SCOTTISH STATUTORY INSTRUMENTS

2004 No. 6

FOOD

COMPOSITION AND LABELLING

The Meat Products (Scotland) Regulations 2004

Made - - - -	*14th January 2004*
Laid before the Scottish Parliament - - - -	*14th January 2004*
Coming into force - -	*4th February 2004*

The Scottish Ministers, in exercise of the powers conferred by sections 6(4), 16(1)(a), (e) and (f), 26(1) and (3) and 48(1) of the Food Safety Act 1990(**1**) and of all other powers enabling them in that behalf, having had regard, in accordance with section 48(4A)(**2**) of that Act, to relevant advice given by the Food Standards Agency, and after consultation in accordance with section 48(4) and (4B)(**3**) of that Act, hereby make the following Regulations:

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Meat Products (Scotland) Regulations 2004 and shall come into force on 4th February 2004.

(2) These Regulations extend to Scotland only.

Interpretation

2. In these Regulations–

"the Act" means the Food Safety Act 1990;

"the 1996 Regulations" means the Food Labelling Regulations 1996(**4**);

"catering establishment" has the meaning assigned to it by the 1996 Regulations;

(**1**) 1990 c. 16; 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 48(1) were amended by the 1999 Act, Schedule 5, paragraph 8; section 26(3) was amended by the 1999 Act, Schedule 6; 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) ("the 1998 Act") 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 1998 Act.

(**2**) Section 48(4A) was inserted by paragraph 21 of Schedule 5 to the 1999 Act.

(**3**) Section 48(4B) was inserted by paragraph 21 of Schedule 5 to the 1999 Act.

(**4**) S.I. 1996/1499; relevant amending instruments are S.I. 1998/1398, 1999/747, 1136 and 1483, and S.S.I. 2002/524.

"cooked", in relation to a food, means subjected to a process of cooking throughout the whole food so that the food is sold for consumption without further cooking, and "uncooked" shall be construed accordingly;

"cured meat" means a food consisting of meat and curing salt, whether or not the food also contains any other ingredient;

"curing salt" means sodium chloride, potassium chloride, sodium nitrate, potassium nitrate, sodium nitrite or potassium nitrite, whether alone or in any combination, except that sodium chloride or potassium chloride alone or a mixture of sodium chloride and potassium chloride alone is to be regarded as a curing salt when used in a meat product only if used in sufficient quantity to have a significant preserving effect on the meat product;

"EEA State" means a State which is a Contracting Party to the Agreement on the European Economic Area(**5**) signed at Oporto on 2nd May 1992 as adjusted by the Protocol(**6**) signed at Brussels on 17th March 1993;

"free circulation" has the same meaning as in Article 23 of the Treaty establishing the European Community;

"meat" has the meaning assigned to it by Directive 2000/13/EC of the European Parliament and the Council on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs(**7**), as amended by Commission Directive 2001/101/EC(**8**) which is itself amended by Commission Directive 2002/86(**9**);

"meat product" means any food, other than one specified in Schedule 1, which consists of meat or which contains as an ingredient, or as ingredients, any of the following: meat; mechanically recovered meat (subject to the provisions of regulation 49 of the TSE (Scotland) Regulations 2002(**10**)); or, from any mammalian or bird species recognised as fit for human consumption, heart, tongue, the muscles of the head (other than the masseters), the carpus, the tarsus, or the tail;

"mechanically recovered meat" has the same meaning as in Council Directive 64/433/EC(**11**) on health problems affecting intra community trade in fresh meat as last amended by Council Directive 95/23(**12**);

"sell" includes offer or expose for sale or have in possession for sale, and "sale" and "sold" shall be construed accordingly;

"ultimate consumer" has the meaning assigned to it by the 1996 Regulations.

Scope

3.—(1) Subject to paragraphs (2) and (3), these Regulations apply to meat products which are ready for delivery to the ultimate consumer or to a catering establishment.

(2) These Regulations shall not apply in respect of any food which is–

(a) not intended for sale for human consumption; or

(b) marked or labelled with a clear indication that the food is intended exclusively for consumption by babies or young children.

(**5**) O.J. No. L 1, 3.1.94, p.1.
(**6**) O.J. No. L 1, 3.1.94, p.571.
(**7**) O.J. No. L 109 6.5.00, p.29.
(**8**) O.J. No. L 310, 28.11.01, p.19.
(**9**) O.J. No. L 305, 7.11.02, p.19.
(**10**) S.S.I. 2002/255, amended by S.S.I. 2003/198 and 411.
(**11**) O.J. No. P 121, 29.7.64, p.2012.
(**12**) O.J. No. L 243, 11.10.95, p.7.

(3) Regulation 4 (restrictions on the use of certain names) shall not apply in respect of any food which is brought into Scotland from–

(a) an EEA State (other than the United Kingdom) having been lawfully produced there and lawfully sold;

(b) a Member State (other than the United Kingdom) in which it was in free circulation and lawfully sold;

(c) another part of the United Kingdom in which it was lawfully sold–

(i) having been lawfully produced there;

(ii) having been lawfully produced in an EEA State; or

(iii) having been in free circulation and lawfully sold in a Member State.

Restrictions on the use of certain names

4.—(1) For the purposes of the 1996 Regulations, a name which appears in column 1 of Schedule 2 shall not be used in the labelling or advertising of a meat product as the name of the food, whether or not qualified with other words unless either–

(a) the meat product complies with the appropriate requirements in columns 2 and 3 of that Schedule; or

(b) the name is used in accordance with paragraph (2).

(2) A name which appears in column 1 of Schedule 2 shall not be used in the labelling or advertising of a food, whether or not qualified by other words, in such a way as to suggest, either expressly or by implication, that the meat product designated by that name is an ingredient of the food unless either–

(a) (i) that meat product is an ingredient of the food, and

(ii) that meat product complied, at the time of preparation of the food, with the appropriate requirements in columns 2 and 3 of that Schedule; or

(b) (i) the name used as the name of the food for that food is a name which appears in column 1 of that Schedule, and

(ii) the product complies with the appropriate requirements in columns 2 and 3 of that Schedule.

(3) No person shall sell or advertise for sale a food in the labelling of which a name is used in contravention of the foregoing paragraphs.

Name of the food for certain meat products

5.—(1) Subject to paragraphs (3) and (4), this regulation shall apply where any person sells any meat product which has the appearance of a cut, joint, slice, portion or carcase of meat or of cured meat (in each case, whether cooked or uncooked).

(2) For the purposes of regulation 6(1) of the 1996 Regulations, the name used as the name of the food in the labelling of any meat product to which this regulation applies shall include an indication of–

(a) any added ingredient of animal origin, unless the meat product contains meat of the species from which that added ingredient is derived; and

(b) any added ingredient to which sub-paragraph (a) does not apply other than an ingredient specified in Schedule 3.

(3) For the purposes of paragraph (2), no account shall be taken of the presence in or on the meat product of any gelatinous substance, nor of any packaging material enclosing the meat product.

(4) This regulation shall not apply where the name used as the name of the food is a name which appears in column 1 of Schedule 2, whether or not qualified by other words, or to a food having the appearance of minced uncooked meat which has been shaped.

Parts of the carcase in uncooked meat products

6.—(1) No person shall sell an uncooked meat product in the preparation of which any part specified in paragraph (2) of the carcase from any mammalian species has been used as an ingredient.

(2) Subject to the TSE (Scotland) Regulations 2002(**13**), the specified parts of the carcase are: brains, feet, large intestine, small intestine, lungs, oesophagus, rectum, spinal cord, spleen, stomach, testicles and udder.

(3) The prohibition contained in paragraph (1) shall not extend to the use of a mammalian large or small intestine solely as a sausage skin.

(4) In this regulation the word "sausage" includes chipolata, frankfurter, link, salami and any similar product.

Penalties and enforcement

7.—(1) Any person who contravenes or fails to comply with regulations 4, 5(2) or 6(1) shall be guilty of an offence.

(2) Any person found guilty of an offence under paragraph (1) shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(3) Each food authority shall enforce and execute these Regulations in its area.

Transitional provision and defence in relation to exports

8. In any proceedings for an offence under these Regulations it shall be a defence for the person charged to prove that–

(a) (i) the act was committed before 4th August 2004;

(ii) the matters constituting the alleged offence would not have constituted an offence under the Meat Products and Spreadable Fish Products (Scotland) Regulations 1984(**14**) if those Regulations had been in force when the food was marked or labelled; and

(iii) the 1996 Regulations are complied with; or

(b) the food in respect of which the offence is alleged to have been committed was intended for export and complied with the importing country's domestic legislation relevant to the alleged offence.

Application of various provisions of the Food Safety Act 1990

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

(a) section 2 (extended meaning of "sale" etc.);

(b) section 3 (presumption that food intended for human consumption);

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

(**13**) S.S.I. 2002/255; amended by S.S.I. 2003/198 and 411.
(**14**) S.I. 1984/1714, amended by S.I. 1985/1068, 1986/1288, 1990/2625, 1991/1476, 1992/2596, 1995/3123, 3124 and 3187, 1996/1499 and 1998/1398.

(d) section 21 (defence of due diligence as it applies for the purposes of sections 8, 14 or 15 of the Act);

(e) section 22 (defence of publication in the course of business);

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

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

(h) section 35(1) to (3) (punishment of offences) insofar as it relates to offences under section 33(1) and (2) as applied by sub-paragraph (g) above;

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

(j) section 36A (offences by Scottish partnerships); and

(k) section 44 (protection of officers acting in good faith).

Amendment of the Food Labelling Regulations 1996

10. The 1996 Regulations are amended as follows–

(a) in regulation 2(1) (interpretation), after the definition of "liqueur wine" insert–

"meat product" has the meaning assigned to it by the Meat Products (Scotland) Regulations 2004;;

(b) in regulation 23 (food which is not prepacked and similar food, and fancy confectionery products), in paragraph (2)–

(i) at the end of sub-paragraph (a) omit "and", and

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

"; and

(c) in the case of a meat product other than one listed in Schedule 4A, the particulars required by regulation 5(bA) in respect of those of its ingredients being meat, within the meaning assigned to meat by Directive 2000/13/EC of the European Parliament and the Council on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs, as amended by Commission Directive 2001/101/EC which is itself amended by Commission Directive 2002/86,";

(c) after Schedule 4 insert as Schedule 4A the contents of Schedule 4 to these Regulations.

Amendments and revocations

11.—(1) The following entries relating to the Meat Products and Spreadable Fish Products (Scotland) Regulations 1984 are omitted–

(a) in the Food (Revision of Penalties and Mode of Trial) (Scotland) Regulations 1985(**15**), in Schedule 1;

(b) in the Food Safety Act 1990 (Consequential Modifications) (Scotland) Order 1990(**16**), in Schedule 1, Part I, Schedule 3, Part II and Schedules 5 and 8;

(c) in the Food Safety (Exports) Regulations 1991(**17**), in Schedule 2;

(d) in the Food (Forces Exemptions) (Revocations) Regulations 1992(**18**), in the Schedule, Part II;

(**15**) S.I. 1985/1068.
(**16**) S.I. 1990/2625 to which there are amendments not relevant to these Regulations.
(**17**) S.I. 1991/1476 to which there are amendments not relevant to these Regulations.
(**18**) S.I. 1992/2596.