SCOTTISH STATUTORY INSTRUMENTS

2001 No. 252

AGRICULTURE

The Beef Labelling (Enforcement) (Scotland) Regulations 2001

Made - - - -	*28th June 2001*
Laid before the Scottish Parliament - - - -	*28th June 2001*
Coming into force - -	*29th June 2001*

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 Beef Labelling (Enforcement) (Scotland) Regulations 2001 and shall come into force on 29th June 2001.

(2) These Regulations extend to Scotland only.

Interpretation

2. In these Regulations–

"authorised officer" means any person (whether or not an officer of the Scottish Ministers or of a local authority) who is authorised for the purposes of these Regulations by the Scottish Ministers or a local authority;

"Commission Regulation 1141/97" means Commission Regulation (EC) No. 1141/97 laying down detailed rules for the application of Council Regulation (EC) No. 820/97 as regards the labelling of beef and beef products(**2**) as amended by Commission Regulation (EC) No. 2406/97(**3**) and Commission Regulation (EC) No. 824/98(**4**);

"Commission Regulation 1825/2000" means Commission Regulation (EC) No. 1825/2000 laying down detailed rules for the application of Regulation (EC) No. 1760/2000 of the European Parliament and of the Council as regards the labelling of beef and beef products(**5**);

(**1**) 1972 c. 68; section 2(2) was amended by the Scotland Act 1998 (c. 46), Schedule 8, paragraph 15(3). The function conferred upon the Minister of the Crown under section 2(2) of the European Communities Act 1972, insofar as within devolved competence, was transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998.
(**2**) O.J. No. L 165, 24.6.97. p.7.
(**3**) O.J. No. L 332, 4.12.97, p.36.
(**4**) O.J. No. L 117, 21.4.98, p.4.
(**5**) O.J. No. L 216, 26.8.00, p.8.

"justice of the peace" means a full justice as defined by section 9 of the Districts Courts (Scotland) Act 1975(**6**);

"local authority" means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994(**7**);

"Regulation 1760/2000" means Regulation (EC) No. 1760/2000 of the European Parliament and of the Council establishing a system for the identification and registration of bovine animals and regarding the labelling of beef and beef products and repealing Council Regulation (EC) No. 820/97(**8**).

Competent authority and authorities responsible for enforcement

3.—(1) The Scottish Ministers shall be the competent authority for the purposes of Commission Regulation 1141/97, Title II of Regulation 1760/2000 and Commission Regulation 1825/2000.

(2) These Regulations shall be enforced by–

(a) the Scottish Ministers for the purposes of ascertaining whether there is or has been any contravention of these Regulations in slaughterhouses, cutting plants or wholesalers; and

(b) local authorities for the purposes of ascertaining whether there is or has been any contravention of these Regulations in places other than in slaughterhouses, cutting plants or wholesalers.

Enforcement of compulsory and voluntary labelling requirements

4.—(1) Any person engaged in the marketing of beef who fails to comply–

(a) in respect of beef derived from animals slaughtered on or after 1st September 2000, with the compulsory and voluntary labelling requirements imposed on that person by or under Title II of Regulation 1760/2000 and Commission Regulation 1825/2000; or

(b) in respect of beef derived from animals slaughtered before 1st September 2000, with the voluntary labelling requirements imposed on that person by or under Commission Regulation 1141/97,

shall be guilty of an offence.

(2) For the purposes of this regulation, the term "marketing" shall include the supply of beef, otherwise than on sale, in the course of a business.

(3) Where beef has been labelled or marketed in a manner which does not comply–

(a) in respect of beef derived from animals slaughtered on or after 1st September 2000, with any of the compulsory and voluntary labelling requirements of Title II of Regulation 1760/2000 and Commission Regulation 1825/2000; or

(b) in respect of beef derived from animals slaughtered before 1st September 2000, with any of the voluntary labelling requirements of Commission Regulation 1141/97,

an authorised officer may serve a notice on the person in possession of such beef requiring its removal from sale until the beef is re-labelled in accordance with those requirements.

(4) A notice served under paragraph (3)(a) above may authorise that the beef may be sent directly for processing into products other than those indicated in the first indent of Article 12 of Regulation 1760/2000.

(**6**) 1975 c. 20. The definition of "full justice" was inserted by section 8 of the Bail, Judicial Appointments etc. (Scotland) Act 2000 (asp 9).
(**7**) 1994 c. 39.
(**8**) O.J. No. L 204, 11.8.00, p.1.

(5) Any person who fails to comply with the provisions of a notice served under paragraph (3) above shall be guilty of an offence.

Powers of entry

5.—(1) An authorised officer shall, on producing, if so required, some duly authenticated document showing the officer's authority, have the right at all reasonable hours to enter any premises (excluding premises used only as a dwelling) for the purpose of ascertaining whether–

(a) there is or has been on the premises any contravention of any provisions of these Regulations; or

(b) there is on the premises any evidence of any contravention of any provisions of these Regulations.

(2) If a justice of the peace or a sheriff, on sworn information, is satisfied that there is reasonable ground for entry into any premises (excluding premises used only as a dwelling) for any such purpose as is mentioned in paragraph (1) above and that either–

(a) admission to the premises has been refused, or a refusal is anticipated, and that notice of the intention to apply for a warrant has been given to the occupier; or

(b) an application for admission, or the giving of such notice, would defeat the object of the entry, or that the case is one of urgency, or that the premises are unoccupied or the occupier temporarily absent,

the justice of the peace or sheriff may by a signed warrant authorise an authorised officer to enter the premises, if need be by reasonable force.

(3) Every warrant granted under paragraph (2) shall continue in force for a period of one month.

(4) An authorised officer entering any premises by virtue of this regulation, or of a warrant issued under it, may be accompanied by other persons as considered necessary; and on leaving any unoccupied premises which the officer has entered by virtue of such a warrant shall leave them as effectively secured against unauthorised entry as the officer found them.

(5) Where any land or other property is damaged in the exercise of a power of entry conferred by this section, compensation in respect of that damage may be recovered by any person interested in the land or property from the Scottish Ministers or the relevant local authority, as the case may be.

Powers of inspection and sampling etc.

6. An authorised officer entering any premises by virtue of regulation 5 above, or of a warrant issued under it, may–

(a) inspect any beef present on those premises;

(b) take samples (and, if necessary, send the samples for laboratory testing) from any beef present on those premises;

(c) inspect any beef label and relevant business records in whatever form they are held, and take copies of these labels and records;

(d) remove and retain any such label, beef and records which are believed to be required as evidence in proceedings under any of the provisions of these Regulations;

(e) have access to, and inspect and check the operation of, any computer and any associated apparatus or material which is or has been used in connection with any such records mentioned in sub-paragraph (c) above, and require any person having charge of, or otherwise concerned with the operation of, the computer, apparatus or material to afford such assistance as that person may reasonably require;