
SCOTTISH STATUTORY INSTRUMENTS

2000 No. 171

The Meat (Enhanced Enforcement Powers) (Scotland) Regulations 2000

Amendments to the Minced Meat and Meat Preparations (Hygiene) Regulations 1995

5.—(1) The Minced Meat and Meat Preparations (Hygiene) Regulations 1995(1) shall be amended in accordance with the following paragraphs of this regulation.

(2) In paragraph (1) of regulation 2 (interpretation) the following definitions shall be inserted in the appropriate alphabetical positions—

““associate”, in relation to a person entitled to exercise or control the exercise of voting power in relation to a body corporate or holding shares in a body corporate, means—

- (a) if that first-mentioned person is a natural person—
 - (i) his husband, wife, son or daughter,
 - (ii) any body corporate of which he is a director, or
 - (iii) any person who is his employee or partner;
- (b) if that first-mentioned person is a body corporate—
 - (i) any of its directors,
 - (ii) any body corporate which is a subsidiary of it,
 - (iii) any employee or director of any such subsidiary,
 - (iv) (if it is itself a subsidiary) any other subsidiary of the holding company they have in common, or
 - (v) any employee or director of any such subsidiary; and
- (c) (whether that first-mentioned person is a natural person or a body corporate) if that person has with any other person an agreement or arrangement—
 - (i) with respect to the acquisition, holding or disposal of shares or other interests in the body corporate first-mentioned in this definition, or
 - (ii) under which both the parties to the agreement or arrangement undertake to act in exercising their voting power in relation to the said body corporate, that other person;”;

““body corporate” includes a Scottish partnership, and, in relation to such a partnership, a reference to a director or other officer of a body corporate is a reference to a partner;”;

““controller”, in relation to any occupier of any approved premises which is a body corporate, means a person—

- (a) in accordance with whose directions or instructions any of the directors of that body corporate or of any other body corporate which is its controller are accustomed to act; or

- (b) who, either alone or with any associate, is entitled to exercise, or control the exercise of, at least one-third of the voting power at any general meeting of that body corporate or of any other body corporate which is its controller;”;

““director” means—

- (a) in relation to a body corporate whose affairs are managed by a board of directors or similar body, a member of that board or body;
- (b) in relation to a body corporate whose affairs are managed by a single director or similar person, that director or person; or
- (c) in relation to a body corporate whose affairs are managed by the members themselves, a member of the body corporate;”;

““manager” means a person who exercises managerial functions in relation to approved premises;” and

““subsidiary” and “holding company” mean respectively a “subsidiary” and a “holding company” within the meaning of section 736(1) of the Companies Act 1985;”.

(3) In paragraph (a) of the definition of “combined premises” in paragraph (1) of regulation 2 there shall be inserted before “any” where it appears second the phrase “or fall within the same curtilage as”.

(4) In regulation 3 (exemptions) the phrase “Subject to regulation 3A,” shall be inserted at the beginning.

(5) The following regulation is inserted into Part I immediately after regulation 3—

“Obligations on persons engaged in otherwise exempt activities

3A.—(1) No person engaged in any activity specified in regulation 3 shall—

- (a) sell, offer for sale or expose for sale; or
- (b) possess for the purpose of or preparation for sale,

any minced meat or meat preparations unless—

- (i) each operation in relation to the meat used as the raw material for that minced meat and those meat preparations required to have been carried out in compliance with the Hygiene Regulations or as the case may be the Products of Animal Origin (Import and Export) Regulations 1996⁽²⁾ has been so carried out; and
- (ii) each operation in relation to that minced meat and those meat preparations required to have been carried out in compliance with these Regulations has been so carried out.

(2) Notwithstanding regulation 3, regulations 2, 10, 12, 13 and 14 shall apply in relation to the prohibitions imposed by paragraph (1) above.”.

(6) The following paragraph shall be inserted between paragraphs (4) and (5) of regulation 4 (approval of premises)—

“(4A) Each application for approval under this regulation shall include the name and principal business address of each person who is a director, manager or controller of the applicant.”.

(7) The following regulation shall be inserted between regulation 4 and regulation 5 (revocation of approvals)—

(2) S.I. 1996/3124, amended by S.I. 1997/3023 and S.I. 1999/683.

“Change of directors, managers and controllers of occupiers of approved premises and change of occupier of such premises

4A.—(1) The occupier of approved premises shall notify the approval authority of any change in the identity or principal business address of his directors, managers or controller as soon as is reasonably practicable after that change occurs, and in any event within one month of that change.

(2) No occupier of approved premises shall transfer possession of or allow another person to occupy those premises for the purposes of carrying on any activity permitted by the licence unless he notifies the approval authority of that person’s name and principal business address at least 21 days before the transfer or occupation concerned.

(3) Any person who intends to occupy approved premises (whether alone or jointly) for the purposes of carrying on any business for which those premises are approved shall notify the approval authority at least 21 days before he occupies them of his intention to do so, and of his name and principal business address.

(4) Where the occupier (being a natural person) dies, paragraph (3) above shall not apply to occupation of those premises by the deceased’s personal representatives or by any member of his family, but the successor shall notify the approval authority of his name and principal business address within one month of the death.

(5) Any notification pursuant to paragraph (2), (3) or (4) above shall record the identity and principal business address of each director, manager and controller of the new occupier.”.

(8) In paragraph (1) of regulation 5, the phrase “to paragraph (3) below and” shall be omitted.

(9) Paragraph (3) of regulation 5 shall be omitted.

(10) The following sub-paragraph shall be inserted between sub-paragraphs (a) and (b) of regulation 5(1)—

“(aA) any condition attached to the approval has not been complied with;”.

(11) The following regulation shall be inserted between regulation 5 and regulation 6 (right of appeal)—

“Suspension of approvals

5A.—(1) The approval authority may suspend an approval granted in respect of any premises where—

(a) it appears to it that—

- (i) any requirement of these Regulations in relation to the premises or any condition attached to the approval is being breached, or
- (ii) adequate health inspection in accordance with these Regulations is being hampered there; or

(b) a notice has been served in respect of those premises pursuant to regulation 12A(1), and—

- (i) the approval authority is not satisfied that the action specified in the notice has been taken within the time specified in it, and
- (ii) as a result of the failure to take the action specified in the notice, any requirement of these Regulations is still being breached, or adequate health inspection is still being hampered, there.

(2) Where the approval authority intends to suspend an approval pursuant to paragraph (1) above, it shall give notice in writing to the occupier of the premises concerned, informing him of—

- (a) its decision to suspend the approval;
- (b) the date on which it intends the suspension to take effect (which may be the date on which the notice is issued);
- (c) the matters which must be remedied in order for the suspension to be lifted; and
- (d) the occupier's right to appeal under regulation 6, and of the time within which any such appeal must be made.

(3) When an approval is suspended pursuant to paragraph (1) above, the premises in respect of which that approval was granted shall be treated for the purposes of these Regulations as if they were not approved premises.

(4) The approval authority shall lift the suspension of any approval where it is satisfied that the matters specified in the notice referred to in paragraph (2) above have been remedied or where the sheriff has determined under regulation 6(3) that the approval should not have been suspended, and may lift the suspension of any approval in any other case.

(5) Where the approval authority lifts a suspension pursuant to paragraph (4) above, it shall do so by notice specifying the date on which it is lifted.”.

(12) For paragraph (1) of regulation 6 there shall be substituted the following:—

“(1) Any person who is aggrieved by—

- (a) the refusal of an approval authority to approve any premises;
- (b) the decision by an approval authority to grant an approval subject to conditions or to attach conditions to an existing approval;
- (c) the decision by an approval authority to suspend an approval; or
- (d) the decision by an approval authority to revoke an approval,

may appeal to the sheriff.”

(13) For paragraph (3) of regulation 6 there shall be substituted the following paragraphs—

“(3) Where on an appeal under paragraph (1) above the sheriff determines that—

- (a) the grant of an approval should not have been refused;
- (b) conditions have unreasonably been attached to an approval;
- (c) an approval should not have been suspended; or
- (d) an approval should not have been revoked,

the approval authority shall give effect to the determination of the sheriff.”.

(4) Where the approval authority has revoked the approval of any premises under regulation 5, a person who, immediately before such revocation, had been using those premises may continue to use them, subject to any reasonable conditions imposed by the approval authority for the protection of public health, unless—

- (a) the time for appealing against the approval authority's decision pursuant to paragraph (1) above has expired without an appeal having been lodged; and
- (b) (where an appeal under that paragraph has been lodged) the appeal has been finally disposed of or abandoned.

(5) Nothing in paragraph (4) above shall permit premises to be used if—

- (a) a prohibition order, emergency prohibition notice, emergency prohibition order or emergency control order has been imposed on the premises pursuant to section 11, 12 or 13 of the Act; or
- (b) the approval authority has suspended the approval of the premises pursuant to regulation 5A.”.

(14) The following regulation shall be inserted into Part II, after regulation 6—

“Provision of information by current occupiers of approved premises

6A. Every person who is the occupier of approved premises on the date of coming into force of the Meat (Enhanced Enforcement Powers) (Scotland) Regulations 2000 shall notify the approval authority of—

- (a) his identity and principal business address;
- (b) the identity and principal business address of each of his directors, managers and controllers; and
- (c) the address of those approved premises (where different from the address required to be notified under sub-paragraph (a) above),

within 3 months of the said date of coming into force.”.

(15) The following paragraphs shall be inserted at the end of regulation 12 (supervision and enforcement)—

“(8) On an inspection of any minced meat or meat preparation in combined premises an authorised officer of the Agency may certify that the minced meat or meat preparation concerned has not been produced, stored or transported in accordance with these Regulations.

(9) On an inspection of any minced meat or meat preparation at any place other than combined premises an authorised officer of the food authority within whose area that place is situated may certify that the minced meat or meat preparation concerned has not been produced, stored or transported in accordance with these Regulations.

(10) Where any minced meat or meat preparation is certified as mentioned in paragraph (8) or (9) above it shall be treated for the purposes of section 9 of the Act as failing to comply with food safety requirements.”.

(16) The following regulation shall be inserted between regulation 12 and regulation 13 (offences and penalties)—

“Powers of authorised officers

12A.—(1) Where it appears to an authorised officer of the enforcement authority that in respect of any approved premises—

- (a) any of the requirements of these Regulations is being breached; or
- (b) adequate health inspection in accordance with these Regulations is being hampered,

he may, by notice in writing given to the occupier of the premises concerned—

- (i) prohibit the use of any equipment or any part of the premises specified in the notice,
- (ii) impose conditions upon or prohibit the carrying on of any process, or
- (iii) require the rate of operation to be reduced to such an extent as is specified in the notice, or be stopped completely.

(2) A notice given under paragraph (1) above shall be given as soon as practicable and shall state why it is given.

(3) If it is given under paragraph (1)(a) above, it shall specify the breach and the action needed to remedy it.

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(4) Such a notice shall be withdrawn by a further notice in writing given to the occupier of the premises as soon as the authorised officer in question is satisfied that the remedial action specified in it has been taken.

(5) The issue of a notice pursuant to paragraph (1) above in respect of approved premises shall be treated for the purposes of these Regulations as the imposition of conditions on the approval for those premises.”.