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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 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 1995<sup>(1)</sup>, no person shall introduce a non-conforming product into Scotland from a third country, or a non-conforming product originating in a third country into Scotland 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 or 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) No person shall introduce a product into Scotland 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 at border inspection posts**

**16.**—(1) No person shall introduce a product into Scotland from a third country except at a border inspection post designated and approved for veterinary checks on that product.

(2) Where the border inspection post of introduction of an Article 9 product is outside the United Kingdom, and its border inspection post of destination is in Scotland, no person shall introduce it into Scotland except at a border inspection post designated and approved for veterinary checks on that product.

**Advance notice of introduction or presentation**

**17.**—(1) No person shall—

- (a) introduce a product into Scotland from a third country; or
- (b) introduce into Scotland an Article 9 product whose border inspection post of destination is in Scotland,

unless notice of its introduction has been given pursuant to this regulation to the official veterinary surgeon at a border inspection post 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.

(2) Where the border inspection post of introduction and the border inspection post of destination of an Article 9 product are both in Scotland, no person shall present the product to a border inspection post unless notice of its presentation has been given pursuant to 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 Sheet 1 in Schedule 1 or shall consist of a detailed description of the product in writing or in computerised or other electronic form, containing at least the particulars appearing on that form;
- (b) 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;
- (c) shall arrive at the border inspection post–
  - (i) at least six hours, in the case of a product introduced by air, and
  - (ii) at least 24 hours, in any other case,

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

- (d) 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.
- (a) (4) (a) In paragraph (3)(1)(i) “hours” means hours during which the border inspection post is open for the presentation of products to the official veterinary surgeon pursuant to regulation 18; and
- (b) in paragraph(3)(1)(ii), “24 hours” excludes days on which such a post is not open for these purposes.

### **Presentation of products at border inspection posts**

**18.**—(1) Any person responsible for a product which is introduced into Scotland from a third country, or for an Article 9 product whose border inspection post of destination is in Scotland which is introduced into Scotland, 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 introduction or presentation of the product 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 Scotland, any 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 VII 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 VII applies accompanied by required documents in a language other than English, shall present at the same time a translation of the required documents into English, authenticated as accurate by an appropriately qualified expert.

### **Veterinary checks**

**19.**—(1) Subject, in the case of transhipped products, to regulation 34, any person required by virtue of regulation 18 to present a product and the 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 37, 42 and 46, a physical check,

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

(2) When a sample of a product is taken in the course of a physical check, no person shall 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 a certificate of veterinary clearance 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.

### **Certificate of veterinary clearance to accompany consignment**

**20.**—(1) The person responsible for a consignment or part of a consignment in respect of which a certificate of veterinary clearance has been issued, and any carrier who has or takes charge of it, shall ensure that the certificate of veterinary clearance accompanies the consignment or part—

- (a) in the case of a consignment or part intended for import, and subject to regulation 33(3), until the consignment or part first reaches, after import, premises where products are stored, processed, handled, bought or sold; and
- (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 the business of that person the premises referred to in paragraph (1)(a) shall take possession of the certificate of veterinary clearance referred to in paragraph (1) and retain the same at the premises for a period of not less than 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 VI 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; and
- (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 VI 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 on the person responsible for the product, and if paragraph (1)(b) applies, the authorised officer shall serve a notice on the person appearing to that officer to have charge of the product, requiring that person either—

- (a) to redispach the product from the border inspection post, or, if paragraph (1)(b) applies, from a border inspection post indicated in the notice, by the mode of transport by which it was introduced into Scotland, to a destination, agreed with the official veterinary surgeon or the authorised officer, located in a third country within a period of not more than sixty days commencing with the day following the service of the notice; or
- (b) to destroy the product without undue delay by rendering or incineration in accordance with the Animal By-Products Order 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 destroyed in accordance with paragraph (2)(b) where—

- (a) its redispach 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;
- (b) the sixty 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 destruction.

(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 redispach or destruction under the supervision of the official veterinary surgeon or the authorised officer at such place and under such conditions as may be directed in the notice.

(5) In paragraph (1)(a) “other irregularity” in relation to a product means—

- (a) its introduction into Scotland from a third country, or its presentation to a border inspection post of destination in Scotland, 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 41 or 45;
- (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 introduction or presentation of the product given pursuant to regulation 17;
  - (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 wrapped or packaged product, any contravention of the labelling requirements laid down for that product in any directive, decision or regulation listed in Schedule 2;
- (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 2.

(6) Any person who is aggrieved by a decision referred to in paragraph (1) (a) or (b) may within the period of 28 days after the date when that person is notified of the outcome of that decision appeal to the sheriff by way of summary application.

(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. Paragraphs (2), (3) and (4) of regulation 21 shall not apply where—

- (a) in the opinion of the official veterinary surgeon or the authorised officer the product concerned presents no risk to animal or public health; and
- (b) the official veterinary surgeon or the authorised officer has authorised that the product be consigned for one of the uses specified in article 5(1)(d), (e), (f) or (g) of the Animal By Products Order.

### **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<sup>(2)</sup>; and
- (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<sup>(3)</sup>.

(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 (1), (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 Scotland.

(4) The official veterinary surgeon at the border inspection post at which any such consignment is introduced shall, by notice 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 IX 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.

(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—

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

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(2) O.J. No. L 224, 18.8.90, p.1, as last amended by Commission Regulation (EC) No. 1879/2001 (O.J. No. L 258, 27.09.2001, p.11).

(3) O.J. No. L 125, 23.5.96, p.10.

- (b) redispach 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 redispaching 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 Scotland from a third country but is not presented pursuant to regulation 18;
- (b) where a consignment or product originating in a third country has been introduced into Scotland 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 Scotland but the consignment is not presented there in accordance with regulation 18(1) ; and
- (d) where a consignment introduced into Scotland 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 paragraph (1)(a), (b) and (c) an authorised officer shall, by notice served on the person appearing to that officer 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) redispach it, by the mode of transport by which it was first introduced into the relevant territories, to a destination, agreed with the owner in the circumstances described in paragraph (1)(a), (b) and (c), or with the person responsible for the consignment, in the circumstances described in paragraph (1)(d), located in a third country within a period of not more than sixty days commencing with the day following the service of the notice; or
- (b) destroy it without undue delay in accordance with the Animal By-Products Order by rendering or incineration 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 that veterinary surgeon or officer shall, by notice served on the person appearing to that veterinary surgeon or officer to have charge of it, take charge of it and destroy it without delay in accordance with regulation 24(2)(b).

### **Serious or repeated infringements**

**26.**—(1) Where the Scottish Ministers or the Agency reasonably conclude, 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, paragraphs (2), (3) and (4) 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 Scotland.

(2) The official veterinary surgeon at the border inspection post at which any such consignment is introduced shall, by notice 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 shall lodge with the official veterinary surgeon a deposit or guarantee sufficient to assure payment of all charges payable in accordance with Part IX 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.

(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 health, the official veterinary surgeon shall either redispach or destroy the consignment in accordance with regulation 24(2).

### **Invalidation of veterinary documents**

27. Where an official veterinary surgeon or an authorised officer serves a notice requiring redispach 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 re-dispatched 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, redispaching, disposing of and destroying any product or consignment re-dispatched or destroyed pursuant to regulation 21, 24, 25 or 26.

(2) Any cost referred to in paragraph (1) which is paid by an official veterinary surgeon, an authorised officer, the Scottish Ministers, a local authority or the Agency shall be reimbursed on demand by the person responsible for, or the owner of, the product or consignment.