STATUTORY RULES OF NORTHERN IRELAND

2005 No. 515

FOOD

The Bovine Products (Restriction on Placing on the Market) (No. 2) Regulations (Northern Ireland) 2005

Made - - - -	*22nd November 2005*
Coming into operation	*1st January 2006*

The Department of Health, Social Services and Public Safety(**1**) makes the following Regulations in exercise of the powers conferred on it by section 2(2) of the European Communities Act 1972(**2**) and of all other powers enabling it in that behalf.

The Department of Health, Social Services and Public Safety has been designated(**3**) for the purposes of that section in relation to measures in the veterinary and phytosanitary fields for the protection of public health.

As required by Article 9 of Regulation (EC) No. 178/2002 of the European Parliament and of the Council laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety(**4**), as last amended by Regulation (EC) No. 1642/2003 of the European Parliament and of the Council amending Regulation (EC) No. 178/2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety(**5**), there has been open and transparent public consultation during the preparation of the following Regulations.

Citation and commencement

1. These Regulations may be cited as the Bovine Products (Restriction on Placing on the Market) (No. 2) Regulations (Northern Ireland) 2005 and shall come into operation on 1st January 2006.

Interpretation

2. In these Regulations—

"the Agency" means the Food Standards Agency;

(**1**) Formerly the Department of Health and Social Services; *see*S.I.1999/283 (N.I. 1), Article 3
(**2**) 1972 c. 68
(**3**) S.I.1999/2027
(**4**) O.J. No. L31, 1.2.2002, p. 1
(**5**) O.J. No. L245, 29.9.2003, p. 4

"animal feed" and "human food" have the meanings that they respectively bear in Regulation 999/2001;

"authorised officer", in relation to the relevant enforcement authority, means any person (whether or not an officer of the authority) authorised by it in writing, either generally or specially, to act in matters arising under these Regulations and in relation to—

(a) a slaughterhouse;

(b) a cutting plant;

(c) an establishment to which Chapter I of Section V of Annex III to Regulation 853/2004 applies; and

(d) an establishment at which meat products are produced,

includes an official veterinarian and an official auxiliary;

"bovine animal" includes—

(a) buffalo of the species *Bubalus bubalis*; and

(b) Bison bison;

"cutting plant" means an establishment which is used for boning and/or cutting up fresh meat for placing on the market as defined in Article 3.8 of Regulation 178/2002 and which—

(a) is approved or conditionally approved under Article 31.2 of Regulation 882/2004; or

(b) (although lacking the approval or conditional approval that it requires under Article 4.3 of Regulation 853/2004) was, on 31st December 2005, operating as licensed cutting premises under the Fresh Meat (Hygiene and Inspection) Regulations (Northern Ireland) 1997(**6**);

"cutting up" has the meaning that it bears in Regulation 853/2004;

"Decision 2005/598", "Directive 2004/41", "Regulation 999/2001", "Regulation 178/2002", "Regulation 1642/2003", "Regulation 852/2004", "Regulation 853/2004", "Regulation 854/2004", "Regulation 882/2004", "Regulation 932/2005" and "Regulation 1688/2005" have the meanings respectively given to them in the Schedule;

"the Department" means the Department of Health, Social Services and Public Safety;

"establishment" has the meaning given in Article 2.1(c) of Regulation 852/2004;

"fertilisers" has the meaning given to it in Article 3.1(k) of Regulation 999/2001;

"fresh meat" means meat that has not undergone any preserving process other than chilling, freezing or quick-freezing, including meat that is vacuum-wrapped or wrapped in a controlled atmosphere;

"material" and "product" shall respectively be construed in accordance with the meanings that "materials" and "products" bear in Decision 2005/598;

"meat" means edible parts of a bovine animal including its blood;

"meat product" shall be construed in accordance with the definition of the term "meat products" in point 7.1 of Annex I to Regulation 853/2004;

"official auxiliary" means a person who is qualified in accordance with Regulation 854/2004 to act in such a capacity, is appointed by the Agency and works under the authority and responsibility of an official veterinarian;

"official veterinarian" means a veterinarian who is qualified in accordance with Regulation 854/2004 to act in such a capacity and is appointed by the Agency;

(**6**) S.R. 1997 No. 493, revoked with effect from 1st January 2006 by S.R. 2005 No. 356

"place on the market" means sell, supply in any other way against payment or free of charge and store with a view to supply against payment or free of charge;

"the relevant enforcement authority" means the authority which by virtue of regulation 7 has the duty of executing and enforcing these Regulations; and

"slaughterhouse" means an establishment which is used for slaughtering and dressing bovine animals, the meat of which is intended for human consumption and which—

(a) is approved or conditionally approved under Article 31.2 of Regulation 882/2004; or

(b) (although lacking the approval or conditional approval that it requires under Article 4.3 of Regulation 853/2004) was, on 31st December 2005, operating as a licensed slaughterhouse under the Fresh Meat (Hygiene and Inspection) Regulations (Northern Ireland) 1997.

(2) The Interpretation Act (Northern Ireland) 1954(**7**) shall apply to these Regulations as it applies to an Act of the Northern Ireland Assembly.

Prohibition on marketing of certain products derived from older bovine animals

3.—(1) Subject to paragraph (2), no person shall place on the market any product—

(a) consisting of or incorporating any material derived from a bovine animal born or reared within the United Kingdom before 1st August 1996; and

(b) intended for use in human food, animal feed or fertilisers.

(2) Nothing in paragraph (1) shall prevent milk derived from a bovine animal born or reared within the United Kingdom before 1st August 1996 from being placed on the market.

Application of various provisions of the Food Safety (Northern Ireland) Order 1991

4. The following provisions of the Food Safety (Northern Ireland) Order 1991(**8**) shall apply for the purposes of these Regulations with the modification that any reference in those provisions to that Order or Part thereof shall be construed as a reference to these Regulations—

(a) Article 19 (offences due to fault of another person);

(b) Article 20 (defence of due diligence)(**9**) with the modification that paragraphs (2) to (4) shall apply in relation to an offence under regulation 6(1) as they apply in relation to an offence under Article 13 or 14 and that in paragraph 4(b) the references to "sale or intended sale" shall be deemed to be references to "placing on the market" as defined in Article 3.1(b) of Regulation 999/2001;

(c) Article 33 (powers of entry);

(d) Article 34(1) (obstruction etc. of officers);

(e) Article 34(2), with the modification that the reference to "any such requirement as is mentioned in paragraph 1(b)" shall be deemed to be a reference to any such requirement as is mentioned in that paragraph as applied by sub-paragraph (d);

(f) Article 36(1) (punishment of offences), in so far as it relates to offences under Article 34(1) as applied by sub-paragraph (d);

(g) Article 36(2) and (3)(**10**) in so far as it relates to offences under Article 34(2) as applied by sub-paragraph (e).

(**7**) 1954 c. 33 (N.I.)
(**8**) 1991 No. 762 (NI 7)
(**9**) Article 20 was amended by S.R. 2004 No. 505
(**10**) Article 36(3) was amended by S.R. 2004 No. 505

Inspection and seizure of suspected products

5.—(1) An authorised officer of the relevant enforcement authority may at all reasonable times inspect any product that has been placed on the market and paragraphs (2) to (7) shall apply where, on such an inspection or for any other reasonable cause, it appears to the authorised officer that any person has failed to comply with regulation 3 in relation to that product.

(2) 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 further placed on the market for use in human food, animal feed or fertilisers, and

(ii) either is not to be removed or is not to be removed except to some place specified in the notice; or

(b) seize the product and remove it in order to have it dealt with by a justice of the peace.

(3) Where the authorised officer exercises the power conferred by paragraph (2)(a), he shall, as soon as is reasonably practicable and in any event before the expiration of 21 days from and including the date of notice, determine whether or not he is satisfied that regulation 3 has been complied with in relation to the product and—

(a) if he is so satisfied, shall forthwith withdraw the notice; and

(b) if he is not so satisfied, shall seize the product and remove it in order to have it dealt with by a justice of the peace.

(4) Where an authorised officer exercises the power conferred by paragraph (2)(b) or (3)(b), he shall inform the person in charge of the product of his intention to have it dealt with by a justice of the peace and—

(a) any person who under regulation 3 might be liable to a prosecution in respect of the product shall, if he attends before the justice of the peace by whom the product falls to be dealt with, be entitled to be heard and to call witnesses; and

(b) that justice of the peace may, but need not, be a member of the court before which any person is charged with an offence under that regulation in relation to that product.

(5) If it appears to a justice of the peace, on the basis of such evidence as he considers appropriate in the circumstances, that there has been a failure to comply with regulation 3 in relation to any product falling to be dealt with by him under this regulation, he shall condemn the product and order —

(a) the product to be destroyed or to be so disposed of as to prevent it from being further placed on the market; and

(b) any expenses reasonably incurred in connection with the destruction or disposal to be defrayed by the owner of the product.

(6) If a notice under paragraph (2)(a) is withdrawn, or the justice of the peace by whom any product falls to be dealt with under this regulation refuses to condemn it, the relevant enforcement authority shall compensate the owner of the product for any depreciation in its value resulting from the action taken by the authorised officer.

(7) Any disputed question as to the right to or the amount of any compensation payable under paragraph (6) shall be determined by a single arbitrator, appointed failing agreement between the parties, by the Department and the provisions of the Arbitration Act 1996(**11**) shall apply accordingly.

(**11**) 1996 c. 23