

*Draft Regulations laid before the Scottish Parliament under section 51(3) of the Animal Health and Welfare (Scotland) Act 2006 for approval by resolution of the Scottish Parliament.*

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## DRAFT SCOTTISH STATUTORY INSTRUMENTS

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**2020 No.**

## **ANIMALS**

### **The Mandatory Use of Closed Circuit Television in Slaughterhouses (Scotland) Regulations 2020**

*Made* - - - - 2020  
*Coming into force* - - 1st July 2021

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 26 of the Animal Health and Welfare (Scotland) Act 2006<sup>(1)</sup> and all other powers enabling them to do so.

In accordance with section 26(5) of that Act, the Scottish Ministers have consulted such persons appearing to them to represent relevant interests and such other persons as they consider appropriate.

In accordance with section 51(3) of that Act<sup>(2)</sup>, a draft of this instrument has been laid and approved by resolution of the Scottish Parliament.

#### **Citation and commencement**

1.—(1) These Regulations may be cited as the Mandatory Use of Closed Circuit Television in Slaughterhouses (Scotland) Regulations 2020.

(2) These Regulations come into force on 1 July 2021.

#### **Interpretation**

2. In these Regulations—

“authorised person” means a person who is authorised by the enforcement authority (whether or not an officer of that authority) to act on its behalf in matters of its enforcement function at a slaughterhouse under regulation 18(2) of the Welfare of Animals at the Time of Killing (Scotland) Regulations 2012<sup>(3)</sup>,

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(1) 2006 asp 11.

(2) Section 51(3) has been modified by paragraph 5 of schedule 3 of the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10).

(3) S.S.I. 2012/321, as relevantly amended by S.S.I. 2015/100. Under regulation 18(2) of S.S.I. 2012/321, Food Standards Scotland is responsible for enforcing the EU Regulation and S.S.I. 2012/321 at a slaughterhouse. Food Standards Scotland is the enforcement authority for those purposes (see the definition of “enforcement authority” in regulation 2(1) of S.S.I. 2012/321).

“business operator” has the meaning given in article 2(l) of the EU Regulation,  
“a CCTV system” means a closed circuit television system and a system for processing images or information obtained by such a system,  
“EU Regulation” means Council Regulation (EC) No 1099/2009 of 24 September 2009 on the protection of animals at the time of killing<sup>(4)</sup>,  
“premises” includes any land, building, shed, pen, receptacle or vehicle, of any description,  
“processing” means—  
(a) receiving, recording, storing, checking, and retrieving,  
(b) disclosure by transmission, dissemination or otherwise making available,  
“slaughterhouse” has the meaning given in article 2(k) of the EU Regulation.

### **Duty to install and operate a CCTV system**

**3.—**(1) A business operator of a slaughterhouse must ensure that a CCTV system is installed that provides a complete and clear image of killing and related operations in all areas of the slaughterhouse where live animals are present.

(2) The business operator must ensure that the CCTV system referred to in paragraph (1) is capable of—

- (a) producing images and information for inspection and seizure without interrupting the operation of the system, and
- (b) processing images and information of the same quality as the original images and information.

(3) The business operator must ensure that the CCTV system referred to in paragraph (1) is operational and kept in good working order at all times when live animals are present at the slaughterhouse.

(4) In this regulation—

- (a) “killing” has the meaning given by article 2(a) of the EU Regulation,
- (b) “related operations” has the meaning given in article 2(b) of the EU Regulation.

### **Duty to retain CCTV images and information**

**4.—**(1) The business operator must make arrangements for the retention and storage of any images and information obtained by a CCTV system referred to in regulation 3 for 90 days beginning with the date on which the images or information are obtained.

(2) The business operator must ensure that the arrangements under paragraph (1) are appropriate to maintain the integrity and quality of the images and information retained.

### **Power to inspect and seize**

**5.—**(1) An authorised person who has entered premises for the purposes of enforcing the Welfare of Animals at the Time of Killing (Scotland) Regulations 2012, may for those purposes, or for the purposes of enforcing these Regulations—

- (a) inspect a CCTV system referred to in regulation 3 on those premises and any images or information obtained by such a CCTV system,
- (b) seize or take a copy of any images or information obtained by such a CCTV system,

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(4) OJ No. L 303, 18.11.2009, p.1.

- (c) seize any CCTV equipment, including computers and associated equipment, installed as part of such a CCTV system which does not comply with regulation 3(2)(a), for the purposes of copying images or information,
  - (d) require any person to provide access to a CCTV system referred to in regulation 3 on request for the purposes of viewing images and information obtained by that system,
  - (e) require any person to produce or make available for inspection any images or information retained and stored as required by regulation 4 on request,
  - (f) make any enquiries, and take recordings or photographs,
  - (g) require the production of any document or record without delay and inspect and take a copy of or extract from such document or record, and
  - (h) require any person to provide such assistance, information, facilities or equipment as is reasonable, without delay.
- (2) An authorised person must as soon as reasonably practicable—
- (a) provide to the person appearing to be responsible for any items that the authorised person seizes under paragraph (1) a written receipt identifying those items, and
  - (b) after deciding that those items are no longer required, return them to that person, apart from those to be used as evidence in court proceedings.
- (3) Where an authorised person has seized items under paragraph (1) for use in evidence in court proceedings and—
- (a) it is subsequently decided—
    - (i) that no court proceedings are to be brought, or
    - (ii) that those items are no longer needed as evidence in court proceedings, or
  - (b) the court proceedings are completed and no order in relation to those items has been made by the court,
- an authorised person must return the items to the person appearing to be responsible for them as soon as is reasonably practicable.

### **Enforcement notices**

**6.—(1)** An authorised person who is of the opinion that a person has contravened, or is contravening, these Regulations may serve on that person an enforcement notice.

- (2) An enforcement notice is a notice in writing—
- (a) requiring a person to take specified steps to remedy a contravention of these Regulations,
  - (b) requiring a person to reduce the rate of operation of a slaughterhouse to such extent as is specified in the notice until that person has taken specified steps to remedy a contravention of these Regulations, or
  - (c) prohibiting a person from carrying on such activity, process or operation, or using facilities or equipment, as may be specified in the notice until the person has taken specified steps to remedy a contravention of these Regulations.
- (3) An enforcement notice must—
- (a) state that the authorised person is of the opinion that a person has contravened, or is contravening, these Regulations,
  - (b) state the date and time of service of the notice,
  - (c) identify the recipient of the notice,
  - (d) specify the matters constituting the contravention,

- (e) specify the steps that must be taken to remedy the contravention,
  - (f) specify the period within which those steps must be taken, and
  - (g) give details of the right of appeal against the notice.
- (4) A person on whom an enforcement notice is served must comply with it at that person's own expense.
- (5) An authorised person must serve a completion notice on a person if, after service of an enforcement notice on that person, the authorised person is satisfied that that person has taken the steps specified in the notice to remedy the contravention.
- (6) An enforcement notice ceases to have effect upon the issue of a completion notice.
- (7) An authorised person may at any time withdraw or vary an enforcement notice in writing.

### **Appeals against enforcement notices**

- 7.—(1) A person who is aggrieved by a decision of an authorised person to serve an enforcement notice may appeal against it.
- (2) The right of appeal is to the sheriff.
- (3) In considering an appeal under this regulation, the sheriff may hear evidence by or on behalf of any party to the appeal.
- (4) An appeal under this regulation—
- (a) may be on any issue of fact or law, and
  - (b) must be lodged with the sheriff clerk within the period of 28 days from the day on which the decision was made.
- (5) An enforcement notice is not suspended pending an appeal unless the sheriff orders otherwise.
- (6) On appeal the sheriff may either cancel or confirm the enforcement notice, with or without modification.
- (7) The sheriff may include in a decision on an appeal under this regulation such order as to the expenses of the appeal as the sheriff considers appropriate.

### **Notices**

- 8.—(1) Any notice required or authorised to be served under these Regulations to any person may be given by—
- (a) delivering it to the person,
  - (b) leaving it at the person's proper address, or
  - (c) sending it by post to the person at that address.
- (2) Any such notice which is to be served on a body corporate or an unincorporated association other than a partnership must be served on an officer of the body corporate or unincorporated association.
- (3) Any such notice which is to be served on a partnership (including a Scottish partnership) must be served on a partner or a person having the control or management of the partnership business.
- (4) For the purposes of paragraph (1)(b) and (c), the proper address of any person on whom a notice is to be served is—
- (a) in the case of a body corporate, the address of the registered or principal office of the body corporate,
  - (b) in the case of an unincorporated association (other than a partnership), the address of the principal office of the unincorporated association,

(c) in the case of a partnership (including a Scottish partnership), the address of the registered or principal office of the partnership, and

(d) in any other case, the last known address of the person in question.

(5) If a person on whom a notice is to be served under these Regulations has specified an address for service of such a notice, that address is also to be treated, for the purposes of this regulation, as that person's proper address.

(6) If the name and address of any occupier of premises on whom a notice is to be served under these Regulations cannot, after reasonable inquiry, be ascertained, the notice may be served by leaving it conspicuously affixed to a building or object on the premises.

(7) In this regulation—

(a) “body corporate” does not include a partnership, and

(b) references to serving include references to similar expressions (such as giving or sending).

### **Offences: general**

9.—(1) It is an offence to contravene, or to cause or permit a person to contravene—

(a) regulation 3 (duty to install and operate a CCTV system), or

(b) regulation 4 (duty to retain CCTV images and information).

(2) It is an offence for a person to fail to comply with an enforcement notice served under regulation 6.

### **Obstruction offences**

10. It is an offence—

(a) intentionally to obstruct any person acting in the execution of these Regulations,

(b) without reasonable cause, to fail to give to any such person without delay—

(i) any assistance or information that the person may reasonably require, or

(ii) access to a CCTV system referred to in regulation 3 on request for the purposes of viewing images and information obtained by that system,

(c) to furnish to any such person any information knowing it to be false or misleading, or

(d) to fail to produce a document or record, or any images or information retained and stored as required by regulation 4, without delay to any such person when required to do so.

### **Offences by unincorporated associations**

11.—(1) Where an offence under these regulations is committed by an unincorporated association (other than a Scottish partnership) and it is committed with the consent or connivance of, or is attributable to the neglect of—

(a) a relevant individual, or

(b) an individual purporting to act on behalf of a relevant individual,

the individual as well as the unincorporated association commits an offence and is liable to be prosecuted against and punished accordingly.

(2) In paragraph (1) “relevant individual” means a person who is concerned in the management or control of the unincorporated association.

(3) For offences committed by bodies corporate and Scottish partnerships, see section 45 of the Animal Health and Welfare (Scotland) Act 2006 (offences by bodies corporate etc.).

## Penalties

**12.** A person guilty of an offence under regulation 9 or 10 is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

St Andrew's House,  
Edinburgh  
Date

*Name*  
Authorised to sign by the Scottish Ministers

## EXPLANATORY NOTE

*(This note is not part of these Regulations)*

These Regulations make provision for enforcement of EU Regulation 1099/2009 on the protection of animals at the time of killing and the Welfare of Animals at the Time of Killing (Scotland) Regulations 2012 (“the 2012 Regulations”).

These Regulations introduce requirements on operators of slaughterhouses (“business operators”) in Scotland to install and operate a closed circuit television (CCTV) system in all areas where live animals are present (regulation 3). Regulation 4 requires business operators to retain CCTV footage and associated data for a period of 90 days.

Persons authorised by Food Standards Scotland are given powers to require compliance with these Regulations. This includes powers of inspection and seizure where the authorised person has entered premises for the purposes of enforcing the 2012 Regulations (regulation 5) and powers to serve enforcement notices (regulation 6).

Regulation 7 makes provision for appeals relating to notices under regulation 6.

Regulation 9 provides that contravention of regulations 3 (duty to install and operate a CCTV system) and regulation 4 (duty to retain CCTV images and information) are offences, and that it is an offence for a person to fail to comply with an enforcement notice issued under regulation 6.

Regulation 10 provides for obstruction offences.

Regulation 11 provides for offences committed by unincorporated associations.

Regulation 12 provides for the maximum penalty that a person guilty of an offence under regulation 9 or 10 is liable to on summary conviction.