Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Products of Animal Origin (Third Country Imports) (Scotland) Amendment Regulations 2005. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

SCOTTISH STATUTORY INSTRUMENTS

2005 No. 323

AGRICULTURE

The Products of Animal Origin (Third Country Imports) (Scotland) Amendment Regulations 2005

Made - - - -	*7th June 2005*
Laid before the Scottish Parliament - - - -	*9th June 2005*
Coming into force - -	*1st July 2005*

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 and commencement

1. These Regulations may be cited as the Products of Animal Origin (Third Country Imports) (Scotland) Amendment Regulations 2005 and shall come into force on 1st July 2005.

Commencement Information

I1 Reg. 1 in force at 1.7.2005, see **reg. 1**

Amendments to the Products of Animal Origin (Third Country Imports) (Scotland) Regulations 2002

2.—(1) The Products of Animal Origin (Third Country Imports) (Scotland) Regulations 2002(**2**) are amended in accordance with this regulation.

(2) In regulation 2(1) (interpretation) after the definition of "product", insert–

""Regulation 1774/2002" means Regulation (EC) No. 1774/2002 laying down health rules concerning animal by-products not intended for human consumption(**3**);".

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

(**2**) S.S.I. 2002/445, as amended by S.S.I. 2002/565, S.S.I. 2003/165, S.S.I. 2003/225, S.S.I. 2003/333 and S.S.I. 2003/411.

(**3**) O.J. No. L 273,10.10.2002, p.1, as last amended by Commission Regulation (EC) No. 416/2005 (O.J. No. L 66, 12.3.2005, p.10).

(3) For regulation 29 (disposal of unused catering supplies) substitute–

"**29.**—(1) Part III shall not apply to products which are introduced into Scotland from means of transport operating internationally and that had been intended for consumption by the crew or passengers of that means of transport.

(2) Any person who has in that person's possession or under that person's control a product referred to in paragraph (1) shall comply with Article 4(2) and (3) of Regulation 1774/2002.

(3) Where items that have been in contact with such products, such as packaging material, or disposable cutlery or plates, are unloaded from the means of transport for disposal, they shall be dealt with in the same way as the products themselves.".

(4) After regulation 29 insert–

"PART IVA

Burial of Unused On-Board Catering Supplies in Landfills

Approval of landfills

29A.—(1) Any person disposing of material in accordance with regulation 29 by burial in a landfill shall only do so in a landfill approved under this regulation.

(2) The Scottish Ministers shall only approve a landfill for the purposes of disposal of material under regulation 29 if they are satisfied that–

(a) the material will be buried without undue delay so as to prevent access to it by wild birds;

(b) the operator has taken adequate steps to prevent access to the unrestored and current working area of the landfill by ungulates; and

(c) the operator will comply with any conditions of the approval.

(3) An approval shall be in writing and shall specify the address of the landfill and the operator of the landfill.

(4) An approval may be made subject to conditions, and may be amended or suspended by notice in writing in accordance with regulation 29C.

(5) If the Scottish Ministers refuse to grant an approval, or grant an approval subject to a condition, they shall by notice in writing served on the applicant–

(a) give the reasons for that refusal or condition; and

(b) explain the right of the applicant to make written representations to the Scottish Ministers and to appear before and be heard by an independent person appointed by the Scottish Ministers in accordance with regulation 29D.

Operators of landfills

29B.—(1) The operator of a landfill approved in accordance with regulation 29A shall–

(a) maintain and operate the premises in accordance with the requirements in regulation 29A(2)(a) and (b) and any conditions of the approval;

(b) ensure that any person employed by the operator, and any person permitted to enter the premises complies with those requirements and conditions;

(c) comply with the record keeping requirements contained in Article 9 of Regulation 1774/2002; and

(d) keep equivalent records for material referred to in regulation 29(3).

(2) The records required to be kept under this regulation may be in written or electronic form and shall be kept for at least 2 years.

Amendment, suspension and revocation of approvals

29C.—(1) Where the Scottish Ministers are satisfied that any condition of the approval is no longer fulfilled, or that the requirements in regulation 29A(2)(a) and (b) are not being complied with, or that it is necessary to do so for public or animal health reasons, they may, by notice in writing served on the operator, suspend the approval.

(2) Where the Scottish Ministers are satisfied that any condition of the approval should be amended for public or animal health reasons, they may, by notice in writing served on the operator, amend the approval.

(3) A suspension under paragraph (1) or an amendment under paragraph (2)–

(a) shall have immediate effect if the Scottish Ministers are satisfied that it is necessary for it to do so for the protection of public or animal health; and

(b) otherwise shall not have effect for at least twenty one days following service of the notice.

(4) The notice in paragraph (1) or (2) shall–

(a) give the reasons for the suspension or amendment; and

(b) explain the right of the operator of the premises to make written representations to the Scottish Ministers and to be heard by an independent person appointed by the Scottish Ministers in accordance with regulation 29D.

(5) Where there is an appeal under regulation 29D, an amendment or suspension shall not have effect until the final determination by the Scottish Ministers in accordance with that regulation unless the Scottish Ministers consider it necessary for the protection of public or animal health for the amendment or suspension to take effect sooner.

(6) Where the Scottish Ministers have suspended an approval, and–

(a) no appeal is brought in accordance with regulation 29D; or

(b) the Scottish Ministers uphold the suspension following such an appeal,

they may by notice in writing revoke the approval provided that they are satisfied, taking into account all the circumstances of the case, that the premises will not be operated in accordance with the requirements of regulation 29A(2)(a) or (b) or the conditions, if any, of the approval.

Appeals

29D.—(1) A person on whom a notice is served under paragraph (5) of regulation 29A or paragraph (1) or (2) of regulation 29C may within 21 days beginning with the day on which the notice is served–

(a) provide written representations to the Scottish Ministers; and

(b) give notice in writing that the person wishes to appear before and be heard by an independent person appointed by the Scottish Ministers.

(2) Where an appellant gives notice of their wish to appear before and be heard by an independent person appointed for the purpose–