) the poultry carcasses originate from a slaughterhouse outside the United Kingdom, or
- (b) he decides not to have an analysis made,

within 7 days of procuring the sample serve on the occupier of the slaughterhouse from which the poultry carcasses originate a notice stating that the sample has been procured by the officer and specifying where the sample was taken or, as the case may be, from whom it was purchased.

(2) If the authorised officer has an analysis made, he shall, within 7 days of receipt by him of the public analyst’s certificate specify the result of the analysis, serve a copy of the certificate on the occupier of the slaughterhouse from which the poultry carcasses originate, unless the slaughterhouse is outside the United Kingdom, and on the person from whom the sample was taken or purchased, if it was not taken or purchased from that slaughterhouse.

(3) Section 30 of the Act (which contains provisions as to samples taken for analysis) shall not apply to a sample of poultry carcasses procured for the purpose of enforcing the Community provisions or the provisions of these regulations.

(4) In any proceedings under these regulations in respect of a contravention of article 1(1) of the Council regulation in which the prosecutor intends to adduce evidence of the result of an analysis—

- (a) a copy of the public analyst’s certificate specifying the result of the analysis shall be served with the complaint; and
- (b) the case shall not proceed to trial less than 14 days from the day on which the complaint was served.

Counter-analysis

7.—(1) Any request for a counter-analysis pursuant to article 4(2) of the Council regulation shall—

- (a) be made in writing to the local authority whose officer took or purchased the sample;
- (b) specify either that the counter-analysis is to be performed by a public analyst or that the counter-analysis is to be performed by the Government Chemist;
- (c) be made within 14 days of the date on which a copy of the public analyst's certificate specifying the result of the analysis was served (under regulation 6(2) of these regulations) on the person making the request, except that, in the case of a person against whom proceedings are brought for an offence under these regulations in respect of a contravention of article 1(1) of the Council regulation, a request may be made within 14 days of the date on which the complaint was served on him.

(2) If a request for counter-analysis is made, the authorised officer shall submit the poultry carcasses which are to be subjected to counter-analysis either to a public analyst or to the Government Chemist in accordance with the choice made in the request pursuant to paragraph (1)(b) of this regulation. The poultry carcasses shall not be submitted to the public analyst who performed the analysis.

(3) The public analyst or the Government Chemist, as the case may be, shall analyse as soon as practicable any poultry carcasses submitted to him in pursuance of paragraph (2) of this regulation and shall transmit to the authorised officer who submitted the poultry carcasses a certificate specifying the result of the counter-analysis.

(4) The authorised officer shall, within 7 days of receipt by him of the certificate specifying the result of the counter-analysis, serve a copy of the certificate on—

- (a) the occupier of the slaughterhouse from which the poultry carcasses originate, unless the slaughterhouse is outside the United Kingdom,
- (b) the person who requested a counter-analysis, if the request was not made by or on behalf of the occupier of the slaughterhouse from which the poultry carcasses originate, and
- (c) where, prior to the making of a request for a counter-analysis in accordance with paragraph (1) of this regulation, proceedings have been brought for an offence under these regulations in respect of a contravention of article 1(1) of the Council regulation relating to those poultry carcasses, the prosecutor.

(5) On receipt in accordance with paragraph (4)(c) of this regulation of a copy of a certificate specifying the result of a counter-analysis, the prosecutor shall serve a copy of the certificate on the accused and the case shall not proceed to trial until such copy certificate has been so served.

(6) Where, after the making of a request for a counter-analysis in accordance with paragraph (1) of this regulation, a prosecution is brought for an offence under these regulations in respect of a contravention of article 1(1) of the Council regulation relating to the poultry carcasses which were the subject of the counter-analysis, a copy of the certificate specifying the result of the counter-analysis shall be served with the complaint and the case shall not proceed to trial less than 14 days from the date on which the complaint was served.

Method of analysis and counter-analysis

8. In accordance with article 4(2) of the Council regulation any determination of the water content of carcasses by chemical analysis shall be carried out according to the method described in Annex III to the Council regulation.

Offences and penalties

9.—(1) Any person who contravenes or fails to comply with regulation 5 of these regulations or any Community provision mentioned in paragraph (2) of this regulation shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £1000 (a).

(2) The Community provisions referred to in paragraph (1) of this regulation are—

- (a) article 1 of the Council regulation (which permits the marketing of poultry carcasses only if the water content absorbed during preparation does not exceed a prescribed limit);
- (b) article 2 of the Council regulation (which requires slaughterhouses to carry out regular checks on water absorbed by poultry, to record the results of those checks and, in appropriate cases, to make the necessary technical adjustments to their processing methods);
- (c) article 2 of the Commission regulation (which contains requirements relating to poultry carcasses deemed not to comply with the Council regulations);
- (d) article 4 of the Commission regulation (which contains requirements relating to the manner of marking or labelling).

(3) Any person who—

- (a) wilfully obstructs an authorised officer acting in execution of the Community provisions or of these regulations, or
- (b) wilfully fails to comply with any requirement properly made of him by such an officer under article 2(3) of the Council regulation,

shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £500.

Information to be provided by local authorities

10. Each local authority shall provide the Secretary of State with such information relating to the execution of its duties under these regulations as he may from time to time require.

Offences due to fault of other person

11. Where the commission by any person of an offence under these regulations is due to the act or default of some other person, that other person shall be guilty of the offence. A person may be charged with and convicted of an offence by virtue of this regulation whether or not proceedings are taken against the first mentioned person.

- (a) The maximum fine which may in terms of paragraph 1(1)(d) of Schedule 2 to the European Communities Act 1972 (c.68) be imposed in respect of offences created by subordinate legislation made under section 2(2) of that Act and triable only summarily was increased in relation to Scotland by section 289(F) of the Criminal Procedure (Scotland) Act 1975 (c.21) as inserted by section 54 of the Criminal Justice Act 1982 (c.48).

Defence of due diligence

12.—(1) In any proceedings for an offence under these regulations it shall be a defence for the accused to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

(2) If in any case the defence provided by paragraph (1) of this regulation involves the allegation that the commission of the offence was due to the act or default of another person, or due to reliance on information supplied by another person, the accused shall not, without leave of the court, be entitled to rely on that defence unless he has served on the prosecutor at least 7 clear days before the hearing, a notice in writing giving such information identifying or assisting in the identification of that other person as was then in his possession.

Application of various provisions of the Act

13.—(1) Section 46 (which relates to the conditions under which a warranty may be pleaded as a defence) and section 47 (which prescribes offences in relation to warranties and certificates of analysis) of the Act shall apply for the purposes of these regulations as if references therein to proceedings, or a prosecution, under the Act included references to proceedings brought for an offence under these regulations.

(2) Section 41(4) of the Act shall apply for the purposes of these regulations as if the reference therein to section 47 of the Act included a reference to the said section 47 as applied by paragraph (1) of this regulation and as if there were substituted for the words "twelve months" the words "two years".

Service of documents

14.—(1) Any notice or other document required or authorised by these regulations to be served on any person shall be sufficiently served if it is delivered to him personally or left at his last known place of abode or business or sent to him by post in a letter addressed to him at the aforesaid place of abode or business.

(2) Any notice or other document required or authorised by these regulations to be served on an incorporated company or body shall be sufficiently served if served on the secretary or clerk of the company or body. For the purposes of these regulations the proper address of such secretary or clerk shall be that of the registered or principal office of the company or body.

George Younger,
One of Her Majesty's Principal
Secretaries of State.

New St Andrew's House,
Edinburgh.
2 September 1983.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These regulations, which apply to Scotland only, supplement the provisions of Council Regulation (EEC) No. 2967/76 laying down common standards for the water content of frozen and deep-frozen chickens, hens and cocks, as amended, and Commission Regulation (EEC) No. 2785/80 introducing detailed rules for implementing Regulation (EEC) No. 2967/76.

The regulations, which provide for the enforcement of articles 1 and 2 of the Council regulation and of articles 2 and 4 of the Commission regulation—

- (a) designate the authorities which are to enforce the Council regulation and the Commission regulation (regulation 3);
- (b) specify the powers of authorised officers of the enforcement authorities (regulation 4);
- (c) require poultry carcasses to be marked so as to identify the slaughterhouse from which they originate (regulation 5);
- (d) prescribe procedures for analyses and counter-analysis (regulations 6 and 7);
- (e) specify the method of analysis and counter-analysis (regulation 8);
- (f) prescribe offences and penalties (regulation 9);
- (g) require local authorities to provide the Secretary of State with such information as he may require (regulation 10); and
- (h) make ancillary provisions (regulations 11 to 14).

These regulations come into operation on 1st November 1983 and revoke the Poultry Meat (Slaughterhouse Checks on the Absorption of Water) (Scotland) Regulations 1977.

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