

2010 No. 330

AGRICULTURE

**The Beef and Pig Carcase Classification (Scotland) Regulations
2010**

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PART 1

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The Scottish Ministers, make the following Regulations in exercise of the powers conferred by section 2(2) of, and paragraph 1A of Schedule 2 to, the European Communities Act 1972(a) and all other powers enabling them to do so.

The Regulations make provision for a purpose mentioned in that section and it appears to the Scottish Ministers that it is expedient for references to the following Regulations to be construed as references to those Regulations as amended from time to time—

- (a) Council Regulation (EC) No. 1234/2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation)(b); and

(a) 1972 c.68. Section 2(2) was amended by the Scotland Act 1998 (c.46) (“the 1998 Act”), Schedule 8, paragraph 15(3) (which was amended by section 27(4) of the Legislative and Regulatory Reform Act 2006 (c.51) (“the 2006 Act”). Section 2(2) was also amended by section 27(1)(a) of the 2006 Act and by the European Union (Amendment) Act 2008 (c.7) (“the 2008 Act”), Schedule 1, Part 1. The functions conferred upon the Minister of the Crown under section 2(2), insofar as within devolved competence, were transferred to the Scottish Ministers by virtue of section 53 of the 1998 Act. Paragraph 1A of Schedule 2 was inserted by section 28 of the 2006 Act and was amended by the 2008 Act, Schedule 1, Part 1.

(b) O.J. No. L 299, 16.11.2007, p.1, to which there are amendments not relevant to these Regulations.

- (b) Commission Regulation (EC) No. 1249/2008 laying down detailed rules on the implementation of the Community scales for the classification of beef, pig and sheep carcasses and the reporting of prices thereof(a).

PART 1

GENERAL PROVISIONS

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Beef and Pig Carcase Classification (Scotland) Regulations 2010.

(2) These Regulations come into force on 9th October 2010.

(3) These Regulations extend to Scotland only.

Interpretation

2.—(1) In these Regulations—

“the 1994 Regulations” means the Pig Carcase (Grading) Regulations 1994(b);

“the 2004 Regulations” means the Beef Carcase (Classification) (Scotland) Regulations 2004(c);

“adult bovine animal” means a bovine animal the live weight of which is more than 300 kilograms;

“approved slaughterhouse” means an establishment used for slaughtering and dressing adult bovine animals or pigs, the meat of which is intended for human consumption, and which—

(a) is approved or conditionally approved under Article 31(2) of Regulation (EC) No. 882/2004 of the European Parliament and of the Council on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules(d); or

(b) (although lacking the approval or conditional approval that it requires under Article 4(3) of Regulation (EC) No. 853/2004 of the European Parliament and of the Council laying down specific hygiene rules for food of animal origin(e)) was, on 31st December 2005, operating as a licensed slaughterhouse under the Fresh Meat (Hygiene and Inspection) Regulations 1995(f);

“authorised officer” means a person authorised by the Scottish Ministers for the purposes of these Regulations, but does not include a person appointed for the purpose of carrying out a review under regulation 10;

(a) O.J. No. L 337, 16.12.2008, p.3, to which there are amendments not relevant to these Regulations.

(b) S.I. 1994/2155, amended by S.I. 2003/2949, 2004/106, 2006/2192 and 2008/576, and by S.S.I. 2003/565, 2004/279 and 2006/451.

(c) S.S.I. 2004/280, amended by S.S.I. 2006/118.

(d) O.J. No. L 165, 30.4.2004, p.1. The revised text of the Regulation is contained in a corrigendum (O.J. No. L 191, 28.5.2004, p.1), and there are further amendments not relevant to these Regulations.

(e) O.J. No. L 139, 30.4.2004, p.55. The revised text of the Regulation is contained in a corrigendum (O.J. No. L 226, 25.6.2004, p.22), and there are further amendments not relevant to these Regulations.

(f) S.I. 1995/539, revoked in relation to England by S.I. 2005/2059, in relation to Scotland by S.S.I. 2005/505 and in relation to Wales by S.I. 2005/3292.

“bovine carcase” means a carcase or half-carcase of a slaughtered adult bovine animal bearing a health mark provided for in Article 5(2) of, and Chapter III of Section I of Annex I to, Regulation (EC) No. 854/2004 of the European Parliament and of the Council laying down specific rules for the organisation of official controls on products of animal origin intended for human consumption^(a); and in this definition, “carcase” means the whole body as presented after bleeding, evisceration and skinning, and “half-carcase” means the product obtained by separating such a carcase symmetrically through the middle of each cervical, dorsal, lumbar and sacral vertebra and through the middle of the sternum and the ischiopubic symphysis;

“classification” except as otherwise indicated in regulation 5, means—

- (a) the classification of bovine carcasses in accordance with the European beef provisions; or
 - (b) the classification of pig carcasses in accordance with the European pig provisions,
- as the case may be, and cognate terms are to be construed accordingly;

“clean pig” means a pig which has not been used for breeding;

“Commission Regulation” means Commission Regulation (EC) No. 1249/2008 laying down detailed rules on the implementation of the Community scales for the classification of beef, pig and sheep carcasses and the reporting of prices thereof, as amended from time to time;

“Council Regulation” means Council Regulation (EC) No. 1234/2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) as amended from time to time;

“European beef provision” means a provision which is specified in column 1 of Schedule 1, the subject matter of which is described in column 2 of that Schedule;

“European pig provision” means a provision which is specified in column 1 of Schedule 2, the subject matter of which is described in column 2 of that Schedule;

“operator” means a person carrying on the business of an approved slaughterhouse;

“pig carcase” means the body of a slaughtered clean pig, bled and eviscerated, whole or divided down the mid-line; and

“prescribed communication” means a communication of the results of classification as required by Article 7(1) of the Commission Regulation.

(2) Other terms used in these Regulations that are also used in the Commission Regulation or the Council Regulation have the meaning they bear in those Regulations.

Notices

3.—(1) Any notice required or authorised under these Regulations to be given to any person must be in writing.

(2) Any such notice may be given by—

- (a) delivering it to the person;
- (b) by leaving it at the person’s proper address; or
- (c) sending it by post to the person at the person’s proper address.

(3) Where any such notice is to be given to a body corporate, it may be given to a relevant individual.

(4) For the purposes of this regulation and section 7 of the Interpretation Act 1978^(b) (references to service by post) in its application to this regulation, the proper address of any person to whom a notice is to be given is the person’s last known address, except in the case of a body

(a) O.J. No. L 139, 30.4.2004, p.206. The revised text of the Regulation is contained in a corrigendum (O.J. No. L 226, 25.6.2004, p.83); relevant amendments were made by Commission Regulation (EC) No. 2074/2005 (O.J. No. L 338, 22.12.2005, p.27), Commission Regulation (EC) No. 2076/2005 (O.J. No. L 338, 22.12.2005, p.83), Council Regulation (EC) No. 1791/2006 (O.J. No. L 363, 20.12.2006, p.1) and Commission Regulation (EC) No. 1021/2008 (O.J. No. L 277, 18.10.2008, p.15).

(b) 1978 c.30.

corporate or relevant individual, where the proper address is the address of the registered or principal office of the body, or in the case of the Scottish Ministers where the proper address is such address as they may specify for these purposes.

- (5) In paragraphs (3) and (4) “relevant individual” means—
- (a) in relation to a body corporate—
 - (i) a director, manager, secretary, or other similar officer of the body;
 - (ii) where the affairs of the body are managed by its members, the members;
 - (b) in relation to a Scottish partnership, a partner;
 - (c) in relation to an unincorporated association other than a Scottish partnership, a person who is concerned in the management or control of the association.

PART 2

NOTIFICATIONS BY OPERATORS

Notifications by operators

4.—(1) Every person who on the date on which these Regulations come into force is, or who on a subsequent date becomes, an operator, must within 28 days of that date give notice to the Scottish Ministers of the particulars specified in paragraph (3).

- (2) A person who has given notice under—
- (a) regulation 4(1) or (2) of the 1994 Regulations; or
 - (b) regulation 4(1) of the 2004 Regulations,

is deemed to have given notice under paragraph (1).

- (3) The particulars referred to in paragraph (1) are—
- (a) the full name and address of the operator;
 - (b) where the operator is a partnership, the full names and addresses of all the partners;
 - (c) where the operator is a body corporate, the full name, registered office address and registration number of the body; and
 - (d) the address, telephone number and approval number of the slaughterhouse.

(4) Where any change occurs in any of the particulars specified in paragraph (3), the operator must within 28 days of the change give notice to the Scottish Ministers of particulars of the change.

(5) Where an operator (“O”) ceases to be the operator of an approved slaughterhouse, O must within 10 days of such cessation give notice to the Scottish Ministers of—

- (a) the date of such cessation; and
- (b) the person (if any) succeeding O as operator of that slaughterhouse.

(6) Where an approved slaughterhouse ceases to be such a slaughterhouse its operator must within 10 days of such cessation give notice to the Scottish Ministers of the date of such cessation.

PART 3

BOVINE CARCASSES

Application of these Regulations to small-scale bovine operators

5.—(1) These Regulations do not apply to a small-scale bovine operator if that operator does not classify bovine carcasses.

(2) But if a small-scale bovine operator chooses to classify bovine carcasses, these Regulations apply in relation to that operator and the classification of those carcasses.

(3) In paragraphs (1) and (2), “classify” means classify in accordance with the European beef provisions or otherwise than in accordance with those provisions, and “classification” is to be construed accordingly.

(4) In this regulation, “small-scale bovine operator” means an operator of an approved slaughterhouse at which not more than 75 adult bovine animals per week as an annual average are slaughtered.

(5) Nothing in this regulation prevents the application of these Regulations to an operator in relation to pig carcasses if pigs are also slaughtered in that operator’s slaughterhouse.

Competent authority etc.: bovine carcasses

6.—(1) The Scottish Ministers are the competent authority for the purposes of—

- (a) Article 9 of the Commission Regulation (authorisation of automated grading techniques);
- (b) Article 10(2)(b) of the Commission Regulation (classification by automated grading techniques); and
- (c) Article 16 of the Commission Regulation (reporting of weekly prices to the competent authority and calculation of weekly prices).

(2) The Scottish Ministers are responsible for on-the-spot checks as described in Article 11 of the Commission Regulation.

Labelling instead of marking

7. Subject to—

- (a) the final paragraph of Article 6(4) of the Commission Regulation;
- (b) Article 4(3)(c) of Commission Regulation (EC) No. 1669/2006 laying down detailed rules for the application of Council Regulation (EC) No. 1254/1999 as regards the buying-in of beef^(a); and
- (c) point I(a) of Annex I to Commission Regulation (EC) No. 826/2008 laying down common rules for the granting of private storage aid for certain agricultural products^(b),

an operator may, instead of marking a bovine carcass in accordance with Article 6(3) of the Commission Regulation, label it in accordance with Article 6(4) of that Regulation.

Licence to carry out classification

8.—(1) The Scottish Ministers must grant a licence to carry out classification of bovine carcasses to any person who applies for such a licence and who appears to the Scottish Ministers to be qualified to carry out classification, but the Scottish Ministers may refuse to grant such a licence if the Scottish Ministers are satisfied that the applicant is not a fit and proper person to carry out the classification of bovine carcasses.

(2) Where the Scottish Ministers grant a licence under paragraph (1), the Scottish Ministers may impose such conditions as they consider appropriate.

(3) The Scottish Ministers may—

- (a) vary a licence or any condition of a licence;
- (b) revoke a licence in the circumstances mentioned in Article 12(2) of the Commission Regulation (incorrect classifications or identifications);

(a) O.J. No. L 312, 11.11.2006, p.6, to which there are amendments not relevant to these Regulations.

(b) O.J. No. L 223, 21.8.2008, p.3, to which there are amendments not relevant to these Regulations.

- (c) suspend or revoke a licence if the person has contravened any of the terms or conditions of that licence; or
- (d) suspend or revoke a licence if the Scottish Ministers are satisfied that the person holding that licence is no longer a fit and proper person to carry out the classification.

(4) Where the Scottish Ministers take any decision in relation to a licence under this regulation in respect of which there is a right to apply for a review under regulation 10, the Scottish Ministers must inform the person concerned of—

- (a) the right to apply for a review; and
- (b) the manner in which, and the time limits within which, such an application may be made.

Licence for automated grading

9.—(1) The Scottish Ministers may grant to the operator of an approved slaughterhouse a licence authorising the use of automated grading equipment for classification of bovine carcasses at that slaughterhouse.

(2) Where the Scottish Ministers grant a licence under paragraph (1), the Scottish Ministers may impose such conditions as they consider appropriate.

(3) The Scottish Ministers may—

- (a) vary a licence or any condition of a licence;
- (b) revoke a licence in the circumstances mentioned in Article 12(2) of the Commission Regulation (incorrect classifications or identifications);
- (c) suspend or revoke a licence if the person has contravened any of the terms or conditions of that licence; or
- (d) suspend or revoke a licence if the Scottish Ministers consider that the automated grading equipment no longer meets the standards required by Article 9 of, and Annex II to, the Commission Regulation, whether for reasons connected with the equipment itself or with the operator's manner of use of the equipment.

(4) Where the Scottish Ministers take any decision in relation to a licence under this regulation in respect of which there is a right to apply for a review under regulation 10, the Scottish Ministers must inform the person concerned of—

- (a) the right of appeal; and
- (b) the manner in which, and the time limits within which, such an application may be made.

Review of a decision by the Scottish Ministers

10.—(1) A licence holder or applicant may apply in writing to the Scottish Ministers for a review of a decision.

(2) An application for review—

- (a) must be made within 21 days after the date that notice of a decision is received by the licence holder or applicant; and
- (b) may include any written explanation that the licence holder or applicant considers appropriate.

(3) A decision which is the subject of an application for review shall, unless the Scottish Ministers direct otherwise in writing, have effect until the date of determination of that application.

(4) The application for review shall be determined by the Scottish Ministers in accordance with paragraphs (5) to (10).

(5) The Scottish Ministers shall appoint a person to carry out the functions in paragraph (8) (“the appointed person”).

- (6) The Scottish Ministers shall inform the licence holder or applicant in writing—
- (a) of the name and address of the appointed person;
 - (b) of the role of that person; and
 - (c) that the licence holder or applicant may give a written explanation (or further explanation) to that person.
- (7) Any written explanation referred to in paragraph (6) shall be given to the appointed person within 14 days after the date of intimation to the licence holder or applicant under that paragraph.
- (8) The appointed person shall—
- (a) examine the merits of the decision;
 - (b) consider any written explanation given by the licence holder or applicant;
 - (c) report to the Scottish Ministers following that examination; and
 - (d) include in that report such recommendation (if any) for determination of the application as the appointed person shall think fit.
- (9) The Scottish Ministers shall consider the report of, and any recommendation by, the appointed person and make a determination.
- (10) The Scottish Ministers shall inform the licence holder or applicant in writing of the result of the determination of the review.
- (11) In this regulation “decision” means—
- (a) a decision by the Scottish Ministers to refuse an application for a licence under regulation 8 or 9;
 - (b) a decision by the Scottish Ministers to impose a term or condition in a licence granted under regulation 8 or 9; and
 - (c) a decision by the Scottish Ministers to revoke, suspend or vary a licence granted under regulation 8 or 9.

Appeals

- 11.**—(1) An applicant or licence holder may appeal to the sheriff against a determination of a review by the Scottish Ministers under regulation 10.
- (2) The Scottish Ministers may be a party to an appeal under this regulation.
- (3) An appeal under this regulation shall be made by way of summary application and shall be lodged with the sheriff clerk within the period of 28 days from the day on which the determination was made.
- (4) On good cause being shown, the sheriff may hear an appeal under this regulation notwithstanding that it was not lodged within the time mentioned in paragraph (3) above.
- (5) For the purposes of an appeal under this regulation, the sheriff may require the Scottish Ministers to give reasons for that decision, and the Scottish Ministers shall comply with such a requirement.
- (6) The sheriff may uphold an appeal under this regulation only if the sheriff considers that the Scottish Ministers, in arriving at their determination—
- (a) erred in law;
 - (b) based their determination on any incorrect material fact;
 - (c) acted contrary to natural justice; or
 - (d) exercised their discretion in an unreasonable manner.
- (7) In considering an appeal under this regulation, the sheriff may hear evidence by or on behalf of any party to the appeal.

- (8) On upholding an appeal under this regulation, the sheriff may—
- (a) remit the case with the reasons for such decision to the Scottish Ministers for reconsideration of their determination; or
 - (b) reverse or modify their determination.
- (9) On remitting a case under paragraph (8)(a) above, the sheriff may—
- (a) specify a date by which the reconsideration by the Scottish Ministers must take place;
 - (b) modify any procedural steps which otherwise would be required in relation to the matter by or under any enactment (including these Regulations).
- (10) The sheriff may include in the decision on an appeal under this regulation such order as to the expenses of the appeal as the sheriff thinks proper.
- (11) The decision of the sheriff is final.

Records: bovine carcasses

12.—(1) An operator of an approved slaughterhouse must keep a record of the particulars specified in Schedule 3 relating to each bovine carcass which is classified in that slaughterhouse.

(2) The operator must retain each record for a period of 2 years from the end of the calendar year to which the record relates.

PART 4

PIG CARCASSES

Exemption for small-scale pig operators

13.—(1) These Regulations do not apply to an operator of an approved slaughterhouse at which not more than 200 clean pigs per week as an annual average are slaughtered.

(2) Nothing in paragraph (1) prevents the application of these Regulations in relation to bovine carcasses if adult bovine animals are also slaughtered in that operator's slaughterhouse.

Competent authority etc.: pig carcasses

14.—(1) The Scottish Ministers are the competent authority for the purposes of Article 22(2) of the Commission Regulation (carcass weight).

(2) The Scottish Ministers are responsible for on-the-spot checks as described in Article 24 of the Commission Regulation.

Records instead of marking

15. Except where a pig carcass is to be marketed uncut in another member State, an operator may, instead of marking a pig carcass in accordance with Article 21(3) of the Commission Regulation—

- (a) identify a pig carcass; and
- (b) complete a record in relation to that carcass,

as provided for by Article 21(4) of that Regulation.

Records: pig carcasses

16.—(1) An operator of an approved slaughterhouse must keep a record of the particulars specified in Schedule 4 relating to each pig carcass which is classified in that slaughterhouse.

(2) The operator must retain each record for a period of 2 years from the end of the calendar year to which the record relates.

PART 5

ENFORCEMENT, OFFENCES AND SUPPLEMENTAL PROVISIONS

Powers of entry

17.—(1) An authorised officer may at any reasonable hour and on producing, if so required, a duly authenticated authorisation, enter an approved slaughterhouse and any associated premises in which carcasses may be handled or records relating to those carcasses may be kept, for the purpose of ascertaining whether—

- (a) any offence under these Regulations is being or has been committed on the premises; or
- (b) there is on the premises any evidence of any such offence.

(2) The officer may be accompanied by such other persons as the officer considers necessary, including any representative of the European Commission.

(3) If a justice of the peace or sheriff, by evidence on oath, is satisfied that there is reasonable ground for entry into premises for any purpose in paragraph (1) 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 operator; 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 operator temporarily absent,

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

(4) A warrant granted under this regulation remains in force for three months.

(5) An officer who enters any unoccupied premises, or premises in which the operator is temporarily absent, must leave them as effectively secured against unauthorised entry as they were before entry.

Powers of authorised officers

18. An authorised officer entering premises under these Regulations may—

- (a) inspect any bovine carcass or pig carcass or part of such a carcass, or any carcass or part of a carcass which the officer reasonably suspects to be a bovine carcass or pig carcass or part of such a carcass, on those premises;
- (b) examine any record which an operator is required to keep under regulation 12 or 16 or under the Commission Regulation, and where any such record is kept by means of a computer, have access to and inspect and check the operation of any computer and associated apparatus or material which is or has been in use in connection with that record;
- (c) require that copies of or extracts from any such record be produced and, where such record is kept by means of a computer, require it to be produced in a form in which it may be taken away; and
- (d) retain any such record which the officer has reason to believe may be required as evidence in proceedings under these Regulations.

Offences: European beef provisions

19.—(1) Subject to regulation 7 (labelling instead of marking), any person who—

- (a) fails to comply with any requirement under a European beef provision; or

(b) contravenes any prohibition contained in a European beef provision,
is guilty of an offence.

(2) But a person falling within paragraph (3) does not commit an offence if that person—

- (a) fails to comply with any requirement under a Part 2 European beef provision; or
- (b) contravenes any prohibition contained in a Part 2 European beef provision.

(3) A person falls within this paragraph if the person is—

- (a) an operator of an approved slaughterhouse which itself bones all the bovine carcasses which it obtains; or
- (b) responsible for the classification of bovine carcasses in such a slaughterhouse.

(4) In this regulation, “Part 2 European beef provision” means a provision of the Commission Regulation which is specified in column 1 of Part 2 of Schedule 1.

Offences: European pig provisions

20. Subject to regulation 15 (records instead of marking), any person who—

- (a) fails to comply with any requirement under a European pig provision; or
- (b) contravenes any prohibition contained in a European pig provision,

is guilty of an offence.

Offences: notifications by operators

21. Any person who fails to comply with any requirement of regulation 4 (notifications by operators) is guilty of an offence.

Offences: licences (bovine carcasses)

22.—(1) If classification of a bovine carcass is carried out at an approved slaughterhouse—

- (a) without a licence granted under regulation 8; or
- (b) in breach of any term or condition of such a licence,

the person who carries out the classification and the operator of that slaughterhouse are each guilty of an offence.

(2) If classification of a bovine carcass is carried out at an approved slaughterhouse by means of automated grading equipment—

- (a) without a licence granted under regulation 9 for the use of that equipment at that slaughterhouse; or
- (b) in breach of any term or condition of such a licence,

the person who carries out the classification and the operator of that slaughterhouse are each guilty of an offence.

(3) Any person who makes an alteration to a licence granted under regulation 8 or 9 with the intent to deceive is guilty of an offence.

Offences: records and marks

23.—(1) Any person who fails to comply with any requirement of regulation 12 (records: bovine carcasses) or regulation 16 (records: pig carcasses) is guilty of an offence.

(2) Any person who—

- (a) applies to a bovine carcass or part of such a carcass a mark—
 - (i) prescribed by Article 6(3) of the Commission Regulation; or

- (ii) closely resembling a mark prescribed by that provision, which is likely to mislead;
 - (b) applies to a pig carcass or part of such a carcass a mark—
 - (i) prescribed by Article 21(3) of the Commission Regulation; or
 - (ii) closely resembling a mark prescribed by that provision, which is likely to mislead;
 - (c) applies to a label relating to a bovine carcass or part of such a carcass an indication—
 - (i) prescribed by Article 6(4) of the Commission Regulation; or
 - (ii) closely resembling an indication prescribed by that provision, which is likely to mislead; or
 - (d) applies to a pig carcass or part of such a carcass a label prescribed by the last subparagraph of Article 21(3) of the Commission Regulation which is likely to mislead,
- is guilty of an offence.

Offences: obstruction etc.

24. Any person who—

- (a) without reasonable excuse, intentionally obstructs any person acting under these Regulations;
- (b) without reasonable excuse, fails to give any person acting under these Regulations any assistance or information that that person may reasonably require for the purpose of carrying out functions under these Regulations;
- (c) gives any person acting under these Regulations any information knowing it to be false or misleading; or
- (d) fails to produce any document or record when required to do so by any person acting under these Regulations;

is guilty of an offence.

Period for bringing prosecution

25.—(1) Proceedings for an offence under regulation 19, 20, 21, 22, 23(1) or 24 may be brought within a period of 6 months from the date on which the procurator fiscal first knows of evidence sufficient, in the procurator fiscal's opinion, to justify proceedings.

(2) But no such proceedings may be brought more than 12 months from the commission of the offence.

(3) For the purposes of paragraph (1)—

- (a) a certificate signed by or on behalf of the procurator fiscal and stating the date on which the procurator fiscal first knew of evidence sufficient to justify the proceedings is conclusive evidence of that fact; and
- (b) a certificate stating that matter and purporting to be so signed is deemed to be so signed unless the contrary is proved.

Offences by bodies corporate

26.—(1) Where—

- (a) an offence under these Regulations has been committed by a body corporate or a Scottish partnership or other unincorporated association;

- (b) it is proved that the offence was committed with the consent or connivance of, or was attributable to any neglect on the part of—
 - (i) a relevant individual; or
 - (ii) an individual purporting to act in the capacity of a relevant individual,

the individual as well as the body corporate, Scottish partnership or unincorporated association is guilty of the offence and is liable to be proceeded against and punished accordingly.

(2) In paragraph (1), “relevant individual” means—

- (a) in relation to a body corporate—
 - (i) a director, manager, secretary or other similar officer of the body;
 - (ii) where the affairs of the body are managed by its members, the members;
- (b) in relation to a Scottish partnership, a partner;
- (c) in relation to an unincorporated association other than a Scottish partnership, a person who is concerned in the management or control of the association.

Defence of due diligence

27. It is a defence for a person charged with an offence under these Regulations (“P”) to prove that P took all reasonable precautions and exercised all due diligence to avoid the commission of the offence by P or by a person under P’s control.

Offences: punishment

28.—(1) A person guilty of an offence under—

- (a) regulation 19 (European beef provisions);
- (b) regulation 20 (European pig provisions);
- (c) regulation 21 (notifications by operators);
- (d) regulation 22 (licences);
- (e) regulation 23(1) (records); or
- (f) regulation 24 (obstruction),

is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(2) A person guilty of an offence under regulation 23(2) (misleading marks) is liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum; or
- (b) on conviction on indictment, to a fine.

Revocations

29. The instruments specified in Schedule 5 are revoked.

Transitional provisions

30.—(1) The revocation of the 2004 Regulations shall not affect the validity of any operator’s licence issued under regulation 6 of the 2004 Regulations and the licence shall be treated for the purposes of these Regulations as if it were a licence granted under regulation 8 of these Regulations.

(2) The revocation of the 2004 Regulations shall not affect the validity of any operator's licence issued under regulation 7 of the 2004 Regulations and the licence shall be treated for the purposes of these Regulations as if it were a licence granted under regulation 9 of these Regulations.

St Andrew's House,
Edinburgh
14th September 2010

RICHARD LOCHHEAD
A member of the Scottish Executive

SCHEDULE 1

Regulations 2(1) and 19(4)

European provisions: bovine carcasses

PART 1

<i>(1) Regulations containing European provision</i>	<i>(2) Subject matter</i>
Council Regulation:	
Annex V, point A(II), and Articles 2(3) and (4) and 6(6) of the Commission Regulation	Requirement to indicate the category of carcass as specified in these provisions
Annex V, point A(III), and Article 3 of, and Annex I to, the Commission Regulation	Requirement to indicate, in relation to a carcass, the class of conformation and fat cover, as specified in these provisions
Annex V, point A(IV)	Requirement to present carcasses in the specified manner
Annex V, point A(V), first sub-paragraph	Requirement for approved slaughterhouses to classify carcasses in accordance with the Community scale
Commission Regulation:	
Article 6(1)	Requirement as to the place of classification and identification
Article 6(2)	Requirements as to the time of classification, identification and weighing
Article 7(1) and (2) and the first sub-paragraph of Article 7(3)	Requirements as to the prescribed communication
Article 9(4)	Prohibition on modifications of the technical specifications of licensed automatic grading techniques without approval of the Scottish Ministers
Article 10	Requirements as to classification by automated grading techniques
Article 13(2) and (5) and Annex III	Requirements concerning weighing of the carcass and adjustments to the weight
Article 13(3)	Requirement to present carcass in specified manner, for the purpose of establishing market prices
Article 15	Requirements as to recording of prices

(1) Regulations containing European provision (2) Subject matter

Article 16(1), (2) and (3)

Requirements as to reporting of prices

PART 2

(1) Regulation containing European provision (2) Subject matter

Commission Regulation:

Article 6(3)

Requirements as to marking of carcasses to indicate the category and class of conformation and fat cover

Article 6(4)

Requirements in relation to labelling of a carcase

Article 6(5)

Prohibition on removal of marks and labels before boning

SCHEDULE 2

Regulation 2(1)

European provisions: pig carcasses

<i>(1) Regulations containing European provision</i>	<i>(2) Subject matter</i>
Council Regulation:	
Annex V, point B(II)	Requirement to classify carcasses into one of the specified classes
Annex V, point B(III), as modified by Articles 3 and 4 of Commission Decision 2004/370/EC authorising methods for grading pig carcasses in the United Kingdom ^(a)	Requirement to present carcasses in a manner specified in these provisions
Annex V, point B(IV), sub-paragraph 1, and Article 1 of, and Annex I to, Commission Decision 2004/370/EC	Requirement to grade carcasses by methods authorised by the Commission
Commission Regulation:	
Article 21(1)	Requirement as to timing of classification of carcasses
Article 21(3)	Requirements as to marking or labelling of carcasses
Article 21(4)	Requirements as to identifying a carcass and keeping a record in respect of it
Article 21(5)	Prohibition on removing fat, muscle or other tissue before weighing, grading and marking
Article 22(1) and (2)	Requirements as to weighing of carcass and weight adjustments
Article 23(1) and (2) and Annex IV	Requirements concerning assessment of lean-meat content of carcasses

^(a) O.J. No. L 116, 22.4.2004, p.32 to which there are amendments not relevant to these Regulations.

SCHEDULE 3

Regulation 12(1)

Records: bovine carcasses

1. The results of the classification.
2. The approval number of the slaughterhouse.
3. The kill or slaughter number of the animal from which the carcass was obtained, as allocated by the operator.
4. The date of slaughter.
5. The weight of the carcass.
6. The dressing specification used.
7. A record that the prescribed communication has been effected.
8. The name, signature and classification licence serial number of the person who carried out the classification.

SCHEDULE 4

Regulation 16(1)

Records: pig carcasses

1. The results of the classification.
2. The approval number of the slaughterhouse.
3. The kill or slaughter number of the animal from which the carcass was obtained, as allocated by the operator.
4. The date of slaughter.
5. The warm weight of the carcass, together with a note of—
 - (a) any adjustment made for the cold carcass weight, and
 - (b) any coefficient applied.
6. The lean meat percentage of the carcass.
7. An indication as to whether the tongue, flare fat, kidneys and diaphragm were attached or removed.
8. The name and signature of the person who carried out the classification.

SCHEDULE 5

Regulation 29

Revocations

<i>Instruments revoked</i>	<i>References</i>
The Pig Carcase (Grading) Regulations 1994	S.I. 1994/2155
The Pig Carcase (Grading) Amendment (Scotland) Regulations 2004	S.S.I. 2004/279
The Beef Carcase (Classification) (Scotland) Regulations 2004	S.S.I. 2004/280
The Beef Carcase (Classification) (Scotland) Amendment Regulations 2006	S.S.I. 2006/118
The Pig Carcase (Grading) (Amendment) (Scotland) Regulations 2006	S.S.I. 2006/451

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which apply in Scotland only, revoke and remake with amendments the provisions of the Pig Carcase (Grading) Regulations 1994 and the Beef Carcase (Classification) (Scotland) Regulations 2004 and their amending instruments. The Regulations enforce Article 42 of, and Annex V to, Council Regulation (EC) No. 1234/2007 (O.J. No. L 299, 16.11.2007, p.1), which relate to Community scales for the classification of carcasses, and Commission Regulation (EC) No. 1249/2008 (O.J. No. L 337, 16.12.2008, p.3), which sets out further details regarding the implementation of those scales for the classification of carcasses. The Regulations relate to the carcasses of bovine animals and pigs.

The Regulations provide for notifications to be made to the Scottish Ministers by operators of slaughterhouses which slaughter bovine animals or pigs (regulation 4).

They contain provisions regarding the holding of licences by persons who classify bovine carcasses or in relation to classification of such carcasses by automated grading equipment (regulations 8 to 11).

They require the keeping of certain records (regulations 12 and 16 and Schedules 3 and 4).

Part 5 of the Regulations concerns enforcement, and makes provision relating to the powers of authorised officers. In particular regulations 19 and 20 provide that breach of specified provisions of European Union legislation (set out in Schedules 1 and 2) is an offence. All offences are punishable on summary conviction with a fine not exceeding level 5 on the standard scale, except offences under regulation 23(2) (misleading marks).

Reference to the Council Regulation and the Commission Regulation are to be read as references to the text of these instruments as amended from time to time. “As amended” versions of the European instruments can be found on the Eur-Lex website (<http://eur-lex.europa.eu/en/index.htm>).

A Business Regulatory Impact Assessment (BRIA) was prepared in respect of these Regulations. Copies of the BRIA can be obtained from the Scottish Government Rural and Environmental Directorate, B1 Spur, Saughton House, Broomhouse Drive, Edinburgh, EH11 3XD. Copies have been placed in the Scottish Parliament Information Centre.

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