STATUTORY RULES OF NORTHERN IRELAND

2005 No. 439

FOOD

The Bovine Products (Restriction on Placing on the Market) Regulations (Northern Ireland) 2005

Made - - - -	*4th October 2005*
Coming into operation	*7th November 2005*

The Department of Health, Social Services and Public Safety(**1**), being a Department designated(**2**) for the purposes of section 2(2) of the European Communities Act 1972(**3**) in relation to measures in the veterinary and phytosanitary fields for the protection of public health, in exercise of the powers conferred on it by that section, and of all other powers enabling it in that behalf, after consultation 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**), hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Bovine Products (Restriction on Placing on the Market) Regulations (Northern Ireland) 2005 and shall come into operation on 7th November 2005.

Interpretation

2.—(1) In these Regulations—

"the Agency" means the Food Standards Agency;

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

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

"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 includes—

(a) in relation to any premises licensed under the Fresh Meat (Hygiene and Inspection) Regulations (Northern Ireland) 1997(**6**)—

(i) a veterinary surgeon appointed as an authorised officer in relation to those premises in accordance with regulation 7(1) of those Regulations; or

(ii) any other person appointed as an inspector in relation to those premises in accordance with regulation 7(2) of those Regulations;

(b) in relation to any premises that are approved under the Meat Products (Hygiene) Regulations (Northern Ireland) 1997(**7**), a person authorised by the enforcement authority in writing, either generally or specially, to act in matters arising under those Regulations; and

(c) in relation to any premises that are approved under the Minced Meat and Meat Preparations (Hygiene) Regulations (Northern Ireland) 1997(**8**), a person authorised by the enforcement authority in writing, either generally or specifically, to act in matters arising under those Regulations;

"bovine animal" includes—

(a) buffalo of the species Bubalus bubalis; and

(b) Bison bison;

"the Commission Decision" means Commission Decision 2005/598/EC prohibiting the placing on the market of products derived from bovine animals born or reared within the United Kingdom before 1st August 1996 for any purpose and exempting such animals from certain control and eradication measures laid down in Regulation (EC) No. 999/2001(**9**);

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

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

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

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

"Regulation 999/2001" means Regulation (EC) No. 999/2001 of the European Parliament and of the Council laying down rules for the prevention, control and eradication of certain transmissible spongiform encephalopathies(**10**), as last amended by Regulation (EC) No. 932/2005 of the European Parliament and of the Council amending Regulation (EC) No. 999/2001 laying down rules for the prevention, control and eradication of certain transmissible spongiform encephalopathies as regards the extension of the period for transitional measures(**11**); and

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

(2) The Interpretation Act (Northern Ireland) 1954(**12**) shall apply to these Regulations as it applies to an Act of the Northern Ireland Assembly.

(**6**) S.R. 1997 No. 493, amended by S.R. 1998 No. 237, S.R. 2000 Nos. 78, 191 and 287 and S.R. 2002 No. 217
(**7**) S.R. 1997 No. 494, as amended by S.R. 1999 No. 193
(**8**) S.R. 1997 No. 495, amended by S.R. 2000 No. 78, S.R. 2000 No. 191 and S.R. 2000 No. 287
(**9**) O.J. No. L204, 5.8.2005, p. 22
(**10**) O.J. No. L147, 31.5.2001, p. 1
(**11**) O.J. No. L163, 23.6.2005, p. 1
(**12**) 1954 c. 33 (N.I.)

Prohibition on the placing on the market 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(**13**) 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)(**14**) 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)(**15**), in so far as it relates to offences under Article 34(2) as applied by sub-paragraph (e).

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 any 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.

(**13**) 1991 No. 762 (N.I. 7)
(**14**) Article 20 was amended by S.R. 2004 No. 505
(**15**) Article 36(3) was amended by S.R. 2004 No. 505