
SCOTTISH STATUTORY INSTRUMENTS

2002 No. 445

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

PART III

PROVISIONS APPLICABLE TO PRODUCTS IN GENERAL

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.