

2005 No. 3522

AGRICULTURE, ENGLAND

The Older Cattle (Disposal) (England) Regulations 2005

Made - - - - 22nd December 2005

Laid before Parliament 23rd December 2005

Coming into force - - 23rd January 2006

The Secretary of State is designated^(a) for the purposes of section 2(2) of the European Communities Act 1972^(b) in relation to the common agricultural policy of the European Community.

Exercising the powers conferred on her by that section, she makes the following Regulations—

Title, commencement and application

1.—(1) These Regulations may be cited as the Older Cattle (Disposal) (England) Regulations 2005 and shall come into force on 23rd January 2006.

(2) These Regulations apply in England.

Revocation

2. The Bovine Animals (Enforcement of Community Purchase Scheme) Regulations 1996^(c) are revoked in so far as they apply in England.

Offences

3.—(1) Where there is, in a slaughterhouse, a contravention of, or failure to comply with, any provision of Commission Regulation (EC) No. 716/96 of 19 April 1996 adopting exceptional support measures for the beef market in the United Kingdom^(d) referred to in Part I of the Schedule, the slaughterhouse operator is guilty of an offence.

(2) Where there is, at premises housing an incinerator or at a processing plant, a contravention of, or failure to comply with, any provision referred to in Part II of the Schedule, the operator of those premises is guilty of an offence.

^(a) S.I. 1972/1811.

^(b) 1972 c. 68.

^(c) S.I. 1996/1193.

^(d) OJ No. L 99, 20.4.96, p.14 (as last amended by Commission Regulation (EC) No. 2109/2005 of 22 December 2005, OJ No. L337, 22.12.05, p.25).

Enforcement and appointment of inspectors

4. These Regulations shall be enforced by the Secretary of State, who shall appoint inspectors for the purposes of these Regulations.

Powers of entry and inspectors' powers

5.—(1) An inspector shall, on producing, if so required, some duly authenticated document showing his authority, have a right at all reasonable hours, to enter any land or premises for the purpose of ensuring that these Regulations and Commission Regulation (EC) No. 716/96 are being complied with; and in this regulation “premises” includes any vehicle or container.

(2) An inspector may—

- (a) seize any animal by-products and dispose of them as necessary;
- (b) carry out any inquiries, examinations and tests;
- (c) take any samples;
- (d) have access to, and inspect and copy any records (in whatever form they are held) kept under these Regulations or Commission Regulation (EC) No. 716/96, or remove those records to enable them to be copied;
- (e) have access to, inspect and check the operation of, any computer and any associated apparatus or material which is or has been in use in connection with the records; and for this purpose may require any person having charge of, or otherwise concerned with the operation of, the computer, apparatus or material to give him any assistance he may reasonably require (including providing him with any necessary passwords) and, where a record is kept by means of a computer, may require the records to be produced in a form in which they may be taken away;
- (f) mark any animal, animal by-product or other thing for identification purposes; and
- (g) take any other persons with him, as he considers necessary.

(3) Any person who defaces, obliterates or removes any mark applied under paragraph (2) is guilty of an offence.

(4) If an inspector enters any unoccupied premises he shall leave them as effectively secured against unauthorised entry as he found them.

Obstruction

6. Any person is guilty of an offence if he—

- (a) intentionally obstructs any person executing these Regulations;
- (b) without reasonable cause, fails to give to any person executing these Regulations any assistance or information which that person may reasonably require of him for the performance of his functions under these Regulations;
- (c) provides any person executing these Regulations with any information which he knows to be false or misleading, or
- (d) fails to produce a record when required to do so to any person executing these Regulations.

Notice requiring the disposal of animal by-products

7. If an inspector considers it necessary for animal or public health purposes or if any provision of these Regulations or of Commission Regulation (EC) No. 716/96 is not being complied with, he may serve a notice on any person in possession or control of any animal by-product requiring him to dispose of it as may be specified in the notice (and if necessary specify how to store it pending disposal).

Compliance with notices

8.—(1) Any notice served under these Regulations shall be complied with at the expense of the person on whom the notice is served, and if it is not complied with, an inspector may arrange for it to be complied with at the expense of that person.

(2) Any person on whom a notice is served who contravenes or fails to comply with the provisions of that notice is guilty of an offence.

Penalties

9.—(1) A person who is guilty of an offence under these Regulations is liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding three months or both, or
- (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years or both.

(2) Where a body corporate is guilty of an offence under these Regulations, and that offence is proved to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of—

- (a) any director, manager, secretary or other similar person of the body corporate, or
- (b) any person who was purporting to act in any such capacity,

he, as well as the body corporate, is guilty of the offence and liable to be proceeded against and punished accordingly.

(3) For the purposes of paragraph (2) above, “director”, in relation to a body corporate whose affairs are managed by its members, means a member of the body corporate.

22nd December 2005

Elliot Morley
Minister of State
Department for Environment, Food and Rural Affairs

SCHEDULE

Regulation 3

PROVISIONS OF COMMISSION REGULATION (EC) NO 716/96

PART 1

PROVISIONS APPLICABLE TO OPERATORS OF SLAUGHTERHOUSES

Provision of Commission Regulation (EC) No. 716/96	Subject matter
Article 1(2)	Requirement that heads, internal organs and carcasses be permanently stained
Article 1(2)	Requirement that stained material be transported in sealed containers to specially authorised incinerators or rendering plants
Article 1(2)	Prohibition on any part of an animal slaughtered under Commission Regulation (EC) No. 716/96 entering the human or animal food chains or being used for cosmetic or pharmaceutical products
Article 1(3)	Requirement that no bovine animal intended for human consumption be present in a slaughterhouse when animals are being slaughtered under Commission Regulation (EC) No. 716/96
Article 1(3)	Requirement that, where animals to be slaughtered under Commission Regulation (EC) No. 716/96 need to be put in lairage prior to slaughter, they are kept separate from bovine animals intended for human or animal consumption
Article 1(3)	Requirement that, where it is necessary to store products derived from animals slaughtered under Commission Regulation (EC) No. 716/96, such products shall be stored separately from any storage facility used for meat or other products intended for human or animal consumption

PART II

PROVISIONS APPLICABLE TO OPERATORS OF INCINERATORS OR PROCESSING PLANTS

Provision of Commission Regulation (EC) No. 716/96	Subject matter
Article 1(2)	Requirement that stained material be processed and destroyed
Article 1(2)	Prohibition on any part of an animal slaughtered under Commission Regulation (EC) No. 716/96 entering the human or animal food chains or being used for cosmetic or pharmaceutical products

Article 1(3)	Requirement that, where it is necessary to store products derived from animals slaughtered under Commission Regulation (EC) No. 716/96, such products shall be stored separately from any storage facility used for meat or other products intended for human or animal consumption
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EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision for the enforcement of certain of the requirements of Commission Regulation (EC) No 716/96, adopting exceptional support measures for the beef market in the United Kingdom (as last amended by Commission Regulation (EC) No. 2109/2005 of 22 December 2005, OJ No. L337, 22.12.05, p. 25). The Commission Regulation introduced a scheme authorising the United Kingdom to purchase any bovine animal born or reared within the United Kingdom before 1 August 1996 which does not exhibit any clinical sign of BSE and which was, during a period of at least six months prior to its sale, present on a holding located in United Kingdom territory. Various requirements are specified as to the slaughter, treatment and disposal of animals subject to the scheme.

Regulation 3 creates offences in respect of breaches of the provisions of the Commission Regulation referred to in Column 1 (and described in Column 2) of the Schedule to the Regulations. Regulation 4 provides that these Regulations are to be enforced by the Secretary of State, who shall appoint inspectors for this purpose. Regulations 5 to 8 detail the powers of those inspectors, and the consequences of failure to comply with, or of obstructing, the inspectors. Under regulation 9, breach of the Regulations is an offence punishable on summary conviction to a fine up to the statutory maximum, currently £5,000, or three months imprisonment. On indictment the penalty is an unlimited fine or two years imprisonment.

A full regulatory impact assessment has not been produced for this instrument as it has no impact on the costs of business.

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