Changes to legislation: *The Food and Animal Feedingstuffs (Products of Animal Origin from China) (Control) (Scotland) Regulations 2002 is up to date with all changes known to be in force on or before 13 February 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

SCOTTISH STATUTORY INSTRUMENTS

2002 No. 36

FOOD
AGRICULTURE

The Food and Animal Feedingstuffs (Products of Animal Origin from China) (Control) (Scotland) Regulations 2002

Made - - - -	*1st February 2002*
Laid before the Scottish Parliament - - - -	*5th February 2002*
Coming into force - -	*2nd February 2002*

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, commencement and extent

1.—(1) These Regulations may be cited as the Food and Animal Feedingstuffs (Products of Animal Origin from China) (Control) (Scotland) Regulations 2002 and shall come into force on 2nd February 2002.

(2) These Regulations extend to Scotland only.

Commencement Information

I1 Reg. 1 in force at 2.2.2002, see **reg. 1(1)**

Interpretation

2.—(1) In these Regulations–

"the Act" means the Food Safety Act 1990(**2**) and, save where otherwise indicated and subject to paragraph (2), any expression used both in these Regulations and in the Act has the meaning it bears in the Act;

(**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 a Minister of the Crown under section 2(2) of the 1972 Act, 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.

"the Commission Decision" means Commission Decision 2002/69/EC concerning certain protective measures with regard to the products of animal origin imported from China(**3**);

"free circulation" has the same meaning as in Article 23.2, as read with Article 24, of the Treaty establishing the European Community;

"relevant product of animal origin" means a product falling within either of the following descriptions–

(a) products of animal origin originating in, or consigned from, China, and intended for human consumption, or for animal feed use, except for any such product which is of a kind to which the derogation contained in Article 2.2 of the Commission Decision (which is concerned with casings and certain fishery products) applies; or

(b) products which contain any product falling within the description given in paragraph (a) of this definition.

(2) Any expression used both in these Regulations and in the Commission Decision has the same meaning in these Regulations as it bears in the Commission Decision.

Commencement Information

I2 Reg. 2 in force at 2.2.2002, see **reg. 1(1)**

Exemption

3. Regulation 4 shall not apply to any relevant product of animal origin to which the derogation contained in Article 3.1 of the Commission Decision (which is concerned with the importation of consignments of products of animal origin which left China prior to 31st January 2002 and arrive in Scotland on or before 13th March 2002) applies.

Commencement Information

I3 Reg. 3 in force at 2.2.2002, see **reg. 1(1)**

Prohibition of importation and offence

4.—(1) Subject to paragraph (2) and regulation 3, no person shall import into Scotland any relevant product of animal origin.

(2) Paragraph (1) shall not be taken to prohibit the bringing into Scotland–

(a) from another member State of the European Community of any relevant product of animal origin which is in free circulation in that member State; and

(b) from England, Wales or Northern Ireland of any relevant product of animal origin which has been imported into the United Kingdom in accordance with the Commission Decision.

(3) Any person who knowingly contravenes paragraph (1) shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale or imprisonment for a term not exceeding three months.

Commencement Information

I4 Reg. 4 in force at 2.2.2002, see **reg. 1(1)**

(**3**) O.J. No. L 30, 31.1.02, p.50.

Enforcement

5.—(1) It shall be the duty of each food authority to execute and enforce these Regulations within its area.

(2) For the purposes of the exercise of the duty referred to in paragraph (1) an authorised officer of the food authority concerned–

(a) shall have the same powers of entry as are bestowed on an authorised officer of an enforcement authority by section 32 of the Act for purposes connected with the Act or Regulations or Orders under the Act, and shall also have, in relation to any business producing material for animal feed use, the same power as an authorised officer of an enforcement authority under that section in relation to a food business; and

(b) shall exercise that duty in accordance with Article 4 of the Commission Decision.

(3) Each food authority shall give such assistance and information to the Scottish Ministers and the Food Standards Agency as they may reasonably request in connection with the execution and enforcement of these Regulations.

Commencement Information

I5 Reg. 5 in force at 2.2.2002, see **reg. 1(1)**

Application of various provisions of the Act

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

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

section 33(1) (obstruction etc. of officers);

section 35(1) (punishment of offences) in so far as it relates to offences under section 33 as applied by this paragraph; and

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

(2) Subject to paragraph (3), section 9 of the Act (inspection and seizure of suspected food) shall apply for the purposes of these Regulations as if it read as follows–

"**9.**—(1) An authorised officer of a food authority may at all reasonable times inspect any relevant product of animal origin 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.

(2) Subsections (3) to (8) shall apply where, whether or not on an inspection carried out under subsection (1), it appears to an authorised officer that any relevant product of animal origin has been imported into Scotland in contravention of regulation 4(1) of the Food and Animal Feedingstuffs (Products of Animal Origin from China) (Control) (Scotland) Regulations 2002.

(3) 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 used for human consumption or, as the case may be, put to animal feed use; and