
 STATUTORY INSTRUMENTS

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2005 No. []

FOOD, ENGLAND**The Bovine Meat (Restriction on Sale) (England) Regulations 2005**

<i>Made</i> - - - -	2005
<i>Laid before Parliament</i>	2005
<i>Coming into force</i>	[] 2005

The Secretary of State, being a Minister designated^(a) for the purposes of section 2(2) of the European Communities Act 1972^(b) in relation to measures in the veterinary and phytosanitary fields for the protection of public health, in exercise of the powers conferred on him by that section, after consultation as required by Article 9 of Regulation (EC) No. 178/2002 of the European Parliament and of the Council laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety^(c), makes the following Regulations:

Title, application and commencement

1. These Regulations may be cited as the Bovine Meat (Restriction on Sale) (England) Regulations 2005, shall apply in relation to England only and shall come into force on [] 2005.

Interpretation

2.—(1) In these Regulations —

“the Agency” means the Food Standards Agency;

“authorised officer”, in relation to the relevant enforcement authority, means any person (whether or not an officer of the authority) who is authorised by it in writing, either generally or specially, to act in matters arising under these Regulations and includes, in relation to premises licensed under the Fresh Meat (Hygiene and Inspection) Regulations 1995^(d), a person —

- (a) designated as an official veterinary surgeon in accordance with regulation 8(1) of those Regulations; or
- (b) appointed as a meat inspector in accordance with regulation 8(2) of those Regulations;

“bovine animal” includes —

- (a) buffalo of the species *Bubalus bubalis*; and
- (b) Bison bison;

“local authority” means —

^(a) S.I. 1999/2027.

^(b) 1972 c. 68.

^(c) OJ No. L31, 1.2.2002, p.1. That Regulation was last amended by Regulation (EC) No. 1642/2003 of the European Parliament and of the Council (OJ No. L245, 29.9.2003, p.4).

^(d) S.I. 1995/539, amended by S.I. 1995/731, S.I. 1995/1763, S.I. 1995/2148, S.I. 1995/2200, S.I. 1995/3124, S.I. 1995/3189, S.I. 1996/1148, S.I. 1996/2235, S.I. 1997/1729, S.I. 1997/2074, S.I. 2000/225, S.I. 2000/656, S.I. 2000/2215, S.I. 2001/1512, S.I. 2001/1739, S.I. 2001/1771, S.I. 2001/2601, S.I. 2001/3451, S.I. 2002/118 and S.I. 2002/889.

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- (a) where there is a port health authority, that port health authority;
- (b) where there is no port health authority, but where there is a unitary authority, within the meaning of the Local Government Changes for England Regulations 1994(a), that unitary authority;
- (c) where there is no port health authority and no unitary authority —
 - (i) in a metropolitan or a non-metropolitan district, the council of that district, and
 - (ii) in each London borough, the council of that borough;
- (d) in the City of London (other than that part of it falling within the London port health district), the Common Council of the City of London; and
- (e) in the Isles of Scilly, the Council of the Isles of Scilly;

“the London port health district” has the meaning given to that phrase for the purposes of the Public Health (Control of Disease) Act 1984(b) by section 7(1) of that Act;

“meat” means any part of a bovine animal that is suitable for human consumption including its blood;

“port health authority” means —

- (a) in relation to the London port health district, the Common Council of the City of London; and
- (b) in relation to any port health district constituted by order under section 2(3) of the Public Health (Control of Disease) Act 1984, a port health authority for that district constituted by order under section 2(4) of that Act; and

“the relevant enforcement authority” means the body which by virtue of regulation 7 has the duty of executing and enforcing these Regulations.

(2) Where any blood to which the prohibition imposed by regulation 3 applies comes into contact with any other blood, that other blood shall be treated as blood to which that prohibition applies.

Restriction on sale for human consumption of meat derived from certain bovine animals

3. No person shall sell for human consumption any meat derived from a bovine animal which has been slaughtered in the United Kingdom and which was —

- (a) born there before 1st August 1996; or
- (b) reared there at any time prior to that date.

Offences and penalties

4.—(1) Any person who contravenes regulation 3 or knowingly contravenes the requirements of a notice given under paragraph (2)(a) of regulation 6 shall be guilty of an offence.

(2) Any person guilty of an offence under this regulation shall be liable —

- (a) on summary conviction, to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding three months or to both; or
- (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years or to both.

(3) No prosecution for an offence consisting of a contravention of regulation 3 or of knowingly contravening the requirements of a notice given under paragraph (2)(a) of regulation 6 shall be begun after the expiry of —

- (a) three years from the commission of the offence; or
- (b) one year from its discovery by the prosecutor,

whichever is the earlier.

(a) S.I. 1994/867, to which there are amendments not relevant to these Regulations.

(b) 1984 c. 22.

Application of various provisions of the Food Safety Act 1990

5. The following provisions of the Food Safety Act 1990(a) shall apply for the purposes of these Regulations with the modification that any reference in those provisions to that Act or Part thereof shall be construed as a reference to these Regulations —

- (a) section 2 (extended meaning of “sale” etc.);
- (b) section 3 (presumptions that food is intended for sale for human consumption);
- (c) section 20 (offences due to fault of another person);
- (d) section 21 (defence of due diligence)(b) with the modification that subsections (2) to (4) shall apply in relation to an offence under regulation 4(1) as they apply in relation to an offence under section 14 or 15;
- (e) section 32 (powers of entry);
- (f) section 33(1) (obstruction etc. of officers);
- (g) section 33(2), with the modification that the reference to “any such requirement as is mentioned in subsection 1(b) above” shall be deemed to be a reference to any such requirement as is mentioned in section 33(1)(b) as applied by sub-paragraph (f);
- (h) section 35(1) (punishment of offences)(c), in so far as it relates to offences under section 33(1) as applied by sub-paragraph (f);
- (i) section 35(2) and (3)(d), in so far as it relates to offences under section 33(2) as applied by sub-paragraph (g);
- (j) section 36 (offences by bodies corporate);
- (k) section 36A (offences by Scottish Partnerships)(e); and
- (l) section 44 (protection of officers acting in good faith) with the modification that the references to “food authority” shall be deemed to be references to the relevant enforcement authority.

Inspection and seizure of suspected meat

6.—(1) An authorised officer of the relevant enforcement authority may at all reasonable times inspect any meat which —

- (a) has been sold or is offered or exposed for sale; or
- (b) is in the possession of, or has been deposited with or consigned to, any person for the purpose of sale or of preparation for sale;

and paragraphs (2) to (7) shall apply where, on such an inspection or otherwise, it appears to the authorised officer that any person has failed to comply with regulation 3.

(2) The authorised officer may either —

- (a) give notice to the person in charge of the meat that, until the notice is withdrawn, the meat or any specified portion of it —
 - (i) is not to be used for human consumption, 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 meat and remove it in order to have it dealt with by a justice of the peace.

(3) Where the authorised officer exercises the power conferred by paragraph (2)(a), he shall, as soon as is reasonably practicable and in any event within 21 days, determine whether or not he is satisfied that regulation 3 has been complied with in relation to the meat and —

- (a) if he is so satisfied, shall forthwith withdraw the notice; and

(a) 1990 c. 16.

(b) Section 21 was amended by S.I. 2004/3279.

(c) Section 35(1) is amended by the Criminal Justice Act 2003 (2003 c. 44), Schedule 26, paragraph 42, from a date to be appointed.

(d) Section 35(3) was amended by S.I. 2004/3279.

(e) Section 36A was inserted by the Food Standards Act 1999 (1999 c. 28), Schedule 5, paragraph 16.

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(b) if he is not so satisfied, shall seize the meat and remove it in order to have it dealt with by a justice of the peace.

(4) Where an authorised officer exercises the power conferred by paragraph (2)(b) or (3)(b), he shall inform the person in charge of the meat of his intention to have it dealt with by a justice of the peace and —

(a) any person who under regulation 3 might be liable to a prosecution in respect of the meat shall, if he attends before the justice of the peace by whom the meat falls to be dealt with, be entitled to be heard and to call witnesses; and

(b) that justice of the peace may, but need not, be a member of the court before which any person is charged with an offence under that section in relation to that meat.

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

(a) the meat to be destroyed or to be so disposed of as to prevent it from being used for human consumption; and

(b) any expenses reasonably incurred in connection with the destruction or disposal to be defrayed by the owner of the meat.

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

(7) Any disputed question as to the right to or the amount of any compensation payable under paragraph (6) shall be determined by arbitration.

Enforcement

7. These Regulations shall be executed and enforced —

(a) in premises licensed under the Fresh Meat (Hygiene and Inspection) Regulations 1995, by the Agency; and

(b) in any other premises, by the local authority in whose area the premises are situated.

Amendment of the Animal By-Products (Identification) Regulations 1995

8. For paragraph (3) of regulation 3 (meaning of animal by-product) of the Animal By-Products (Identification) Regulations 1995(a) so far as it extends to England there shall be substituted the following paragraph —

“(3) In these Regulations the definition of “animal by-product” includes meat derived from a bovine animal that has been slaughtered in the United Kingdom and which was born there before 1st August 1996 or reared there at any time prior to that date.”.

Revocations

9. The Fresh Meat (Beef Controls) (No. 2) Regulations 1996(b) are revoked.

Signed by authority of the Secretary of State for Health

2005

Parliamentary Under Secretary of State,
Department of Health

(a) S.I. 1995/614, amended by S.I. 1995/1955, S.I. 1996/3124, S.I. 1997/2073, S.I. 2000/656, S.I. 2002/1619, S.I. 2002/3231 and S.I. 2003/1484.

(b) S.I. 1996/2097, amended by S.I. 1996/2522, S.I. 2000/656 and S.I. 2000/3378.