
SCOTTISH STATUTORY INSTRUMENTS

2005 No. 470

**The Bovine Products (Restriction on Placing
on the Market) (Scotland) Regulations 2005**

Inspection and seizure of suspected products

6.—(1) An authorised officer of the relevant enforcement authority may at all reasonable times inspect any product that has been placed on the market and paragraphs (2) to (8) shall apply where, on such an inspection or for any other reasonable cause, it appears to that officer that any person has failed to comply with regulation 3 in relation to any product.

(2) The authorised officer may either—

(a) give notice to the person in charge of the product that, until the notice is withdrawn, the product or any specified portion of it—

- (i) is not to be placed on the market for use in human food, animal feed or fertilisers, and
- (ii) either is not to be removed or is not to be removed except to some place specified in the notice; or

(b) seize the product and remove it in order to have it dealt with by the sheriff.

(3) Where the authorised officer exercises the power conferred by sub paragraph (2)(a), that officer shall, as soon as is reasonably practicable and in any event within 21 days—

- (a) if satisfied that regulation 3 has been complied with in relation to the product, forthwith withdraw the notice; and
- (b) if not so satisfied, seize the product and remove it in order to have it dealt with by the sheriff.

(4) Where the authorised officer exercises the power conferred by sub paragraphs (2)(b) or (3)(b), that officer shall inform the person in charge of the product that it is intended to have it dealt with by the sheriff and any person who under regulation 7(1) might be liable to prosecution for a contravention of regulation 3 in respect of the product shall, if that person attends before the sheriff by whom the product falls to be dealt with, be entitled to be heard and to call witnesses.

(5) If it appears to the sheriff, on the basis of such evidence as the sheriff considers appropriate in the circumstances, that there has been a failure to comply with regulation 3 in relation to any product falling to be dealt with under this regulation, the sheriff shall condemn the product and order—

- (a) the product to be destroyed or to be so disposed of as to prevent it from being further placed on the market for use in human food, animal feed or fertilisers; and
- (b) any expenses reasonably incurred in connection with the destruction or disposal to be defrayed by the owner of the product.

(6) An order under paragraph (5) shall be sufficient evidence in any proceedings under these Regulations of the failure of the product in question to comply with regulation 3.

(7) If a notice under sub paragraph (2)(a) is withdrawn, or the sheriff by whom any product falls to be dealt with under this regulation refuses to condemn it, the relevant enforcement authority shall compensate the owner of the product for any depreciation in its value resulting from the action taken by the authorised officer.

(8) Any disputed question as to the right to or the amount of any compensation payable under paragraph (7) shall be determined by a single arbiter appointed, failing agreement between the parties, by the sheriff.