(2) SCOTLAND

The Food and Drugs (Whalemeat) (Scotland) Regulations, 1949

1949 No. 870 (S. 47)

Made - - - -	*4th May*, 1949
Laid before Parliament	*5th May*, 1949
Coming into Operation	*6th May*, 1949

The Secretary of State for Scotland in exercise of the powers conferred upon him by sections 8 and 92 of the Food and Drugs Act, 1938(a), as having effect by virtue of the provisions of section 102 thereof and of all other powers enabling him in that behalf hereby makes the following regulations:—

PART I

General

1.—(1) In these regulations unless the context otherwise requires:—

"authority" means an authority charged with the duty of enforcing and executing these regulations;

"authorised officer" means, as respects any authority, the medical officer of health, the sanitary inspector, or any other officer of the authority being a member of the Royal College of Veterinary Surgeons, authorised by the authority in writing either generally or specially to act in the enforcement and execution of these regulations;

"British Islands" means the United Kingdom, the Channel Islands and the Isle of Man;

"competent authority" means (*a*) a person appointed as such by the Minister of Food for the purpose of these regulations and (*b*) any authority having power under the laws in force in any country to examine articles of food and to certify as to their fitness for human consumption;

"county" means a county inclusive of any small burgh situate therein;

"district" in relation to an authority means the area for which the authority acts;

"export" means remove to a place not in the British Islands;

"importer" in relation to any whalemeat or whalemeat product includes any persons who, whether as owner, consignor, consignee, agent or broker, is in possession of or is in any way entitled to the custody or control of the whalemeat or whalemeat product; and "import" shall be construed accordingly;

"local authority" means (*a*) in the case of a large burgh, the town council; (*b*) in the case of counties combined for the purposes mentioned in subsection (1) of section 118 of the Local Government (Scotland) Act, 1947(b), the joint county council; and (*c*) in the case of any other county, the county council;

"magistrate" has the same meaning as in the Public Health (Scotland) Act, 1897(c);

(a) 1 & 2 Geo. 6. c. 56. (b) 10 & 11 Geo. 6. c. 43. (c) 60 & 61 Vict. c. 38.

" officer of Customs and Excise " includes any person acting under the authority of the Commissioners of H.M. Customs and Excise ;

" oversea " means brought from a place situate elsewhere than in the British Islands ;

" port health authority " has the same meaning as " port local authority " in section 172 of the Public Health (Scotland) Act, 1897 ;

" room " includes a shop or cellar or any other part of a building, and a shed, store or outbuilding or any part thereof ;

" stall " includes any stall, barrow or vehicle from which whalemeat or any whalemeat product is offered for sale in a street or other open space or in any market place ;

" uncertificated whalemeat or whalemeat product " means any whalemeat or whalemeat product imported into Scotland for human consumption without a veterinary certificate ;

" vehicle " includes a railway or other van or waggon and a ship or barge but does not include any separate compartment thereof in which whalemeat or any whalemeat product is not being conveyed ;

" veterinary certificate " means (*a*) a certificate given by a competent authority which relates to, or (*b*) a label, mark, stamp or other voucher which is affixed by a competent authority to, any oversea whalemeat or whalemeat product or to a package containing any such whalemeat or whalemeat product and which is for the time being recognised by the Secretary of State for Scotland as certifying—

(i) that the whalemeat to which it relates or the whalemeat from which the whalemeat product to which it relates was prepared, was derived from whales inspected post-mortem and passed as fit for human consumption in accordance with criteria satisfactory to the Secretary of State for Scotland ; and

(ii) that all necessary precautions for the prevention of danger to public health were taken in the preparation, classification, packing, marking, storing and transporting of the whalemeat or whalemeat product in accordance with conditions satisfactory to the Secretary of State for Scotland ;

" whalemeat " means the flesh or other part of a whale edible as human food ;

" whalemeat product " means any product used or prepared for human consumption which is prepared from whalemeat whether with or without another ingredient, but does not include whale oil, whale liver oil, whalemeat extract, vitamin concentrates or pharmaceutical products.

(2) The recognition of a veterinary certificate for the purpose of these regulations shall be effected by means of a notice published in the Edinburgh Gazette which shall specify the conditions (if any) subject to which the certificate is recognised by the Secretary of State for Scotland and any such notice may be varied or revoked by a subsequent notice published in the Edinburgh Gazette.

(3) The Interpretation Act, 1889(a), applies to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament.

2. Nothing in these regulations shall apply so as to interfere with the operation or effect of any other regulations for the time being in force and made under the Public Health (Regulations as to Food) Act, 1907(b), or the Food and Drugs (Adulteration) Act, 1928(c), or those Acts as amended by any subsequent enactment.

(a) 52 & 53 Vict. c. 63. (b) 7 Edw. 7. c. 32. (c) 18 & 19 Geo. 5. c. 31.

3. The local authority shall enforce and execute these regulations in their district: provided that a port health authority shall be the authority for enforcing and executing Parts II and VI of the regulations in their district.

PART II

Importation, Examination and Sampling

4. No person shall import into Scotland for sale for human consumption any whalemeat or whalemeat product without a veterinary certificate.

5.—(1) Where it appears to an officer of Customs and Excise to be desirable that any oversea food should be examined with a view to ascertaining whether it comprises any uncertificated whalemeat or whalemeat product, or for any other purpose of these regulations and such officer of Customs and Excise has informed the authority, an authorised officer shall forthwith examine such food and may procure samples thereof.

(2) If upon examination of any oversea food the authorised officer is of opinion that it comprises any uncertificated whalemeat or whalemeat product he shall by a notice in writing forbid its removal for any purpose other than its exportation ; and shall send a copy of such notice to the officer of Customs and Excise and to the authority.

6. Where in pursuance of regulation 5 hereof an authorised officer has given a notice forbidding the removal of any oversea food such food shall not be removed by any person contrary to the terms of the notice except with the express permission of the officer by whom the notice was given.

7.—(1) The authority, within twelve hours after the receipt of a copy of a notice, given in pursuance of regulation 5 of these regulations with respect to any oversea food, shall give to the importer notice in writing that, unless, within the time specified in the notice, not being less than twelve hours after the receipt thereof, he gives a written undertaking—

(*a*) to export the food at his own expense, or

(*b*) otherwise to dispose of it so as to satisfy an authorised officer that it will not be used for human consumption,

it shall be destroyed or disposed of under the supervision of an authorised officer by such means and in such a manner as to prevent its being used for human consumption.

(2) If within the time specified in the notice, the authority have not received such written undertaking or if within seven days after the receipt thereof the importer fails to comply therewith, the authority may cause the food to be destroyed or disposed of under the supervision of an authorised officer by such means and in such a manner as to prevent its being used for human consumption.

(3) Where a local authority are for any reason not satisfied that a written undertaking that the food will not be sold for human consumption will be complied with they may apply to a sheriff, magistrate or justice to deal with the food under regulation 9 of these regulations.

PART III

Judicial Proceedings, etc.

8. The provisions of sections 154, 155, and 158 of the Public Health (Scotland) Act, 1897, shall, subject to any necessary modifications, apply in relation to any application to a sheriff, magistrate or justice under these regulations as they apply in relation to applications to enforce any provision of the said Act, and a decision of such sheriff, magistrate or justice shall not be subject to review in any way whatever.

9.—(1) Where in pursuance of paragraph (3) of regulation 7 hereof an application is made to a sheriff, magistrate or justice in respect of any oversea food and the sheriff, magistrate or justice is satisfied that it comprises any uncertificated whalemeat or whalemeat product, he shall condemn that food and order it to be destroyed or disposed of under the supervision of an authorised officer by such means and in such a manner as to prevent its being used for human consumption.

(2) Where on such application the sheriff, magistrate or justice is satisfied that the oversea food does not comprise any uncertificated whalemeat or whalemeat product he shall order the rescission of the notice prohibiting the removal thereof.

(3) In every order made in pursuance of this regulation the sheriff, magistrate or justice shall set forth the description of and such other details as will suffice to identify the oversea food to which it relates, together with the name, description and address of the importer; and shall specify in every order made under paragraph (2) of this regulation the oversea food as respects which he is satisfied that it does not comprise any uncertificated whalemeat or whalemeat product; and he shall forthwith furnish the authority with a copy of the order.

10. Where, in pursuance of these regulations, any oversea food is destroyed or otherwise disposed of under the supervision of an authorised officer, the authority, before the destruction or other disposal of the same, shall cause the description of and such other details as will suffice to identify the food to be duly recorded and shall keep the record in their custody for a period of not less than twelve months.

PART IV

Stalls

11. A person selling whalemeat or exposing or offering whalemeat for sale from any stall—

(*a*) shall keep his name and address legibly painted or inscribed on such stall in some conspicuous position;

(*b*) shall cause such stall (if not placed in an enclosed and covered market place) to be suitably covered over and to be screened at the sides and back thereof in such a manner as to prevent mud, filth or other contaminating substance being splashed or blown from the ground upon any whalemeat on the stall;

(*c*) shall cause every counter, slab, vessel or other article on or in which any whalemeat is placed for sale and all knives and other implements used in connection with the whalemeat to be thoroughly cleansed after use and to be kept at all times in a clean condition;

(*d*) shall take all such steps as may be reasonably necessary to guard against the contamination of the whalemeat by flies;

(*e*) shall not place or cause to be placed any whalemeat on, or within eighteen inches of, the ground or floor unless the whalemeat is placed in a closed cupboard or other adequately protected place not less than nine inches from the ground or floor;

(*f*) shall cause all trimmings refuse and rubbish to be placed in properly covered receptacles kept for the purpose, apart from the whalemeat intended for sale.

PART V

Shops, Stores, etc.

12. The occupier of any room in which whalemeat is prepared for sale or offered or exposed for sale or deposited for the purpose of sale or of preparation for sale—

(*a*) shall take all such steps as may be reasonably necessary to guard against the contamination of the whalemeat therein by flies and shall cause the whalemeat to be so placed as to prevent mud, filth or other contaminating substance being splashed or blown thereon;

(*b*) shall cause every counter, slab, vessel or other article on or in which any whalemeat is placed for sale and all knives and other implements used in connection with the whalemeat to be thoroughly cleansed after use and to be kept at all times in a clean condition;

(*c*) shall cause all trimmings, refuse and rubbish to be placed in properly covered receptacles kept for the purpose, apart from the whalemeat intended for sale.

PART VI

Transport and Handling

13.—(1) Every person who conveys or causes to be conveyed any whalemeat in a vehicle—

(*a*) shall cause to be kept clean the inside and covering of the vehicle, the receptacles in which the whalemeat is placed, and such parts of any slings or other implements or apparatus used for loading or unloading as come into contact with the whalemeat or its covering; and

(*b*) if the vehicle is open at the top, back or sides or if any other commodity is being conveyed therein, shall cause the whalemeat to be adequately protected by means of a clean cloth or other suitable material;

(*c*) shall not permit any live animal to be conveyed in the vehicle at the same time as any whalemeat.

(2) A person engaged in the handling or transport of any whalemeat—

(*a*) shall not permit any part of the whalemeat to come into contact with the ground; and

(*b*) shall take such other precautions as are reasonably necessary to prevent the exposure of the whalemeat to contamination.

(3) Every person who employs a person to carry whalemeat in or about a market or other place in which whalemeat is sold by wholesale or in or about any place wholly or mainly used for the storage of whalemeat before it is distributed to retailers, shall cause such person while so occupied to wear, and every person while so occupied shall wear, a clean and washable head covering and overall.

(4) This regulation shall not apply to any whalemeat which is packed in hampers or strongly constructed and impervious cases or is adequately wrapped in jute or some other stout fabric.

PART VII

Penalties

14.—(1) Any person contravening or failing to comply with any requirement of these regulations shall be guilty of an offence and shall be liable on conviction (*a*) in the case of a first offence to a fine not exceeding £20; and (*b*) in the case of a second offence to a fine not exceeding £50; and (*c*) in the case of a subsequent offence to a fine not exceeding £100; or if, in the opinion of the court, the offence resulted from the personal act, default or culpable negligence of the person accused, and the court is of the opinion that a fine will not meet the circumstances of the case, to imprisonment for a term not exceeding three months.

(2) Offences under these regulations may be prosecuted either—

(*a*) in the sheriff court or in any court in which a stipendiary magistrate sits as judge, at the instance of the procurator fiscal; or

(*b*) in a burgh or police court, at the instance of the burgh prosecutor.

PART VIII

Commencement and Citation

15. These regulations may be cited as the Food and Drugs (Whalemeat) (Scotland) Regulations, 1949, shall come into operation on the 6th day of May, 1949, and shall apply to Scotland only.

Given under the Seal of the Secretary of State for Scotland this 4th day of May, 1949.

(L.S.)

Arthur Woodburn,
Secretary of State.

St. Andrew's House,
Edinburgh, 1.

EXPLANATORY NOTE

(This Note is not part of the regulations, but is intended to indicate their general purport.)

These regulations prohibit the importation into Scotland of whalemeat and whalemeat products intended for sale for human consumption unless accompanied by a "veterinary certificate", certifying that the whalemeat, including that used in the manufacture of whalemeat products, has been inspected and was produced in accordance with criteria and conditions satisfactory to the Secretary of State for Scotland; the regulations also include provisions for securing whalemeat against contamination in shops and on stalls, during transport and from handling in wholesale markets, cold stores, and elsewhere. The regulations are to be executed and enforced by local authorities and port health authorities.