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SCOTTISH STATUTORY INSTRUMENTS

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**2007 No. 1**

**The Products of Animal Origin (Third  
Country Imports) (Scotland) Regulations 2007**

**PART 3**

**Provisions Applicable to Products in General**

**Prohibition of non-conforming products**

**15.** No person may bring 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;
- (b) its destination establishment is a warehouse in a free zone, a free warehouse or a customs warehouse approved under 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; or
- (c) its destination establishment is a cross-border means of sea transport and it is intended to be delivered directly on board that means of sea transport for the purposes of consumption there by staff and passengers.

**Prohibition of introduction of products except at border inspection posts**

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

(2) No Article 9 product, the border inspection post of introduction of which is outside the United Kingdom, and the border inspection post of destination of which is in Scotland, may be brought into Scotland except at a border inspection post designated and approved for veterinary checks on that product.

(3) For the purposes of the application of the Customs and Excise Management Act 1979(1) to products introduced in contravention of this regulation, the time of their introduction is the time of importation in accordance with section 5 of that Act.

**Advance notice of introduction or presentation**

**17.—(1)** No person may—

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

unless notice of its introduction has been given to the official veterinary surgeon at a border inspection post designated and approved for veterinary checks on that product or consignment 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 or consignment of Article 9 products are both in Scotland, no person may present the product or consignment to a border inspection post unless notice of its presentation has been given to the official veterinary surgeon at a border inspection post of destination designated and approved for veterinary checks on that product or consignment 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) must be in the form set out as Part 1 of the common veterinary entry document;
- (b) may be supplied in electronic form;
- (c) must 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) must arrive at the border inspection post before the product or consignment is unloaded from the means of transport that brought it to Scotland; and
- (e) in the case of a notice given to a border inspection post of destination, must specify what checks have been carried out at the border inspection post of introduction.

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

**18.**—(1) Any person responsible for a product which is brought into Scotland from a third country, or for an Article 9 product whose border inspection post of destination is in Scotland which is brought into Scotland, must 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 under 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 must 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 under regulation 17.

(3) A person who presents a product, other than a transit product or a product to which Part 8 applies, under paragraph (1) or (2) must present the required documents relating to that product drawn up in English.

(4) A person who, under paragraph (1) or (2), presents a transit product or a product to which Part 8 applies accompanied by a required document in a language other than English, must present at the same time a translation of the required document into English, authenticated as accurate by an appropriately qualified expert.

### **Veterinary checks and official controls**

**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 must permit the official veterinary surgeon, or an assistant appointed under 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;
- (c) subject to regulations 41, 46 and 52, a physical check, and
- (d) the official controls referred to in Article 14(1) of Regulation (EC) No. 882/2004 of the European Parliament and of the Council on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules<sup>(2)</sup>,

and must render the official veterinary surgeon or assistant such assistance as the official veterinary surgeon or assistant may reasonably request to enable them to carry out any of the said checks and controls.

(2) Where a product is presented to an official veterinary surgeon under regulation 18, no person may remove it 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) Where a sample of a product is taken in the course of a physical check, pending removal of the product under paragraph (2) the person responsible for the consignment which includes the product must store it under the supervision of the official veterinary surgeon at such a place and under such conditions as the official veterinary surgeon may direct and must pay the costs of such storage.

(4) Where a product has been placed under official detention under Article 18 or 19 of Regulation (EC) No. 882/2004, no person may remove it from its place of detention.

(5) Where a product has been placed under official detention under Article 19 of Regulation (EC) No. 882/2004 and the official veterinary surgeon—

- (a) has served a notice on the person responsible for the product under Article 19(1) of that Regulation; or
- (b) considers that product to be injurious to human or animal health under Article 19(2) of that Regulation,

the person responsible for the product must comply with the notice if sub-paragraph (a) applies, or cooperate with the official veterinary surgeon in the destruction or redispach of the product if sub-paragraph (b) applies.

(6) Any person who is aggrieved by a decision on a consignment made under Article 19 of Regulation (EC) No. 882/2004 may, within 28 days of the date when that person is notified of the decision, appeal to the sheriff by way of summary application.

(7) Pending the determination of an appeal under paragraph (6), the person responsible for the product concerned must ensure that it is stored under the supervision of the official veterinary surgeon at such a place and under such conditions as the official veterinary surgeon may direct by notice.

### **Common veterinary entry document to accompany consignment**

**20.**—(1) The person responsible for a consignment or part 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, must ensure that the common veterinary entry document accompanies the consignment or part consignment—

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(2) O.J. No. L 165, 30.4.2004, p.1.

- (a) in the case of a consignment or part consignment intended for import, and subject to regulation 37(3), until the consignment or part consignment 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 consignment 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 that person's business the premises referred to in paragraph (1)(a) must 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 is subject to regulation 22.

(2) Where, following a veterinary check at a border inspection post, the official veterinary surgeon there decides that—

- (a) a product, other than an excepted product, is a non-conforming product; or
- (b) there is some other irregularity in relation to a product,

the official veterinary surgeon must comply with paragraph (3).

(3) The official veterinary surgeon must serve a notice in writing on the person responsible for the product requiring that person either—

- (a) to redispach the product by the mode of transport by which it was brought into Scotland from the border inspection post to a destination, agreed with the official veterinary surgeon, located in a third country within a period of sixty days commencing with the day following the service of the notice; or
- (b) to dispose of the product in accordance with Regulation (EC) No. 1774/2002 in the facilities provided for that purpose nearest to the border inspection post.

(4) Subject to paragraph (6), where, following a veterinary check on a product, other than an excepted product, located away from a border inspection post, an authorised officer decides that the product is a non-conforming product, the authorised officer must comply with paragraph (5).

(5) The authorised officer must serve a notice in writing on the person appearing to have charge of the product, requiring that person either—

- (a) to redispach the product by the mode of transport by which it was introduced into Scotland from the border inspection post referred to in the notice to a destination, agreed with the authorised officer, located in a third country within a period of sixty days commencing with the day following the service of the notice; or
- (b) to dispose of the product in accordance with Regulation (EC) No. 1774/2002 in the facilities provided for that purpose nearest to the location of the product.

(6) The product must be disposed of in accordance with paragraph (3)(b) or (5)(b) where—

- (a) its redispach is precluded on animal or public health grounds by—
  - (i) the results of a veterinary check, or
  - (ii) 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 (3)(a) or (5)(a) has elapsed; or

(c) the person responsible for the product or, if paragraph (4) applies, the owner of the product, agrees immediately to its disposal.

(7) The person responsible for, or, if paragraph (4) applies, the owner of, a product in respect of which a notice has been served under paragraph (3) or (5) must ensure that the product is stored until redispach or disposal under the supervision of the official veterinary surgeon or the authorised officer at such a place and under such conditions as may be directed in the notice.

(8) Any person who is aggrieved by a decision referred to in paragraph (2) or (4) may, within 28 days of the date when that person is notified of the decision, appeal to the sheriff by way of summary application.

(9) Pending the determination of an appeal under paragraph (8), paragraph (7) applies to the storage of the product concerned.

(10) In this regulation—

(a) “excepted product” means a transit product which fulfils the requirements of Part 7 or a product whose destination establishment is referred to in regulation 15(b) or 15(c);

(b) “other irregularity”, in relation to a product, means—

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

(ii) any false or misleading information contained in a notice given under regulation 17;

(iii) any false or misleading information given under regulation 45 or 51;

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

(aa) the notice of the product’s introduction or presentation given under regulation 17;

(bb) the product itself; or

(cc) 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;

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

(vi) any defect in the seals, stamps, marks or labels referred to in paragraph (10)(b)(iv) (cc), 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;

(vii) 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

(viii) 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(b) or 15(c), any contravention of the requirements laid down for that non-conforming product in any Directive, Decision or Regulation listed in Schedule 1.

### **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, the official veterinary surgeon or authorised officer may authorise that the product be used in accordance with regulation 26

of the Animal By-Products (Scotland) Regulations 2003<sup>(3)</sup> notwithstanding paragraphs (2), (3) and (4) of regulation 21.

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

(3) The authorisation may specify which of the uses in regulation 26 of the Animal By-Products (Scotland) Regulations 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)<sup>(4)</sup>;
- (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>(5)</sup>; and
- (c) “establishment of origin in a third country”, means the establishment of origin in the third country of origin of the consignment, as set out in box 10 of the common veterinary entry document.

(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) apply to those of the next ten consignments brought into the United Kingdom from that establishment which are brought into Scotland.

(4) The official veterinary surgeon at the border inspection post at which any such consignment is brought in must, by notice in writing served on the person responsible for the consignment, take charge of it and check for unauthorised substances or their 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 must lodge with the official veterinary surgeon a deposit or guarantee sufficient to assure payment of all charges payable in accordance with Part 9 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 must—

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

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<sup>(3)</sup> S.S.I. 2003/411.

<sup>(4)</sup> O.J. No. L 224, 18.8.90, p.1.

<sup>(5)</sup> O.J. No. L 125, 23.5.96, p.10.

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

### **Consignments and products illegally brought in**

**24.**—(1) This regulation applies—

- (a) where a consignment or product is brought into Scotland from a third country but is not presented at a border inspection post in accordance with regulation 18;
- (b) where a consignment or product originating in a third country has been brought 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); or
- (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 within that consignment.

(2) In the circumstances described in paragraphs (1)(a), (b) and (c), an authorised officer must, by notice in writing served on the person appearing to have charge of the consignment or product, take charge of that consignment or product and either redispach it in accordance with paragraph (4) or dispose of it in accordance with paragraph (4).

(3) In the circumstances described in paragraph (1)(d), the official veterinary surgeon must, by notice in writing served on the person responsible for the consignment, take charge of that consignment and either redispach it in accordance with paragraph (5) or dispose of it in accordance with paragraph (4).

(4) Where the authorised officer or the official veterinary surgeon decides to dispose of the product or consignment, the authorised officer or the official veterinary surgeon (as the case may be) must 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.

(5) Where the authorised officer or the official veterinary surgeon decides to redispach the product or consignment, the authorised officer or the official veterinary surgeon (as the case may be) must do so—

- (a) within a period of sixty days commencing with the day following the service of the notice;
- (b) to a third country destination agreed with—
  - (i) the owner of the product or consignment, in the circumstances described in paragraphs (1)(a), (b) or (c); or
  - (ii) the person responsible for the consignment, in the circumstances described in paragraph (1)(d); and
- (c) by the mode of transport by which the product or consignment was first brought into the relevant territories.

### **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 the official veterinary surgeon or an authorised officer must, by notice in writing served on the person appearing to have charge of it, take charge of it and dispose of it in accordance with regulation 24(4).

### **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, this regulation applies to those of the next ten consignments brought into the United Kingdom from that third country, part of a third country or establishment, as the case may be, that are brought into Scotland.

(2) The official veterinary surgeon at the border inspection post at which any such consignment is brought in must, by written notice served on the person responsible for the consignment, take charge of it and carry out a physical check upon it, 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 must lodge with the official veterinary surgeon a deposit or guarantee sufficient to assure payment of all charges payable in accordance with Part 9 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 or public health, the official veterinary surgeon must either redispach or dispose of the consignment in accordance with regulation 21(3).

### **Invalidation of veterinary documents**

**27.** Where an official veterinary surgeon or an authorised officer serves a notice requiring redispach of a product under regulation 21(3)(a), or takes charge of a consignment under regulation 24(2), any person who has possession or control of the required documents relating to that product or consignment must immediately submit them to the official veterinary surgeon or authorised officer, as the case may be, for invalidation.

### **Costs in respect of products redispached or disposed of**

**28.**—(1) The persons specified in paragraph (2) must pay on demand the costs of storing, transporting, redispaching and disposing of any product, consignment or part consignment redispached or disposed of—

- (a) under regulation 21, 24, 25 or 26; or
- (b) under the Customs and Excise Management Act 1979<sup>(6)</sup> in the enforcement of regulation 16.

(2) The persons referred to in paragraph (1) are—

- (a) the person responsible for the product, consignment or part consignment in question;
- (b) where a notice has been served on the person appearing to have charge of the product, consignment or part consignment, the owner of the product, consignment or part consignment; or
- (c) the person on whom a notification of seizure has been served under the Customs and Excise Management Act 1979.

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

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(6) 1979 c. 2, as amended by S.I. 1992/3095.



