Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Production of Bovine Collagen Intended for Human Consumption in the United Kingdom (Scotland) 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. 218

AGRICULTURE

The Production of Bovine Collagen Intended for Human Consumption in the United Kingdom (Scotland) Regulations 2005

Made - - - -	*19th April 2005*
Laid before the Scottish Parliament - - - -	*19th April 2005*
Coming into force - -	*11th May 2005*

The Scottish Ministers, in exercise of the powers conferred by section 2(2) of the European Communities Act 1972(**1**) (in relation to regulations 3, 4 and 5) and by sections 6(4), 16(1), (2) and (3), 19(1)(a), 26(1), (2)(a) and (3), 48(1) and 49(2) of and paragraphs 3(1), 5(1), (2)(a) and 6(1) of Schedule 1 to the Food Safety Act 1990(**2**), and having had regard in accordance with section 48(4A) of the Food Safety Act 1990 to relevant advice given by the Food Standards Agency, hereby make the following Regulations:

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Production of Bovine Collagen Intended for Human Consumption in the United Kingdom (Scotland) Regulations 2005, and shall come into force on 11th May 2005.

(2) These Regulations extend to Scotland only.

(**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, insofar as within devolved competence, were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998.

(**2**) 1990 c. 16. Section 1(1) and (2) (definition of "food") was substituted by S.I. 2004/2990. Section 6(4) was amended by the Deregulation and Contracting Out Act 1994 (c. 40), Schedule 9, paragraph 6 and by the Food Standards Act 1999 (c. 28) ("the 1999 Act"), Schedule 5, paragraph 10(3). Sections 16(1) and (2), 19(1), 48(1) and 49(2)were amended by section 40(1) and paragraph 8 of Schedule 5 to the 1999 Act, section 26(3) was amended by section 40(4) and Schedule 6 to the 1999 Act and section 48(4A) was inserted by section 40(1) and paragraph 21 of Schedule 5 to the 1999 Act. Section 48(4) is disapplied in respect of these Regulations by virtue of section 48(4C), inserted by S.I. 2004/2990. Amendments made by Schedule 5 to the 1999 Act shall be taken as pre commencement enactments for the purposes of the Scotland Act 1998 (c. 46) by virtue of section 40(2) of the 1999 Act. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998. In so far as not so transferred, those functions under sections 6(4), 16, 19, 26, 48 and 49 and Schedule 1 of the 1990 Act were transferred to the Scottish Ministers by the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 2005 (S.I. 2005/849).

Commencement Information
I1 Reg. 1 in force at 11.5.2005, see **reg. 1(1)**

Interpretation

2. In regulations 6 to 9 and the Schedule–

"the Act" means the Food Safety Act 1990;

"bovine animal" includes buffalo of the species Bubalus bubalis and Bison bison;

"collagen" means a protein–based product derived from the hide or skin of a bovine animal;

"collagen intended for human consumption" means collagen intended for consumption either as food or incorporated into or wrapped around any food to be consumed by humans;

"collection centre" and "establishment", have the same meaning as in Section B of Chapter 4 of Annex II to Directive 92/118/EEC laying down animal health and public health requirements governing trade in and imports into the Community of products not subject to the said requirements laid down in specific Community rules referred to in Annex A(I) to Directive 89/662/EEC and, as regards pathogens, to Directive 90/425/EEC(**3**) as amended;

"hides and skins" means cutaneous and sub–cutaneous tissues;

"slaughterhouse" has the same meaning as in Section A of Chapter 4 of Annex II to Directive 92/118/EEC as amended; and

"tanning" means the hardening of hides using vegetable tanning agents, chromium salts or other substances such as aluminium salts, ferric salts, silicic salts, aldehydes and quinones, or other synthetic hardening agents.

Commencement Information
I2 Reg. 2 in force at 11.5.2005, see **reg. 1(1)**

Amendment of the Bovines and Bovine Products (Trade) Regulations 1999

3. The Bovines and Bovine Products (Trade) Regulations 1999(**4**) are amended in accordance with regulations 4 and 5.

4.—(1) For regulation 6(1) (production of bovine by–products and consignment and placing on the market of bovine meat, products and certain by–products), substitute–

"(1) No person shall–

(a) produce any gelatin, derived from a bovine animal slaughtered in the United Kingdom, being gelatin which is liable to enter the human food or animal feed chain or is destined for use in cosmetics or in medical or pharmaceutical products; or

(b) produce any collagen, derived from a bovine animal slaughtered in the United Kingdom, being collagen which is liable to enter the human food or animal feed

(**3**) O.J. No. L 62, 15.3.93, p.49. Chapter 4, Section B of Annex II to that Directive was first inserted by Commission Decision 2003/42/EC (O.J. No. L 13, 18.1.2003, p.24) and was replaced by Commission Decision 2003/721/EC (O.J. No. L 260, 11.10.2003, p.21). The Directive was last amended by Commission Regulation (EC) No. 445/2004 (O.J. No. L 72, 11.3.2004, p.60).
(**4**) S.I. 1999/1103, amended by S.I. 1999/1544, S.S.I. 2000/62, 2000/184 and 2002/449.

chain or is destined for use in cosmetics or in medical or pharmaceutical products, unless it is collagen intended for human consumption in the United Kingdom, produced in accordance with regulation 6 of the Production of Bovine Collagen Intended for Human Consumption in the United Kingdom (Scotland) Regulations 2005(**5**).".

(2) In regulation 6(9) after "collagen," insert–

"(unless it is collagen intended for human consumption in the United Kingdom, produced in accordance with regulation 6 of the Production of Bovine Collagen Intended for Human Consumption in the United Kingdom (Scotland) Regulations 2005(**6**))".

5. In regulation 9(3) (use of controlled bovine by–products and other products)–

(a) omit "gelatin or collagen produced" where it first occurs;

(b) insert "gelatin or collagen produced" at the beginning of each of sub paragraphs (a) and (b); and

(c) at the end of sub-paragraph (b) insert–

"; or

(c) collagen produced in accordance with regulation 6 of the Production of Bovine Collagen Intended for Human Consumption in the United Kingdom (Scotland) Regulations 2005(**7**)

Commencement Information

I3 Reg. 3 in force at 11.5.2005, see **reg. 1(1)**

I4 Reg. 4 in force at 11.5.2005, see **reg. 1(1)**

I5 Reg. 5 in force at 11.5.2005, see **reg. 1(1)**

Control of production of collagen intended for human consumption in the United Kingdom derived from bovine animals slaughtered in the United Kingdom

6.—(1) Until the end of the year 2005 no person shall produce any collagen derived from any bovine animal slaughtered in the United Kingdom, being collagen intended for human consumption in the United Kingdom, unless the requirements specified in paragraphs 1 to 5 of Part 1 of the Schedule are complied with.

(2) The occupier of any establishment where collagen of the kind referred to in paragraph (1) is produced shall keep records for two years–

(a) on the sources of all incoming raw material, from the date of their receipt at the establishment; and

(b) on all outgoing products, from the date of their despatch.

(3) Until the end of the year 2005 no person shall wrap, package, store or transport any collagen derived from any bovine animal slaughtered in the United Kingdom, being collagen intended for human consumption in the United Kingdom, unless the requirements specified in paragraph 6 of Part 1 of the Schedule are complied with.

(**5**) S.S.I. 2005/218.
(**6**) S.S.I. 2005/218.
(**7**) S.S.I. 2005/218.

Commencement Information

I6 Reg. 6 in force at 11.5.2005, see **reg. 1(1)**

Offences and penalties

7.—(1) Any person who contravenes regulation 6 shall be guilty of an offence and 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.

(2) No prosecution for an offence under regulation 6 shall be begun after the expiry of–

(a) three years from the commission of the offence; or

(b) one year from the date on which evidence sufficient in the opinion of the prosecutor to warrant proceedings comes to the prosecutor's knowledge,

whichever is the earlier.

(3) For the purposes of this regulation, a certificate signed by or on behalf of the prosecutor and stating the date on which evidence sufficient in the prosecutor's opinion to warrant the proceedings came to the knowledge of the prosecutor, shall be conclusive evidence of that fact.

(4) A certificate stating that matter and purporting to be so signed shall be deemed to be so signed unless the contrary is proved.

Commencement Information

I7 Reg. 7 in force at 11.5.2005, see **reg. 1(1)**

Application of various provisions of the Food Safety Act 1990 for the purposes of regulations 6 and 7

8. The following provisions of the Act shall apply for the purposes of regulations 6 and 7, with the modification that any reference in those provisions to the Act or Part thereof shall be construed as a reference to regulation 7–

(a) section 20 (offences due to fault of another person);

(b) section 21 (defence of due diligence)(**8**) as it applies for the purposes of section 14 or 15 with the modification that any reference to "food" shall be construed as a reference to "raw material" and any reference to "sale" shall be construed as a reference to "production";

(c) section 30(8) (which relates to documentary evidence);

(d) section 33 (obstruction etc. of officers);

(e) section 35(1) to (3)(**9**) (punishment of offences), insofar as it relates to offences under section 33(1) or (2) as applied by sub-paragraph (d) above;

(f) section 36 (offences by bodies corporate);

(g) section 36A(**10**) (offences by Scottish partnerships); and

(**8**) Section 21 has been amended by S.I. 2004/3279.
(**9**) Section 35(3) has been amended by S.I. 2004/3279.
(**10**) Section 36A was inserted by the Food Standards Act 1999 (1999 c. 28), Schedule 5, paragraph 16.

(h) section 44 (protection of officers acting in good faith with the modification that officer of the food authority includes officer of the Scottish Ministers).

Commencement Information

I8 Reg. 8 in force at 11.5.2005, see **reg. 1(1)**

Enforcement

9.—(1) Each food authority within its area shall, and the Scottish Ministers may, execute and enforce regulation 6.

(2) On an inspection of any collagen intended for human consumption, an authorised officer of the food authority within whose area the place where it was inspected is situated or of the Scottish Ministers may certify that the collagen concerned has not been produced, wrapped, packaged, stored or transported in accordance with regulation 6.

(3) Where any collagen intended for human consumption is certified as mentioned in paragraph (2), it shall be treated for the purposes of section 9 of the Act(**11**) as failing to comply with food safety requirements.

Commencement Information

I9 Reg. 9 in force at 11.5.2005, see **reg. 1(1)**

St Andrew's House, Edinburgh
19th April 2005

ROSS FINNIE
A member of the Scottish Executive

(**11**) Section 9 has been amended by S.I. 2004/3279.