STATUTORY RULES OF NORTHERN IRELAND

2004 No. 464

Products of Animal Origin (Third Country Imports) Regulations (Northern Ireland) 2004

PART III

PROVISIONS APPLICABLE TO PRODUCTS IN GENERAL

Prohibition of non-conforming products

15.—(1) Without prejudice to regulation 22 of the Dairy Products (Hygiene) Regulations (Northern Ireland) 1995(**1**), a person shall not introduce a non-conforming product into Northern Ireland from a third country, or a non-conforming product originating in a third country into Northern Ireland from elsewhere in the relevant territories unless –

(a) it is a transit product; or

(b) its destination establishment is a warehouse in a free zone, a free warehouse, a customs warehouse approved pursuant to Article 12(4)(b) of Directive 97/78/EC, or a ships' store complying with Article 13 of Directive 97/78/EC, located (in each case) outside the United Kingdom.

(2) A person shall not introduce a product into Northern Ireland from a third country from which importation of that product is prohibited by any Community instrument in force on the date on which these Regulations are made.

Introduction of products except at border inspection posts

16.—(1) A product shall not be introduced into Northern Ireland from a third country except at a border inspection post designated and approved for veterinary checks on that product.

(2) Where an Article 9 product arrives at a border inspection post which is outside the United Kingdom and the border inspection post of destination is in Northern Ireland, that product shall not be introduced into Northern Ireland except at a border inspection post designated and approved for veterinary checks on that product.

Advance notice of introduction or presentation

17.—(1) A person shall not –

(a) introduce a product into Northern Ireland from a third country; or

(b) introduce into Northern Ireland an Article 9 product whose border inspection post of destination is in Northern Ireland,

unless notice of its introduction has been given in accordance with this regulation to the official veterinary surgeon at a border inspection post designated and approved for veterinary checks on that

(**1**) S.R. 1995 No. 201 as amended by S.R. 1995 No. 360, S.R. 1996 No. 287, S.R. 1996 No. 383, S.R. 1998 No. 237, S.R. 1998 No. 359 and S.R. 2000 No. 78

product and a copy of it has been sent to the office of the Commissioners responsible for the area in which that border inspection post is situated.

(2) Where the border inspection post of introduction and the border inspection post of destination of an Article 9 product are both in Northern Ireland, a person shall not present the product to a border inspection post unless notice of its presentation has been given in accordance with this regulation to the official veterinary surgeon at a border inspection post of destination designated and approved for veterinary checks on that product and a copy of it has been sent to the office of the Commissioners responsible for the area in which that border inspection post is situated.

(3) The notice referred to in paragraphs (1) and (2) –

(a) shall be in the form set out as Part I of the common veterinary entry document in Annex III to Regulation (EC) No. 136/2004;

(b) may be supplied in electronic form;

(c) shall be in English and also in an official language of the country of destination in the relevant territories referred to in the notice, if other than the United Kingdom;

(d) shall arrive at the border inspection post –

(i) at least six working hours, in the case of a product introduced by air; and

(ii) at least one working day, in any other case,

before the product is presented to the official veterinary surgeon at the border inspection post pursuant to regulation 18; and

(e) in the case of a notice given to a border inspection post of destination, shall specify what checks have been carried out at the border inspection post of introduction.

(4) In paragraph (3) "working hours" means hours during which, and "working day" means a day on which, the border inspection post is open for the presentation of products to the official veterinary surgeon pursuant to regulation 18.

Presentation of products at border inspection posts

18.—(1) Any person responsible for a product which is introduced into Northern Ireland from a third country, or for an Article 9 product whose border inspection post of destination is in Northern Ireland, shall present the product and the required documents, or ensure that the same are presented, without delay to the official veterinary surgeon at the inspection facility of the border inspection post to which notice of the product's introduction or presentation was given pursuant to regulation 17.

(2) Where the border inspection post of introduction of an Article 9 product is in the United Kingdom and its border inspection post of destination is in Northern Ireland, the person responsible for the product after its removal from the border inspection post of introduction, shall present the product and the required documents, or ensure that the same are presented, without delay to the official veterinary surgeon at the inspection facility of the border inspection post of destination to which notice of the product's presentation was given pursuant to regulation 17.

(3) A person who presents a product, other than a transit product or a product to which Part VIII applies, pursuant to paragraph (1) or (2) shall present the required documents relating thereto drawn up in English.

(4) A person who presents pursuant to paragraph (1) or (2) a transit product or a product to which Part VIII applies accompanied by a required document in a language other than English, shall present at the same time a translation of the required document into English, authenticated as accurate by an appropriately qualified expert.

Veterinary checks

19.—(1) Subject, in the case of transhipped products, to regulation 38, any person required by virtue of regulation 18 to present a product and its required documents, or to ensure that the same are presented to an official veterinary surgeon, shall permit the official veterinary surgeon, or an assistant appointed pursuant to regulation 6(1)(b) or 6(2)(c), to carry out on the product or the required documents, as the case may be –

(a) a documentary check;

(b) an identity check; and

(c) subject to regulations 41, 46 and 50, a physical check,

and shall render the official veterinary surgeon or assistant such assistance as he may reasonably request to enable him to carry out any of the said checks.

(2) When a sample of a product is taken in the course of a physical check, a person shall not remove the product or cause it to be removed from the border inspection post at which it was presented until the official veterinary surgeon has authorised its removal by issuing Part 2 of the common veterinary entry document for the product or for the consignment or part consignment which includes the product.

(3) Pending removal pursuant to paragraph (2) the person responsible for the consignment which includes the product shall store it under the supervision of the official veterinary surgeon at such place and under such conditions as the official veterinary surgeon may direct and shall pay the costs of such storage.

Common veterinary entry document to accompany consignment

20.—(1) The person responsible for a consignment or part of a consignment in respect of which Part 2 of the common veterinary entry document has been issued, and any carrier who has charge of it for the time being, shall ensure that the common veterinary entry document accompanies the consignment or part –

(a) in the case of a consignment or part intended for import, and subject to regulation 37(3), until the consignment or part first reaches, after import, premises where products are stored, processed, handled, bought or sold; or

(b) in all other cases until the consignment or part is no longer subject to supervision by the customs authorities, within the meaning of Article 4(13) of the Customs Code.

(2) The person who occupies for the purposes of his business the premises referred to in paragraph (1)(a) shall take possession of the common veterinary entry document referred to in paragraph (1) and retain the same at the premises for a period of one year commencing with the day following its arrival there.

Products which fail veterinary checks

21.—(1) This regulation applies, subject to regulation 22 –

(a) where, following a veterinary check at a border inspection post, the official veterinary surgeon there decides that a product (other than a transit product which fulfils the requirements of Part VII or a product whose destination establishment is referred to in Regulation 15(1)(b)) is a non-conforming product, or that there is some other irregularity in relation to the product; or

(b) where, following a veterinary check on a product located away from a border inspection post (other than a transit product which fulfils the requirements of Part VII or a product whose destination establishment is referred to in Regulation 15(1)(b)) an authorised officer decides that the product is a non-conforming product.

(2) If paragraph (1)(a) applies, the official veterinary surgeon shall serve a notice in writing on the person responsible for the product in question, and if paragraph (1)(b) applies, an authorised officer shall serve a notice in writing on the person appearing to him to have charge of the product in question, requiring him either –

(a) to redispatch the product from the border inspection post, or, if paragraph (1)(b) applies, from the nearest border inspection post, by the mode of transport by which it was introduced into Northern Ireland, to a destination, agreed with the official veterinary surgeon or the authorised officer, located in a third country within a period of 60 days commencing with the day following the service of the notice; or

(b) to dispose of the product without undue delay in accordance with Regulation (EC) No. 1774/2002 in the facilities provided for that purpose nearest to the border inspection post or, if paragraph (1)(b) applies, nearest to the location of the product.

(3) The product must be disposed of in accordance with paragraph (2)(b) where –

(a) its redispatch is precluded on animal or public health grounds by the results of a veterinary check, or by any animal or public health requirement laid down in a Community instrument in force on the date on which these Regulations are made, or is otherwise impossible; or

(b) the 60 day period referred to in paragraph (2)(a) has elapsed; or

(c) the person responsible for the product or, if paragraph (1)(b) applies, the owner of the product, agrees immediately to its disposal.

(4) The person responsible for, or, if paragraph (1)(b) applies, the owner of, a product in respect of which a notice has been served pursuant to paragraph (2) shall ensure that it is stored until redispatch or disposal under the supervision of the official veterinary surgeon or the authorised officer at such place and under such conditions as he may in the notice direct.

(5) In paragraph (1)(a) "other irregularity" in relation to a product means –

(a) its introduction into Northern Ireland from a third country, or its presentation to a border inspection post of destination in Northern Ireland, without notice given pursuant to regulation 17;

(b) any false or misleading information contained in a notice given pursuant to regulation 17;

(c) any false or misleading information given pursuant to regulation 45 or 49;

(d) any error, omission or false or misleading information in a required document, and any discrepancy between a required document and –

(i) the notice of the product's introduction or presentation given pursuant to regulation 17; or

(ii) the product itself; or

(iii) the seals, stamps, marks or labels on the product, on the consignment which includes the product or on the container holding the product or the consignment;

(e) any defect in the product rendering it unfit for the purpose for which, according to the required documents, it is intended;

(f) any defect in the seals, stamps, marks or labels referred to in paragraph (5)(d)(iii), including, in the case of a packaged product, any contravention of the labelling requirements laid down for that product in any directive, decision or regulation listed in Schedule 1;

(g) in the case of a product intended for import, any indication in the required documents that the product does not comply with the import conditions; and

(h) in the case of a non-conforming product which is a transit product, or a product whose destination establishment is referred to in Regulation 15(1)(b), any contravention of the

requirements laid down for that non-conforming product in any Directive, Decision or Regulation listed in Schedule 1.

(6) Any person who is aggrieved by a decision referred to in paragraph (1)(a) or (1)(b) may appeal to a court of summary jurisdiction at any time before the expiration of one month beginning with the date on which he is notified of the decision, and Part VII of the Magistrates' Courts (Northern Ireland) Order 1981(**2**) shall apply accordingly.

(7) Pending the determination of an appeal pursuant to paragraph (6), paragraph (4) shall apply to the storage of the product concerned.

Treatment as animal by-products

22.—(1) If the official veterinary surgeon or authorised officer is of the opinion that a product to which regulation 21 applies presents no risk to animal or public health, he may authorise that the product be used in accordance with regulation 26 of the Animal By-Products Regulations (Northern Ireland) 2003(**3**) notwithstanding paragraphs (2), (3) and (4) of regulation 21.

(2) The authorisation shall be in writing, may be made subject to conditions, and may be amended, suspended or revoked in writing at any time.

(3) The authorisation may specify which of the uses in regulation 26 of the Animal By-Products Regulations (Northern Ireland) 2003 is permitted.

Products containing unauthorised substances and excess residues

23.—(1) In this regulation –

(a) "maximum residue limit" means a maximum residue limit listed in Annex I or Annex III to Council Regulation (EEC) No. 2377/90 laying down a Community procedure for the establishment of maximum residue limits of veterinary medicinal products in foodstuffs of animal origin(**4**);

(b) "unauthorised substance" has the same meaning as "unauthorised substance or product" in Council Directive 96/23/EC on measures to monitor certain substances and residues thereof in live animals and animal products and repealing Directives 85/358/EEC and 86/469/EEC and Decisions 89/187/EEC and 91/664/EEC(**5**).

(2) This regulation applies where a veterinary check on a consignment from a particular establishment of origin in a third country reveals the presence of an unauthorised substance, or reveals that a maximum residue limit has been exceeded, but no Community measures have yet been adopted in response to this.

(3) In the circumstances described in paragraph (2), paragraphs (4), (5), (6) and (7) shall apply to those of the next ten consignments introduced into the United Kingdom from that establishment which are introduced into Northern Ireland.

(4) The official veterinary surgeon at the border inspection post at which any such consignment is introduced shall, by notice in writing served on the person responsible for the consignment, take charge of it and check the residues in the consignment by taking and analysing a representative sample of the products comprised in it.

(5) Upon service of a notice under paragraph (4), the person responsible for the consignment shall lodge with the official veterinary surgeon a deposit or guarantee sufficient to assure payment of all charges payable in accordance with Part X for veterinary checks carried out on the consignment, including the taking of samples, and any laboratory test or analysis carried out on any sample taken.

(**2**) S.I.1981/1675 (N.I. 26)
(**3**) S.R. 2003 No. 495
(**4**) O.J. No. L224, 18.8.90, p. 1, as last amended by Commission Regulation (EC) No. 1646/2004 (O.J. No. L296, 21.9.2004, p. 5)
(**5**) O.J. No. L125, 23.5.96, p. 10, as last amended by Council Regulation (EC) No. 806/2003 (O.J. No. L122, 16.5.03, p. 1)

(6) If any veterinary check carried out on the consignment reveals the presence of unauthorised substances or their residues or reveals that a maximum residue limit has been exceeded, the official veterinary surgeon shall reject the consignment –

(a) endorse on the required documents relating to the consignment a clear indication of the reasons for rejecting it; and

(b) redispatch the consignment, or such part of it as the official veterinary surgeon considers affected by the presence of unauthorised substances or their residues or by excess residues, accompanied by the required documents, to its third country of origin.

(7) The cost of redispatching and transporting the consignment or part to its third country of origin shall be paid by the consignor whose name appears on the notice of the consignment's introduction given pursuant to regulation 17.

Consignments and products illegally introduced

24.—(1) This regulation applies –

(a) where a consignment or product is introduced into Northern Ireland from a third country but is not presented in accordance with regulation 18;

(b) where a consignment or product originating in a third country has been introduced into Northern Ireland from elsewhere in the relevant territories, but has not been presented at a border inspection post there;

(c) where the border inspection post of destination of a consignment of Article 9 products is in Northern Ireland but the consignment is not presented there in accordance with regulation 18(1); and

(d) where a consignment introduced into Northern Ireland is presented to the official veterinary surgeon at a border inspection post not designated and approved for veterinary checks on the products comprised therein.

(2) In the circumstances described in paragraphs (1)(a), (b) and (c) an authorised officer shall, by notice in writing served on the person appearing to him to have charge of it, and, in the circumstances described in paragraph (1)(d), the official veterinary surgeon shall, by notice served on the person responsible for it, take charge of the consignment or product and either –

(a) redispatch it, by the mode of transport by which it was first introduced into the relevant territories, to a destination located in a third country, agreed with the owner, (in the circumstances described in paragraphs (1)(a), (b) and (c)), or with the person responsible for the consignment, (in the circumstances described in paragraph (1)(d)), within a period of 60 days commencing with the day following the service of the notice; or

(b) dispose of it as if it were Category 1 material under Regulation (EC) No. 1774/2002 in the facilities provided for that purpose nearest to the place at which the authorised officer or official veterinary surgeon takes charge of it.

Products dangerous to animal or public health

25. If an official veterinary surgeon or an authorised officer considers that a consignment or product from a third country presents a risk to animal or public health he shall, by notice served on the person appearing to him to have charge of it, take charge of it and dispose of it without delay in accordance with regulation 24(2)(b).

Serious or repeated infringements

26.—(1) Where the Department, Agency or a district council reasonably concludes, on the basis of the results of veterinary checks, that products from a particular third country, part of a third

country or establishment in a third country are implicated in serious or repeated infringements of any requirement laid down in a Community instrument relating to animal or public health, this regulation shall apply to those of the next ten consignments introduced into the United Kingdom from that third country, part of a third country or establishment, as the case may be, which are introduced into Northern Ireland.

(2) The official veterinary surgeon at the border inspection post at which any such consignment is introduced shall, by notice in writing served on the person responsible for the consignment, take charge of it and carry out a physical check thereon, including the taking of samples and laboratory tests and analyses.

(3) Upon service of a notice under paragraph (2) the person responsible for the consignment to which it relates shall lodge with the official veterinary surgeon who served the notice a deposit or guarantee sufficient to assure payment of all charges payable in accordance with Part X for veterinary checks carried out on the consignment, including any physical checks carried out in pursuance of paragraph (2).

(4) If any veterinary check carried out on the consignment reveals an infringement of any requirement laid down in a Community instrument relating to animal or public health, the official veterinary surgeon shall either redispatch or dispose of the consignment in accordance with regulation 21(2).

Invalidation of veterinary documents

27. Where an official veterinary surgeon or an authorised officer serves a notice requiring redispatch of a product pursuant to regulation 21(2)(a), or takes charge of a consignment pursuant to regulation 24(2), any person who has possession or control of the required documents relating to that product or consignment shall immediately submit them to the official veterinary surgeon or authorised officer, as the case may be, for invalidation.

Costs in respect of products redispatched or disposed of

28.—(1) The person responsible for the product or consignment concerned or, where a notice has been served on the person appearing to have charge of the product or consignment, the owner of the product or consignment, shall pay on demand the costs of storing, transporting, redispatching, disposing of and destroying any product or consignment redispatched, or disposed of pursuant to regulation 21, 24, 25 or 26 as the case may be.

(2) Any cost referred to in paragraph (1) which is paid by an official veterinary surgeon, an authorised officer, the Department, a district council or the Agency shall be reimbursed on demand by, as the case may be, the person appearing to have charge of, or the owner of, the product or consignment.