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SCOTTISH STATUTORY INSTRUMENTS

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**2002 No. 445**

**The Products of Animal Origin (Third  
Country Imports) (Scotland) Regulations 2002**

**PART I**

**INTRODUCTION**

**Citation, commencement and extent**

1.—(1) These Regulations may be cited as the Products of Animal Origin (Third Country Imports) (Scotland) Regulations 2002 and shall come into force on 1st October 2002.

(2) These Regulations extend to Scotland only.

**Interpretation**

2.—(1) In these Regulations, unless the context otherwise requires—

“the Agency” means the Food Standards Agency;

“the Animal By-Products Order” means the Animal By-Products Order 1999<sup>(1)</sup>;

“Article 9 product” means a product from a third country which is first introduced into the relevant territories at one border inspection post but is intended for import via another, as described (in relation to consignments) in Article 9(1) of Directive 97/78/EC, whether or not the product is transhipped or unloaded at the first border inspection post;

“authorised officer” means a person authorised by the Scottish Ministers, a local authority or the Agency, either generally or specifically, to act in matters arising under these Regulations, whether or not that person is an officer of the Scottish Ministers or local authority or of the Agency;

“border inspection post” means—

- (a) premises designated and approved for the time being in accordance with Article 6(2) or 6(4) of Directive 97/78/EC as an inspection post for the carrying out of veterinary checks on products arriving from third countries at the border of a member State;
- (b) a border inspection post in the Republic of Iceland or the Kingdom of Norway which is included in the list contained in point 39 in Part 1.2 of Chapter I of Annex I to the Agreement on the European Economic Area signed at Oporto on 2nd May 1992<sup>(2)</sup>, as amended by any decision of the EFTA Surveillance Authority fixing the border inspection posts for the EFTA States which is adopted before the date on which these Regulations are made; and

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(1) S.I.1999/646, amended by S.S.I. 2001/171 and 2002/255.

(2) O.J. No. L 1, 3. 1.94, p.3.

(c) an inspection post for the carrying out by or on behalf of the authorities of the Principality of Andorra or of the Faeroe Islands of veterinary checks on products arriving there from third countries;

“border inspection post of destination” means the border inspection post via which an Article 9 product is intended for import;

“border inspection post of introduction” means the border inspection post at which an Article 9 product is first introduced into the relevant territories;

“carrier who has for the time being charge of” a product, consignment or part of a consignment includes the driver of any vehicle, the pilot of any aircraft and the master of any vessel transporting the same;

“certificate of veterinary clearance” means a certificate issued by an official veterinary surgeon or an official fish inspector in, or as near as may be to, the form set out as Sheet 2 in Schedule 1;

“the Commissioners” means the Commissioners of Customs and Excise;

“Community establishment of origin” means the premises located in a member State at which a returned product attained the form in which it was originally exported from the relevant territories;

“consignment” means a quantity of products of the same type, covered by the same veterinary certificate or veterinary document, or other document provided for by veterinary legislation, conveyed by the same means of transport and coming from the same third country or part of a third country;

“corporate officer” means a director, secretary or other similar officer of a body corporate, or a person who purports to act in any such capacity;

“the Customs Code” means Council Regulation (EEC) No. 2913/92 establishing the Community Customs Code<sup>(3)</sup>;

“the customs territory of the Community” has the same meaning as in Article 3 of the Customs Code;

“customs warehouse” means a warehouse which fulfils the conditions of Articles 98 to 113 of the Customs Code, in which goods are stored subject to the customs warehousing procedure referred to in those Articles;

“Decision 93/13/EEC” means Commission Decision 93/13/EEC laying down the procedures for veterinary checks at Community border inspection posts on products from third countries<sup>(4)</sup>;

“destination establishment”, in relation to a product, means the establishment identified in the “country of destination” entry on the notice of the product’s introduction or presentation given pursuant to regulation 17;

“Directive 92/118/EEC” means Council Directive 92/118/EEC laying down animal health and public health requirements governing trade in and imports into the Community of products not subject to the said requirements laid down in specific Community rules referred to in Annex A (I) to Directive 89/662/EEC and, as regards pathogens, to Directive 90/425/EEC<sup>(5)</sup>;

“Directive 97/78/EC” means Council Directive 97/78/EC laying down the principles governing the organisation of veterinary checks on products entering the Community from third countries<sup>(6)</sup>;

(3) O.J. No. L 302, 19.10.92, p.1, as last amended by Regulation (EC) No. 2700/2000 of the European Parliament and of the Council (O.J. No. L 311, 12.12.2000, p.17).

(4) O.J. No. L 9, 15.1.93, p.33, as last amended by Commission Decision 96/32/EC (O.J. No. L 9, 12.1.1996, p.9).

(5) O.J. No. L 62, 15.3.93, p.49, as last amended by Commission Decision 2001/7/EC (O.J. No. L 2, 5.1.2001, p.27).

(6) O.J. No. L 24, 30.1.98, p.9.

“documentary check” means the examination of the veterinary certificates or veterinary documents or other documents accompanying a consignment, carried out in accordance with Article 4(3) of Directive 97/78/EC and Annex A to Decision 93/13/EEC;

“fishery products” means—

- (a) all seawater and freshwater animals, whether or not live, including—
  - (i) aquaculture animals and aquaculture products as defined in Article 2 of Council Directive 91/67/EEC concerning the animal health conditions governing the placing on the market of aquaculture animals and products<sup>(7)</sup>;
  - (ii) bivalve molluscs as defined in Article 2(1) of Council Directive 91/492/EEC laying down the health conditions for the production and the placing on the market of live bivalve molluscs<sup>(8)</sup>;
  - (iii) echinoderms, tunicates and marine gastropods; and
  - (iv) fishery products and aquaculture products as defined in Article 2 of Council Directive 91/493/EEC laying down the health conditions for the production and the placing on the market of fishery products<sup>(9)</sup>; and
- (b) all parts of such seawater and freshwater animals,  
but excludes aquatic mammals and frogs and parts thereof;

“free circulation” has the same meaning as in Articles 23(2) and 24 of the Treaty establishing the European Community;

“free warehouse” and “free zone” have the same meanings as in Title IV, Chapter 3, Section 1 of the Customs Code;

“hay” means any grass, clover, lucerne or sainfoin which has been dried either naturally or artificially, and includes any product which is obtained by so drying any grass, clover, lucerne or sainfoin;

“identity check” means a check by visual inspection to ensure that the veterinary certificates or veterinary documents or other documents accompanying a consignment tally with the products comprised in the consignment, carried out in accordance with Article 4(4)(a) of Directive 97/78/EC and Annex A to Decision 93/13/EEC;

“import”, as a verb means release for free circulation within the meaning of Article 79 of the Customs Code;

“import conditions” in relation to a product, means the conditions laid down for the import of that product in any directive, decision or regulation listed in Schedule 2, including—

- (a) conditions as to the country or establishment of origin of the product;
- (b) specific requirements laid down for the import of that product into a particular member State or a particular area of a member State; and
- (c) conditions laid down for the import of that product for specific purposes;

“intermediate storage warehouse” means cold storage facilities approved for intermediate storage of products as referred to in Chapter 10 of Annex I to Directive 92/118/EEC;

“introduce” means bring into, and a person introduces a product into a territory, or area, if—

- (a) that person brings it into that territory or area as its owner;
- (b) that person brings it into that territory or area as a carrier; or
- (c) a carrier brings it into that territory or area on that person’s instructions,

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(7) O.J. No. L 46, 19.2.91, p.1, as last amended by Council Directive 98/45/EC (O.J. No. L 189, 3.7.98, p.12).

(8) O.J. No. L 268, 24.9.91, p.1, as last amended by Council Directive 97/79/EC (O.J. No. L 24, 30.1.98, p.31).

(9) O.J. No. L 268, 24.9.91, p.15, as last amended by Council Directive 97/79/EC (O.J. No. L 24, 30.1.98, p.31).

but a product on board a means of transport operating internationally and intended for consumption by the crew or passengers of that means of transport is not introduced into a territory or area if it is not unloaded, or if it is transferred directly from one means of transport operating internationally to another at the same port or airport and under supervision, within the meaning of Article 4(13) of the Customs Code, by the Commissioners;

“justice of the peace” means a full justice as defined by section 9(12) of the District Courts (Scotland) Act 1975<sup>(10)</sup>;

“local authority” means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994<sup>(11)</sup>;

“non-conforming product” means a product which does not comply with the import conditions;

“official fish inspector” means an environmental health officer appointed as an official fish inspector by a local authority pursuant to regulation 6(2)(b);

“official veterinary surgeon” means a veterinary surgeon who has participated in a special training programme referred to in Article 27 of Directive 97/78/EC and who is appointed by the Scottish Ministers pursuant to regulation 6(1)(a) or by a local authority pursuant to regulation 6(2)(a);

“operator” means—

- (a) in relation to a border inspection post, the person who provides premises and other facilities for the carrying out of veterinary checks at that border inspection post; and
- (b) in relation to a Community establishment of origin, an intermediate storage warehouse or a destination establishment, the person who occupies the same for the purposes of that person’s business;

“owner”, in relation to a product, consignment or part of a consignment, means the person in whom the property in the product or consignment is for the time being vested;

“person appearing to have charge” of a product, consignment or part of a consignment means any person, including a carrier, who appears to have possession, custody or control thereof;

“person responsible for” a product, consignment, or part of a consignment means—

- (a) the person bringing the product, consignment or part into the customs territory of the Community, referred to in Article 38(1) of the Customs Code;
- (b) any person who assumes responsibility for the carriage of the product, consignment or part after it has been brought into the customs territory of the Community, referred to in Article 38(2) of the Customs Code;
- (c) a person in whose name the person described in sub-paragraph (a) or sub-paragraph (b) above acts, referred to in Article 44(2)(b) of the Customs Code;
- (d) the person holding the product, consignment or part in temporary storage, referred to in Article 51(2) of the Customs Code;
- (e) any person who has made, or is capable of making, a customs declaration within the meaning of Article 64 of the Customs Code, covering the product, consignment or part; and
- (f) where a person referred to in sub-paragraph (a), (b), (c), (d) or (e) above has appointed a representative in that person’s dealings with the customs authorities, within the meaning of Article 5 of the Customs Code, who is given, or assumes, responsibility for ensuring that the product, consignment or part undergoes veterinary checks, that representative;

<sup>(10)</sup> 1975 c. 20. The definition of “full justice” was inserted by section 8 of the [Bail, Judicial Appointments etc. \(Scotland\) Act 2000 \(asp 9\)](#), section 8.

<sup>(11)</sup> 1994 c. 39.

“physical check” means a check on the product itself (which may include checks on packaging and temperature and also sampling and laboratory testing) carried out in accordance with Article 4(4)(b) of, and Annex III to, Directive 97/78/EC and Annex C to Decision 93/13/EEC;

“premises” includes any construction, installation, container or means of transport;

“product” means—

(a) any product of animal origin covered by the directives listed in Schedule 3;

(b) hay; and

(c) straw;

“the regulatory functions” means the functions assigned by these Regulations to authorised officers, official veterinary surgeons, official fish inspectors and assistants appointed pursuant to regulation 6;

“relevant document” means any required document and any other veterinary, commercial or other certificate or document relating to a product, including the manifest of any sea-going vessel or aircraft;

“the relevant territories” means an area comprising the territories of the member States, as listed in Annex I to Directive 97/78/EC, the territory of the Republic of Iceland, the territory of the Kingdom of Norway (except Svalbard), the Principality of Andorra and the Faeroe Islands;

“required document” means any original veterinary certificate, original veterinary document or other original document required in relation to a product by virtue of any directive, decision or regulation listed in Schedule 2;

“returned product” means a product originally exported from the customs territory of the Community which is returned there because it has been refused by a third country;

“ships' store” means closed premises referred to in Article 13(1)(c), or a specially approved warehouse referred to in Article 13(2)(a), of Directive 97/78/EC;

“straw” means any green cereal which has been dried either naturally or artificially and includes any product (other than grain) which is obtained by drying any green cereal;

“third country” means a country not comprised in the relevant territories;

“transhipped product” means an Article 9 product which is transhipped or unloaded in the way described (in relation to consignments) in Article 9(1) of Directive 97/78/EC at its border post of introduction;

“transit” means transit from one third country to another, passing through one or more member States, under the external transit procedure referred to in Articles 91 to 97 of the Customs Code;

“transit product” means a product originating in a third country which, according to the information forwarded in advance referred to in Article 3(3) of Directive 97/78/EC, will undergo transit;

“veterinary check” means any check provided for in Directive 97/78/EC including a documentary check, an identity check and a physical check.

(2) Products introduced into Scotland from the Republic of Iceland, other than fishery products, are regarded as introduced from a third country.

(3) For the purposes of these Regulations, fishery products which are first landed in Scotland from a vessel flying the flag of a third country are introduced into Scotland from a third country when they are first so landed.

(4) Any reference in these Regulations to a Community instrument is a reference to that instrument as amended on the date on which these Regulations are made.

(5) Any reference in these Regulations to a numbered regulation (with no corresponding reference to a specific instrument) or a numbered Part is a reference to the regulation or Part so numbered in

these Regulations and any reference to a numbered Schedule is a reference to the Schedule to these Regulations so numbered.

### **Exemptions**

**3.**—(1) These Regulations do not apply to products introduced into Scotland from a third country with the previous written authorisation of the Scottish Ministers or the Agency, as trade samples, for exhibition or for particular studies or analyses.

(2) Part III, with the exception of regulations 15, 21 and 25, and Parts IV to IX, do not apply to any product the total weight of which does not exceed one kilogram and which is introduced into Scotland—

- (a) in the personal luggage of a traveller and intended for that person's own consumption; or
- (b) by post or carrier and addressed to a private individual in the relevant territories otherwise than by way of trade or as a trade sample,

where such products either come from a third country or part of a third country which satisfies the conditions laid down in paragraph (3) or have undergone heat treatment in a hermetically sealed container to an Fo value of 3,00 or more.

(3) The conditions referred to in paragraph (2) are that the third country or part of a third country—

- (a) appears on a list of third countries or parts of third countries from which member States shall authorise the importation of the product or products concerned, established by a Community instrument in force on the date on which these Regulations are made; and
- (b) is not one from which importation of the product or products concerned is prohibited by any Community instrument in force on that date.