

SCOTTISH STATUTORY INSTRUMENTS

2019 No. 412

**AGRICULTURE
AQUACULTURE**

**The Official Controls (Agriculture
etc.) (Scotland) Regulations 2019**

<i>Made</i>	- - - -	<i>at 2.45 p.m. on 3rd December 2019</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>at 4.30 p.m. on 3rd December 2019</i>
<i>Coming into force</i>	- -	<i>14th December 2019</i>

The Scottish Ministers make the following Regulations in exercise of powers conferred by section 2(2) of the European Communities Act 1972^{M1} and all other powers enabling them to do so.

Marginal Citations

M1 1972 c. 68. Section 2(2) was amended by the [Scotland Act 1998 \(c.46\)](#) (“the 1998 Act”), schedule 8, paragraph 15(3). The function conferred on the Minister of the Crown under section 2(2) of the European Communities Act 1972, so far as within devolved competence, was transferred to the Scottish Ministers by virtue of section 53 of the 1998 Act. In so far as not so transferred and in so far as relating to food (including drink) including the primary production of food, that function was transferred to the Scottish Ministers by the [Scotland Act 1998 \(Transfer of Functions to the Scottish Ministers etc.\) Order 2005 \(S.I. 2005/849\)](#).

PART 1

General

Title, commencement and extent

1.—(1) These Regulations may be cited as the Official Controls (Agriculture etc.) (Scotland) Regulations 2019 and come into force on 14 December 2019.

(2) These Regulations extend to Scotland only.

Commencement Information

I1 Reg. 1 in force at 14.12.2019, see [reg. 1\(1\)](#)

Interpretation

2.—(1) In these Regulations—

“audit” means an audit of a competent or designated authority for the purposes of Article 6 in relation to any relevant legislation;

“auditor” means a person carrying out an audit on behalf of a competent authority;

“designated authority” means an authority designated under regulation 3;

“enforcement officer” means an officer authorised to enforce the [^{F1}Official Controls Regulation] and these Regulations by a competent or designated authority;

“inspector” in relation to any relevant legislation, means an inspector, veterinary inspector, or other officer authorised by a competent or designated authority to act in Scotland under that legislation;

“official controls” has the meaning given by Article 2(1);

“other official activities” has the meaning given by Article 2(2);

“premises” includes any means of transport;

“relevant legislation” means ^{F2}... legislation relating to the areas specified in sub-paragraphs (b), (d), (e) and (f) of Article 1(2);

“the [^{F1}Official Controls Regulation]” means Regulation (EU) 2017/625 of the European Parliament and of the Council of 15 March 2017 on official controls and other official activities performed to ensure the application of feed and food law, rules on animal health and welfare, plant health and plant protection products ^{M2}, and where the context requires it includes a reference to measures in implementing and delegated regulations made under the [^{F1}Official Controls Regulation];

“Feed and Food Regulations” means the Official Feed and Food Controls (Scotland) Regulations 2009 ^{M3}.

(2) Unless otherwise provided in this regulation, terms used in these Regulations have the same meaning as they have in the [^{F1}Official Controls Regulation].

(3) Unless the context otherwise requires, any reference in these Regulations to an “Article” or “Title” are to an Article or Title of the [^{F1}Official Controls Regulation].

Textual Amendments

F1 Words in [reg. 2](#) substituted (31.12.2020) by [The Animal Health and Welfare and Official Controls \(Agriculture\) \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2020 \(S.S.I. 2020/380\)](#), regs. 1(3), **4(2)(a)**

F2 Words in [reg. 2\(1\)](#) omitted (31.12.2020) by virtue of [The Animal Health and Welfare and Official Controls \(Agriculture\) \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2020 \(S.S.I. 2020/380\)](#), regs. 1(3), **4(2)(b)**

Commencement Information

I2 Reg. 2 in force at 14.12.2019, see [reg. 1\(1\)](#)

Marginal Citations

M2 OJ No L 95, 7.04.2017, p. 1.

M3 S.S.I. 2009/446 as last amended by S.S.I. 2019/407.

Designations of competent and designated authorities

3.—(1) The competent authority in respect of the relevant legislation is for the purposes of Article 4—

- (a) to the extent that it has functions in relation to the welfare requirements of animals as the competent authority for the purposes of regulation 3 of the Welfare of Animals at the Time of Killing (Scotland) Regulations 2012^{M4}, Food Standards Scotland;
- (b) for all other purposes, the Scottish Ministers.

(2) Local authorities and food authorities are designated authorities in relation to enforcement functions (other than prosecution) which they exercise under relevant legislation.

(3) A designated authority must keep written records (which may be in electronic form) of official controls and other official activities that they perform, and such records must include—

- (a) a description of the purpose of the official controls and other official activities;
- (b) the control methods applied;
- (c) any action that the designated authority requires to be taken; and
- (d) the outcome.

(4) Where non-compliance has been identified by any designated authority through the application of official controls, the operator must be promptly informed of the non-compliance.

(5) In this regulation—

- (a) “food authority” has in relation to any relevant legislation the same meaning as it has in that legislation, and includes a food authority that is an enforcement authority for the purposes of that legislation; and
- (b) “local authority” has in relation to any relevant legislation the same meaning as it has in that legislation.

Commencement Information

I3 Reg. 3 in force at 14.12.2019, see [reg. 1\(1\)](#)

Marginal Citations

M4 S.S.I. 2012/321 as last amended by S.S.I. 2015/161.

Disclosure of information

4. The Scottish Ministers or any other designated authority may disclose information to each other and to other competent authorities^{F3}... for the purposes of applying these Regulations and the [F4Official Controls Regulation].

Textual Amendments

- F3** Words in [reg. 4](#) omitted (31.12.2020) by virtue of [The Animal Health and Welfare and Official Controls \(Agriculture\) \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2020 \(S.S.I. 2020/380\)](#), regs. 1(3), **4(3)(a)**
- F4** Words in [reg. 4](#) substituted (31.12.2020) by [The Animal Health and Welfare and Official Controls \(Agriculture\) \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2020 \(S.S.I. 2020/380\)](#), regs. 1(3), **4(3)(b)**

Commencement Information

- I4** Reg. 4 in force at 14.12.2019, see [reg. 1\(1\)](#)

PART 2

Audits and official controls

Powers of auditors

5.—(1) An auditor may exercise the powers in this regulation and carry out an audit in accordance with the [^{F5}Official Controls Regulation] if so authorised—

- (a) in relation to carrying out an audit of the activities of a designated authority, by the designated authority; or
- (b) in relation to carrying out an audit pursuant to regulation 6(2), by the Scottish Ministers.

(2) For the purposes of carrying out an audit, an auditor may enter premises to which an inspector has a power of entry under relevant legislation (“audit premises”) as if the auditor were an inspector meeting the criteria for gaining such entry under that relevant legislation.

(3) An auditor exercising a power of entry may be accompanied by any person whose assistance is reasonably required by the auditor.

(4) Any person at an audit premises must provide such information as may reasonably be required for the purposes of the audit to an auditor, upon request.

(5) An auditor may inspect such records as may reasonably be required for the purpose of the audit and may make or require copies to be provided of such records.

(6) When exercising the powers conferred by this regulation, an auditor must, upon request, produce evidence of authorisation under these Regulations.

(7) This regulation does not apply where an auditor undertakes an audit in accordance with regulation 7.

Textual Amendments

- F5** Words in [reg. 5\(1\)](#) substituted (31.12.2020) by [The Animal Health and Welfare and Official Controls \(Agriculture\) \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2020 \(S.S.I. 2020/380\)](#), regs. 1(3), **4(4)**

Commencement Information

- I5** Reg. 5 in force at 14.12.2019, see [reg. 1\(1\)](#)

Powers of the Scottish Ministers in relation to audits of designated authorities

6.—(1) The Scottish Ministers may require a designated authority to provide them with such information by a specified date about any audits it has carried out or undergone or which it plans to carry out or undergo.

(2) The Scottish Ministers may require an auditor to carry out an audit of a designated authority.

(3) The designated authority must provide such assistance to that auditor as may reasonably be required in order for the auditor to carry out the audit effectively.

Commencement Information

I6 Reg. 6 in force at 14.12.2019, see [reg. 1\(1\)](#)

Powers of Food Standards Scotland undertaking audits on behalf of the Scottish Ministers

7.—(1) The Scottish Ministers may require Food Standards Scotland to carry out an audit of a competent or designated authority for the purposes of the [^{F6}Official Controls Regulation].

(2) The audit provisions of the Feed and Food Regulations apply, for the purposes of such an audit, as if—

(a) the undertaking of the audit were for the purpose referred to in regulations 8(1) and 9(1) of those Regulations; and

(b) the authority concerned were an enforcement authority to which regulation 7 of those Regulations applied.

(3) For the purposes of paragraph (2), the audit provisions of the Feed and Food Regulations are—

(a) regulations 8 and 9(1) to (8) and (10) (as read with regulation 10 of those Regulations); and

(b) regulation 11 of those Regulations.

(4) Regulations 17(2), (4) and (5)(c), 18(2) to (9), 19 to 21 and 45 to 50 of the Feed and Food Regulations apply where Food Standards Scotland carry out an audit under this regulation as if the audit were undertaken under those Regulations and enforced or executed by Food Standards Scotland.

Textual Amendments

F6 Words in [reg. 7\(1\)](#) substituted (31.12.2020) by [The Animal Health and Welfare and Official Controls \(Agriculture\) \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2020 \(S.S.I. 2020/380\)](#), regs. 1(3), **4(5)**

Commencement Information

I7 Reg. 7 in force at 14.12.2019, see [reg. 1\(1\)](#)

PART 3

Assistance and co-operation under Title IV and recovery of expenses

Duties of designated authorities

8. A designated authority must without delay notify the Scottish Ministers or Food Standards Scotland (as appropriate) if it considers that it is unable to undertake action required in any individual

case under Title IV (administrative assistance and cooperation), and must provide such information to the Scottish Ministers or Food Standards Scotland as they may reasonably request.

Commencement Information

I8 Reg. 8 in force at 14.12.2019, see [reg. 1\(1\)](#)

Facilitating assistance and co-operation

9.—(1) For the purposes of assisting a competent authority ^{F7}... as provided for in Article 104, or enabling a competent or designated authority to do so, an inspector may on entering premises or when inspecting records—

- (a) be accompanied by an authorised officer of a competent authority ^{F7}...;
- (b) show records to such an officer; and
- (c) make, or require the making of, copies of records for such an officer.

^{F8}(2)

(3) An enforcement officer may require any person to provide them with such assistance, information or facilities as they may reasonably require for the purposes of the execution or enforcement of these Regulations or the [^{F9}Official Controls Regulation].

Textual Amendments

- F7** Words in [reg. 9\(1\)](#) omitted (31.12.2020) by virtue of [The Animal Health and Welfare and Official Controls \(Agriculture\) \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2020 \(S.S.I. 2020/380\)](#), regs. 1(3), **4(6)(a)**
- F8** [Reg. 9\(2\)](#) omitted (31.12.2020) by virtue of [The Animal Health and Welfare and Official Controls \(Agriculture\) \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2020 \(S.S.I. 2020/380\)](#), regs. 1(3), **4(6)(b)**
- F9** Words in [reg. 9\(3\)](#) substituted (31.12.2020) by [The Animal Health and Welfare and Official Controls \(Agriculture\) \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2020 \(S.S.I. 2020/380\)](#), regs. 1(3), **4(6)(c)**

Commencement Information

I9 Reg. 9 in force at 14.12.2019, see [reg. 1\(1\)](#)

Recovery of expenses

10.—(1) Any expenses incurred by a competent authority or a designated authority in carrying out enforcement activities under these Regulations, or measures under Articles 66, 67, 69 or 138, may be recovered from the relevant operator, and such expenses must be paid on written demand.

- (2) Any unpaid sum under these Regulations may be recovered—
 - (a) as a civil debt;
 - (b) under an order of the court, on such terms as the court may order.

Commencement Information

I10 Reg. 10 in force at 14.12.2019, see [reg. 1\(1\)](#)

PART 4

Enforcement and penalties

Enforcement and prosecution

11.—(1) Enforcement of the [F10Official Controls Regulation] and these Regulations is the responsibility of the competent authority or a designated authority.

(2) The Scottish Ministers may direct, in relation to a particular case or cases of a particular description, that these Regulations or the [F10Official Controls Regulation] are to be enforced by the Scottish Ministers instead of a designated authority.

Textual Amendments

F10 Words in reg. 11 substituted (31.12.2020) by [The Animal Health and Welfare and Official Controls \(Agriculture\) \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2020 \(S.S.I. 2020/380\)](#), regs. 1(3), 4(7)

Commencement Information

I11 Reg. 11 in force at 14.12.2019, see [reg. 1\(1\)](#)

Powers of enforcement officers

12.—(1) An enforcement officer may—

- (a) make any enquiries, observe any activity or process, and take photographs;
- (b) inspect any article, container, plant, equipment or records of any class which appear to the enforcement officer to be relevant for the purposes of an investigation, and may as reasonably required make or require the making of copies of such records or remove such records;
- (c) mark any item for identification purposes;
- (d) require the production of any label, document or record (in whatever form it is held);
- (e) inspect and take a copy of, or take a copy of an extract from, any label, document or record;
- (f) have access to, and inspect and check the data on, and operation of, any computer or similar device;
- (g) if the enforcement officer has reason to believe that a person is in contravention of these Regulations or the [F11Official Controls Regulation], and that such data may be relevant to the contravention, seize and detain any equipment for the purposes of copying data or (where adequate inspection is impracticable) further inspection;
- (h) if the enforcement officer has reason to believe that a person is in contravention of these Regulations or the [F11Official Controls Regulation], and that certain records may be relevant to the contravention, seize and detain the records.

(2) An enforcement officer must—

- (a) produce evidence of authorisation when requested to do so;
- (b) as soon as reasonably possible—
 - (i) provide to the person appearing to be responsible for any record or equipment removed from any premises a written receipt identifying the items removed; and
 - (ii) when no longer required, return anything seized or detained.

Textual Amendments

- F11** Words in [reg. 12\(1\)](#) substituted (31.12.2020) by [The Animal Health and Welfare and Official Controls \(Agriculture\) \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2020 \(S.S.I. 2020/380\)](#), regs. 1(3), **4(8)**

Commencement Information

- I12** Reg. 12 in force at 14.12.2019, see [reg. 1\(1\)](#)

Powers of entry

13.—(1) An enforcement officer may enter any premises (except any premises used wholly or mainly as a private dwelling) during normal working hours without prior notice, if the officer believes that it is necessary for the purpose of official controls or other official activities under these Regulations or the [^{F12}Official Controls Regulation].

(2) In circumstances where an enforcement officer is carrying out routine verification checks, notice must be provided before exercising a power of entry to premises during normal working hours.

(3) The requirement to give notice in paragraph (2) does not apply—

- (a) where reasonable efforts to effect entry have failed;
- (b) where the enforcement officer reasonably believes that giving notice would defeat the object of the entry, including any situation in which notice is not required under Article 9(4); or
- (c) where the enforcement officer has a reasonable suspicion that any provision of these Regulations or the [^{F12}Official Controls Regulation] has been contravened.

(4) An enforcement officer must, if requested to do so, produce a duly authenticated authorisation document.

(5) A justice of the peace, sheriff or summary sheriff may grant a warrant to permit an enforcement officer to enter any premises, including a dwelling, if necessary by reasonable force, if satisfied on sworn information in writing—

- (a) that there are reasonable grounds to enter the premises for the purpose of enforcing these Regulations or the [^{F12}Official Controls Regulation]; and
- (b) that one or more of the conditions in paragraph (6) are met.

(6) The conditions are—

- (a) that entry to the premises has been, or is likely to be, refused, and notice of the intention to apply for a warrant has been given to the occupier;
- (b) that asking for admission to the premises, or giving such a notice, would defeat the object of the entry;
- (c) that entry is required urgently;
- (d) that the premises are unoccupied or the occupier is temporarily absent.

(7) A warrant granted under this regulation shall continue in force for a period of one month.

(8) An enforcement officer entering any premises which are unoccupied, or from which the occupier is temporarily absent, must leave them as effectively secured against unauthorised entry as they were before entry.

(9) An enforcement officer may—

- (a) be accompanied by such other persons, up to a maximum of three, as the officer considers necessary;

- (b) bring onto the premises such equipment as the officer considers necessary.

Textual Amendments

- F12** Words in [reg. 13](#) substituted (31.12.2020) by [The Animal Health and Welfare and Official Controls \(Agriculture\) \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2020 \(S.S.I. 2020/380\)](#), regs. 1(3), **4(9)**

Commencement Information

- I13** Reg. 13 in force at 14.12.2019, see [reg. 1\(1\)](#)

Offences and penalties

14.—(1) A person is guilty of an offence if without reasonable excuse that person obstructs or causes or permits to be obstructed—

- (a) an auditor;
- (b) an inspector;
- (c) any person who accompanies an auditor or inspector; or
- (d) an enforcement officer.

(2) For the purposes of paragraph (1), obstruction includes failure by any person—

- (a) to produce records or provide reasonable facilities for copying records; or
- (b) to provide relevant information when requested.

(3) A person is guilty of an offence if without reasonable excuse that person supplies an auditor, inspector or enforcement officer with information which, in any material particular, is false or misleading.

(4) A person guilty of an offence under this regulation is liable on summary conviction to a fine not exceeding level 5 on the standard scale, or to imprisonment for a term not exceeding three months, or to both.

Commencement Information

- I14** Reg. 14 in force at 14.12.2019, see [reg. 1\(1\)](#)

Offences by bodies corporate

15.—(1) Where—

- (a) an offence under regulation 14 is committed by a body corporate, a Scottish partnership or other unincorporated association; and
- (b) it is shown that the offence was committed with the consent or connivance of an officer, or was attributable to any neglect on the part of the officer,

the officer as well as the body corporate is guilty of the offence, and liable to be proceeded against and punished accordingly.

(2) If the affairs of a body corporate are managed by its members, paragraph (1) applies in relation to the acts and defaults of a member in connection with any functions of management as if that person were a director of the body.

(3) “Officer” includes—

- (a) in relation to a body corporate—

- (i) a director, member of the committee of management, chief executive, manager, secretary or other similar officer of the body, or a person purporting to act in any such capacity;
- (ii) where the affairs of the body are managed by its members, a member;
- (b) in relation to a Scottish partnership, a partner;
- (c) in relation to an unincorporated association other than a Scottish partnership, a person who is concerned in the management or control of the association.

Commencement Information

I15 Reg. 15 in force at 14.12.2019, see [reg. 1\(1\)](#)

Time limits for prosecution

16. A prosecution for an offence under this Part must begin no later than the earlier of the expiry of—

- (a) three years from the commission of the offence; or
- (b) one year from its discovery by the prosecutor.

Commencement Information

I16 Reg. 16 in force at 14.12.2019, see [reg. 1\(1\)](#)

PART 5

Consequential amendments

Amendment to the Foot-and-Mouth Disease (Scotland) Order 2006

17.—(1) The Foot-and-Mouth Disease (Scotland) Order 2006^{M5} is amended as follows.

(2) In article 2(1)—

- (a) for the definition of “border inspection post”, substitute—
 - ““border control post” has the same meaning as Article 3(38) of Regulation (EU) 2017/625 of the European Parliament and of the Council on official controls and other official activities performed to ensure the application of feed and food law, rules on animal health and welfare, plant health and plant protection products;”;
- (b) in the definition of “health marked”, for the words “required by” to “Commission Implementing Regulation (EU) 2018/981”, substitute “ as defined in Article 3(51) in Regulation (EU) 2017/625 of the European Parliament and of the Council on official controls and other official activities performed to ensure the application of feed and food law, rules on animal health and welfare, plant health and plant protection products^{M6} ”;
- (c) in the definition of “Regulation (EC) No. 1069/2009”, for the words “as last amended by Council Regulation (EU) 1385/2013”, substitute “ as last amended by Regulation (EU) 2017/625 ”; and
- (d) in the definition of “slaughterhouse”, in paragraph (a) for the words “under” to “Commission Implementing Regulation (EU) 2018/1587” substitute “ in accordance with

Regulation EU 2017/625 of the European Parliament and of the Council on official controls and other official activities performed to ensure the application of feed and food law, rules on animal health and welfare, plant health and plant protection products ”.

- (3) In article 23(3)(b), for “border inspection post” substitute “ border control post ”.
- (4) In article 25(2)(b), for “border inspection post” substitute “ border control post ”.
- (5) In article 27—
 - (a) in the heading, for “border inspection posts” substitute “ border control posts ”; and
 - (b) in paragraph (1), for “border inspection post” substitute “ border control post ”.
- (6) In article 28—
 - (a) in the heading, for “border inspection posts” substitute “ border control posts ”; and
 - (b) in paragraph (1), for “border inspection post” substitute “ border control post ”.
- (7) In article 30, for “border inspection post” substitute “ border control post ” in both places.
- (8) In article 31—
 - (a) in paragraphs (2) and (3) for “border inspection post” substitute “ border control post ” in both places; and
 - (b) omit paragraph (6).

Commencement Information

I17 Reg. 17 in force at 14.12.2019, see [reg. 1\(1\)](#)

Marginal Citations

M5 [S.S.I. 2006/44](#) as last amended by [S.S.I. 2019/71](#).

M6 OJ No L 95, 7.04.2017, p. 1.

Amendment to the Foot-and-Mouth Disease (Slaughter and Vaccination) (Scotland) Regulations 2006

18.—(1) The Foot-and-Mouth Disease (Slaughter and Vaccination) (Scotland) Regulations 2006^{M7} are amended as follows.

- (2) In regulation 2(1)—
 - (a) for the definition of “border inspection post”, substitute—

““border control post” has the meaning in Article 3(38) of Regulation (EU) 2017/625 of the European Parliament and of the Council on official controls and other official activities performed to ensure the application of feed and food law, rules on animal health and welfare, plant health and plant protection products;”;
 - (b) in the definition of “health marked”, for the words “required by” to “Commission Implementing Regulation (EU) 2018/981”, substitute “ as defined in Article 3(51) of Regulation EU 2017/625 of the European Parliament and of the Council on official controls and other official activities performed to ensure the application of feed and food law, rules on animal health and welfare, plant health and plant protection products^{M8} ”;
 - (c) in the definition of “Regulation (EC) No. 1069/2009”, for the words “as last amended by Council Regulation (EU) 1385/2013”, substitute “ as last amended by Regulation (EU) 2017/625 ”; and
 - (d) in the definition of “slaughterhouse”, in paragraph (a) for the words “under” to “Commission Implementing Regulation (EU) 2018/1587” substitute “ in accordance with

Regulation EU 2017/625 of the European Parliament and of the Council on official controls and other official activities performed to ensure the application of feed and food law, rules on animal health and welfare, plant health and plant protection products ”.

Commencement Information

I18 Reg. 18 in force at 14.12.2019, see [reg. 1\(1\)](#)

Marginal Citations

M7 [S.S.I. 2006/45](#) as last amended by [S.S.I. 2019/71](#).

M8 OJ No L 95, 7.04.2017, p. 1.

Amendment to the Avian Influenza (H5N1 in Poultry) (Scotland) Order 2007

19.—(1) The Avian Influenza (H5N1 in Poultry) (Scotland) Order 2007^{M9} is amended as follows.

(2) In article 2, in the definition of “Regulation [\(EC\) No. 1069/2009](#)”, for the words “as last amended by Council Regulation (EU) 1385/2013”, substitute “ as last amended by Regulation (EU) 2017/625 ”.

(3) In article 11(2)(b)(ii), for the words “Chapter VIII” to the end, substitute “ Article 18 of Regulation EU 2017/625 of the European Parliament and of the Council on official controls and other official activities performed to ensure the application of feed and food law, rules on animal health and welfare, plant health and plant protection products ”.

Commencement Information

I19 Reg. 19 in force at 14.12.2019, see [reg. 1\(1\)](#)

Marginal Citations

M9 [S.S.I. 2007/62](#), as last amended by [S.S.I. 2019/71](#).

Amendment to the Avian Influenza (H5N1 in Wild Birds) (Scotland) Order 2007

20.—(1) The Avian Influenza (H5N1 in Wild Birds) (Scotland) Order 2007^{M10} is amended as follows.

(2) In article 2, in the definition of “Regulation [\(EC\) No. 1069/2009](#)”, for the words “as last amended by Council Regulation (EU) 1385/2013”, substitute “ as last amended by Regulation (EU) 2017/625 ”.

(3) In schedule 1, in paragraph 9(2)(a), for the words from “Sections I” to the end substitute “ Article 18 of Regulation EU 2017/625 of the European Parliament and of the Council on official controls and other official activities performed to ensure the application of feed and food law, rules on animal health and welfare, plant health and plant protection products^{M11} ”.

Commencement Information

I20 Reg. 20 in force at 14.12.2019, see [reg. 1\(1\)](#)

Marginal Citations

M10 [S.S.I. 2007/61](#), as last amended by [S.S.I. 2019/71](#).

M11 OJ No L 95, 7.04.2017, p. 1.

Amendment to the Welfare of Animals (Transport) (Scotland) Regulations 2006

21. In regulation 18(2) of the Welfare of Animals (Transport) (Scotland) Regulations 2006 ^{M12}, omit sub-paragraph (j).

Commencement Information

I21 Reg. 21 in force at 14.12.2019, see [reg. 1\(1\)](#)

Marginal Citations

M12 [S.S.I. 2006/606](#), to which there are amendments not relevant to these Regulations.

Amendment to the Welfare of Farmed Animals (Scotland) Regulations 2010

22.—(1) The Welfare of Farmed Animals (Scotland) Regulations 2010 ^{M13} are amended as follows.

(2) In schedule 2—

(a) in paragraph 1—

(i) in the definition of “official veterinarian”, for “Regulation 854/2004” substitute “Regulation (EU) 2017/625”;

(ii) omit the definition of “Regulation 854/2004”;

(iii) before the definition of “stocking density” insert—

““Regulation (EU) 2017/625” means Regulation (EU) 2017/625 of the European Parliament and of the Council on official controls and other official activities performed to ensure the application of feed and food law, rules on animal health and welfare, plant health and plant protection products ^{M14}.”

(b) in paragraph 15(1), for “Regulation 854/2004” substitute “Regulation (EU) 2017/625”.

Commencement Information

I22 Reg. 22 in force at 14.12.2019, see [reg. 1\(1\)](#)

Marginal Citations

M13 [S.S.I. 2010/388](#), as last amended by [S.S.I. 2019/221](#).

M14 OJ No L 95, 7.04.2017, p. 1.

Amendment to the Aquatic Animal Health (Scotland) Regulations 2009

23. Regulation 19 of the Aquatic Animal Health (Scotland) Regulations 2009 ^{M15} is amended as follows—

(a) in paragraph (3), for “inspection” substitute “control”;

(b) in paragraph (5), for sub-paragraph (a) substitute—

“(a) “border control post” has the meaning given by Article 3(38) of Regulation (EU) 2017/625 of the European Parliament and of the Council on official controls and other official activities performed to ensure the application of feed and food law, rules on animal health and welfare, plant health and plant protection products;”

Commencement Information

I23 Reg. 23 in force at 14.12.2019, see [reg. 1\(1\)](#)

Marginal Citations

M15 [S.S.I. 2009/85](#) as last relevantly amended by [S.S.I. 2012/177](#).

Amendment to the Trade in Animals and Related Products (Scotland) Regulations 2012

24.—(1) The Trade in Animals and Related Products (Scotland) Regulations 2012 ^{M16} are amended as follows.

(2) In regulation 2—

(a) in paragraph (1)—

(i) omit the definition of “border inspection post”;

(ii) omit the definition of “Council Directive [91/496/EEC](#)”;

(iii) omit the definition of “Council Directive [97/78/EC](#)”;

(iv) after the definition of “Commission Decision [2007/275/EC](#)” insert—

““Commission Delegated Regulation (EU) 2019/1666” means Commission Delegated Regulation (EU) 2019/1666 supplementing Regulation (EU) 2017/625 as regards conditions for monitoring the transport and arrival of consignments of certain goods from the border control post of arrival to the establishment at the place of destination in the Union ^{M17};

“Commission Regulation (EU) 142/2011” means Commission Regulation (EU) 142/2011 on the requirements for the entry of consignments of animal by-products and derived products originating from, and returning to, the union following refusal of entry by a third country ^{M18},”;

(v) before the definition of “Commission Implementing Regulation (EU) 2018/659” insert—

““Council Regulation ([EC](#)) [1/2005](#)” means Council Regulation ([EC](#)) [1/2005](#) on the protection of animals during transport and related operations ^{M19},”;

(vi) for the definition of “genetic material” substitute—

““genetic material” means any germinal product that includes semen, oocytes and embryos intended for artificial reproduction and hatching eggs;”;

(vii) before the definition of “local authority” insert—

““health certificate” includes the equivalent of a health certificate in electronic form;

“importer” means the natural or legal person who presents animals or products for importation from outside the United Kingdom;

“intensified official controls” are those controls carried out in accordance with Article 65(4);”;

(viii) before the definition of “official veterinarian” insert—

““official controls” means activities performed in accordance with Article 2(1) of the EU Regulation;”;

(ix) before the definition of “product” insert—

““premises” includes any place, vehicle, trailer, container, stall, moveable structure, ship or aircraft;” and

- (x) for the definition of “product”, substitute—
- ““product” means—
- (a) any product of animal origin, germinal product, animal by-product, derived product and hay and straw subject to official controls at border control posts; and
 - (b) any composite product listed in Commission Decision 2007/275 ^{M20} concerning lists of composite products to be subject to official controls at border control posts;”;
- (xi) for the definition of “Regulation (EC) No 882/2004”, substitute—
- ““Regulation (EU) 2017/625” means Regulation (EU) 2017/625 of the European Parliament and of the Council on official controls and other official activities performed to ensure the application of feed and food law, rules on animal health and welfare, plant health and plant protection products ^{M21} and the Implementing Regulations and Delegated Regulations made under it;”;
- (b) after paragraph (2) insert—
- “(3) In these Regulations, any reference to—
- (a) “the EU Regulation” is a reference to Regulation (EU) 2017/625 of the European Parliament and of the Council on official controls and other official activities performed to ensure the application of feed and food law, rules on animal health and welfare, plant health and plant protection products ^{M22}, and where the context requires it includes a reference to measures in implementing and delegated regulations made under the EU Regulation;
 - (b) “border inspection post” is to be read as a reference to a “border control post” as defined in regulation 9; and
 - (c) “CVED” is to be read as a reference to “CHED” as defined in regulation 8.”.
- (3) In regulation 3(2), for the definition of “pet animal” substitute—
- ““pet animal” has the same meaning as in Article 4(11) of Regulation (EU) 2016/429 on transmissible animal diseases and amending and repealing certain acts in the area of animal health ^{M23}.”.
- (4) In regulation 4, before “Iceland” insert “ the Faroe Islands, Greenland, ”.
- (5) In regulation 5—
- (a) for the heading substitute— “ Movement of animals or genetic material to or from member States ”;
 - (b) for paragraph (1) substitute—
- “(1) Subject to paragraphs (4) and (5), no animal or genetic material may be brought from a member State unless—
- (a) it is accompanied by an original health certificate;
 - (b) paragraph (3) has been complied with; and
 - (c) it complies with any additional requirements specified in Part 1 of Schedule 2.
- (1A) No animal product may be sent to or brought from a member State unless it is accompanied by a relevant commercial document.”;
- (c) in paragraph (3)(a)—
- (i) for “another” substitute “ a ”, and

- (ii) for “24 hours in advance of the intended”, substitute “ one working day before the expected ”;
- (d) In paragraph (3)(b), for “24 hours in advance of the intended”, substitute “ one working day before the expected ”.
- (6) In regulation 6(1), for the words “or genetic material to another” substitute “ , animal product or genetic material to a ”.
- (7) In regulation 7 in paragraph (a), for the words “and includes” to “Scotland”, substitute “ subject to official controls at border control posts; and ”.
- (8) For regulation 8, substitute—

“Meaning and use of Common Health Entry Document (“CHED”)

- 8.—(1) A Common Health Entry Document (“CHED”) means a document or an electronic equivalent in the format specified in Commission Implementing Regulation (EU) 2019/1715 laying down rules for the functioning of the information management system for official controls and its system components (the IMSOC Regulation) ^{M24}.
- (2) Where the imported consignment is required to be accompanied by a CHED to the premises of final destination, the operator responsible for the consignment must complete the relevant part of the document for the complete identification of the consignment and the place of destination.
- (3) The cases where and conditions under which the use of a CHED is required are specified in—
- (a) Commission Implementing Regulation (EU) 2019/1013 on prior notification of consignments of certain categories of animals and goods entering the Union ^{M25}; and
 - (b) Commission Delegated Regulation (EU) 2019/1602 supplementing Regulation (EU) 2017/625 of the European Parliament and of the Council concerning the Common Health Entry Document accompanying consignments of animals and goods to their destination ^{M26}.
- (4) Where a CHED is required, the operator responsible for the consignment must comply with the provisions of Article 56 of the EU Regulation.”.
- (9) For regulation 9, substitute—

“Border Control Posts

- 9.—(1) A border control post is a place (together with the facilities at that place) designated by the Scottish Ministers in accordance with Article 59 of the EU Regulation for the purpose of the performance of official controls as specified in Article 47(1) of that Regulation.
- (2) If at any time the Scottish Ministers are of the opinion that any part of the inspection facilities at a border control post no longer complies with the requirements for approval, the relevant authority may, in accordance with Articles 61 to 63 of the EU Regulation, serve a notice on the operator—
- (a) specifying the nature of the non-compliance;
 - (b) providing a time limit within which the requirements must be complied with; and
 - (c) prohibiting the use of that part of the facilities until the requirements are complied with.
- (3) If the notice is not complied with, the Scottish Ministers may suspend the approval in relation to that part of the inspection facilities.

(4) The Scottish Ministers must suspend the approval of a border control post, and order its activities to cease for all, or specified categories of, animals or products where the Scottish Ministers consider that—

- (a) the operator of a border control post is in serious breach of the requirements relating to the performance of official controls for any of the categories of animal or product for which the border control post has been designated;
- (b) the operator of a border control post is in serious breach of the requirements for approval; or
- (c) the operation of the border control post creates a risk to human or animal health or animal welfare.

(5) Where the Scottish Ministers suspend the approval of a border control post under paragraph (3) or (4), they must inform the European Commission and the member States of the suspension and the reason for it.”.

(10) In regulation 10(2), for the words from “any product” to “Decision [2007/275/EC](#)” substitute “fishery products, aquatic invertebrates, live bivalve molluscs, live echinoderms, live tunicates and live marine gastropods intended for human consumption”.

(11) Regulation 12 is amended as follows—

(a) for paragraph (1), substitute—

“(1) The person responsible for a consignment of animals or products must notify the border control post of the expected date of its arrival at the border control post at least one working day before it is due to arrive.

(1A) Where the person responsible for a consignment of animals or products can provide evidence of a logistical constraint preventing the notification under paragraph (1), that requirement may be satisfied by notification of its expected time of arrival at least four hours in advance.”;

(b) omit paragraph (2);

(c) for paragraph (4), substitute—

“(4) In the case of a transshipment of products from one border control post to another, the person responsible for the consignment must notify the official veterinarian at the border control post of destination of —

- (a) the estimated time of arrival;
- (b) the border control post at which the transshipment will be checked;
- (c) the identification and location of the consignment;
- (d) the estimated time of departure.”.

(12) For regulation 13, substitute—

“Procedure on importation

13.—(1) When the consignment has been unloaded, the person responsible for the consignment must with reasonable expedition arrange for it, together with the documentation specified for that consignment in the relevant legislation listed in schedule 1, to be presented at the border control post inspection facilities to enable official controls in accordance with—

- (a) Chapter 5 of the EU Regulation, together with relevant implementing and delegated acts; and
- (b) Article 37(1) of Regulation (EU) No 2016/1012.

- (2) Operators responsible for the consignment must ensure that the consignment is presented for official controls at the border control post at a reasonable time during the working day.
- (3) The competent authority must carry out all necessary official controls specified in paragraph (1) and must only issue a CHED permitting entry if—
- (a) the consignment complies with the requirements relating to it in the relevant instrument listed in schedule 1;
 - (b) the importation is not prohibited under paragraph (4); and
 - (c) the correct fee for the checks has been or will be paid.
- (4) In the case of live animals, the official veterinarian must not issue a CHED permitting entry if—
- (a) the animals are from a territory or part of a territory of a third country not included in the lists drawn up in accordance with legislation of the European Union for the species concerned or from which imports are prohibited under that legislation;
 - (b) the animals are suffering from or are suspected to be suffering from or infected by a contagious disease or a disease presenting a risk to human or animal health;
 - (c) the exporting third country has not complied with the requirements provided for in legislation of the European Union;
 - (d) the animals are not in a fit state to continue their journey; or
 - (e) the veterinary certificate or document accompanying the animals does not meet the requirements of legislation of the European Union relating to importation.
- (5) If there are no requirements in legislation of the European Union relating to the consignment, the official veterinarian must not issue a CHED unless the importation has been authorised in writing under this paragraph by—
- (a) Food Standards Scotland in respect of any product for which only public health requirements apply; or
 - (b) the Scottish Ministers for any other product.
- (6) An authorisation under paragraph 5(a) may only be granted if Food Standards Scotland is satisfied that the consignment does not pose a risk to human health.
- (7) An authorisation under paragraph 5(b) may only be granted if the Scottish Ministers are satisfied that the consignment does not pose a risk to human or animal health, or to the animal health status of the United Kingdom.
- (8) The official veterinarian must retain evidence of authorisation or refusal of a consignment for a period of three years from the date of the importation.”.
- (13) For regulation 14, substitute—

“Removal from a border control post

14.—(1) No person may remove a consignment from a border control post unless it is accompanied by a CHED, or its electronic equivalent, issued by the official veterinarian, or the official fish inspector in the case of a consignment of fish and fishery products, and the movement is in accordance with that document.

(2) The person transporting a consignment from a border control post must ensure that the CHED accompanies the consignment and must transport it directly to the destination specified therein.

(3) These requirements do not apply if the consignment is removed from a border control post under the authority of the relevant official veterinarian or fish inspector (as appropriate).

(4) In the case of live animals, the person responsible for transporting the animals to the final destination must have the appropriate transport authorisation in accordance with Article 4 of Council Regulation (EC) 1/2005 inside the vehicle.”.

(14) For regulation 15, substitute—

“Supervision and monitoring consignments

15. Where a consignment is required to be taken under supervision from a border control post to a specific destination in the United Kingdom or a member State—

- (a) the movement must be under customs supervision if this is specified in the CHED; and
- (b) on arrival, the occupier of any destination premises in Scotland must immediately notify the Scottish Ministers of its arrival.”.

(15) In regulation 16—

(a) for paragraph (3), substitute—

“(3) Products that arrive at a border control post for an ultimate destination outside the United Kingdom and which are subject to animal health check requirements in the relevant legislation listed in schedule 1, may be taken directly from the border control post to the destination outside the United Kingdom without a CHED, so long as the products do not remain for more than three days at an airport border control post or 30 days at a sea port border control post.”;

(b) after paragraph (3), insert—

“(3A) Product that are not subject to import check requirements, and which arrive at a border control post for an ultimate destination outside the United Kingdom, may be taken directly from the border control post to their destination without a CHED, so long as the products do not remain at the border control post for more than 90 days.”.

(16) In regulation 17, for paragraphs (b) and (c), substitute—

- “(b) removed from a border control post without a CHED or the authority of the official veterinarian or official fish inspector (as the case may be) at the post; or
- (c) transported from the border control post to a destination other than that specified in the entry document.”.

(17) For regulation 18, substitute—

“Action following non-compliance: products

18.—(1) This regulation applies in relation to any consignment of a product if the checks at a border control post show that the consignment does not comply with the rules referred to in Article 1(2) of the EU Regulation.

(2) The official veterinarian or the official fish inspector (as appropriate) must place the consignment under detention and refuse its entry into Scotland.

(3) The official veterinarian or the official fish inspector (as appropriate) may order the person responsible for the consignment to—

- (a) subject the consignment to special treatment in accordance with Article 71(1) and (2) or to any other measure necessary to ensure compliance with the rules referred to in Article 1(2) of the EU Regulation and, where appropriate and provided there is no risk to human or animal health, allocate the consignment for purposes other than those for which it was originally intended;

- (b) where health conditions permit, require the person in charge of the consignment to re-dispatch the consignment in accordance with Article 72 of the EU Regulation from the same border control post to a destination outside the European Union agreed with the person responsible for the consignment, using the same means of transport, within a maximum time limit of 60 days from arrival at the border control post; or
- (c) if the person responsible for the consignment gives immediate agreement, where re-dispatch is impossible or the 60-day time limit has elapsed, destroy the products.

(4) The official veterinarian or official fish inspector (as appropriate) may exceptionally authorise destruction, re-dispatch, special treatment, or any other measure that may be taken in respect of a consignment, to be taken in respect of a part of the consignment only, provided that the action taken—

- (a) is such as to ensure compliance;
- (b) does not pose a risk to human or animal health; and
- (c) does not disrupt official control operations.

(5) Pending re-dispatch or confirmation of the reasons for rejection, the person responsible for the consignment must, at that person's expense, store the consignment under the supervision of the enforcement authority.

(6) If a consignment of products is seized outside a border control post under regulation 17, the enforcement authority must order that the consignment be retained or recalled, and placed under official detention without delay, and paragraphs (2) and (3) of this regulation apply.

(7) The importer or the importer's representative is liable for the costs incurred in carrying out any measure taken under paragraphs (2) to (6) but, in circumstances where the consignment is destroyed, is entitled to payment of a sum equal to the value of the product after deduction of these costs.

(8) The importer or the importer's representative may not later than 24 hours after notification of the non-compliance, make written representations to the Scottish Ministers regarding any decision taken under this regulation, and the Scottish Ministers must respond in writing to the representations within 24 hours after receiving them.”.

(18) For regulation 19, substitute—

“Consignments of products likely to constitute a risk to animal or animal health

19. If the official controls at the border control post indicate that the consignment is likely to constitute a danger to animal or human health, the official veterinarian or the official fish inspector (as the case may be) must immediately place the consignment under official detention, and order that the person responsible for the consignment destroy it or arrange special treatment in accordance with Article 71 of the EU Regulation at that person's expense.”.

(19) For regulation 20, substitute—

“Serious contraventions, repeated contraventions, and breach of maximum residue limits

20.—(1) This regulation applies where, as regards products from a third country, part of a third country or an establishment in a third country, the official veterinarian or official fish inspector (as appropriate)—

- (a) suspects that there has been—
 - (i) a serious contraventions of any import requirement; or
 - (ii) a series of contraventions of such requirements; or

- (b) is satisfied that maximum residue levels have been exceeded.
 - (2) This regulation applies to the next ten consignments, or to consignments with a net weight of 300 tonnes, whichever is the lesser.
 - (3) The Scottish Ministers may apply intensified official controls where the official veterinarian or official fish inspector has reason to suspect fraudulent or deceptive practices by the operator responsible for a consignment.
 - (4) The official veterinarian or official fish inspector must carry out a physical check on the suspected non-compliant consignment and take appropriate measures in accordance with Section 3 of Chapter 5 under Title 2.
 - (5) The person responsible for the consignment must lodge with the official veterinarian a deposit or guarantee sufficient to assure payment of all charges, including for the taking of samples, and tests or analysis.”.
- (20) For regulation 21, substitute —

“Action following non-compliance: animals

21.—(1) If the checks at a border control post show that an animal does not comply with the rules referred to in Article 1(2) of the EU Regulation relating to that animal, or where such checks reveal an irregularity, the official veterinarian must initially place the animal under detention, isolation or quarantine, as appropriate, where it must be kept, cared for or treated under appropriate conditions pending further official decision on the fate of the animal.

(2) Unless immediate action is necessary in order to respond to a risk to human or animal health or animal welfare or to the environment, the official veterinarian may, after consultation with the importer or the importer's representative, order the person responsible for the consignment—

- (a) to shelter, feed and water and, if necessary, treat the animal;
- (b) if necessary, to place it in quarantine or isolate it for so long as is necessary to ensure that there is no risk to human or animal health; or
- (c) to re-dispatch the animal in accordance with Article 72 of the EU Regulation without delay.

(3) If re-dispatch is impossible, in particular for animal welfare reasons, the official veterinarian may order the importer or the importer's representative to arrange of the slaughter of the animal to spare any unavoidable pain, distress or suffering.

(4) If an animal is seized outside a border control post, the enforcement authority must order the consignment to be retained or recalled, and placed under official detention without delay, and paragraphs (1) and (2) apply.

(5) The official veterinarian may exceptionally authorise partial destruction, re-dispatch, special treatment, or any other measure that may be taken in respect of consignment of animals to be taken in respect of a part of any such consignment, provided that such action—

- (a) is such as to ensure compliance with the import check requirements of the EU Regulation;
- (b) does not pose a risk to human or animal health; and
- (c) does not disrupt official control operations.

(6) The Scottish Ministers must consider any representations made within 24 hours of notification of the non-compliance by the person responsible for the consignments.

(7) The importer or the importer's representative is liable for the costs incurred in carrying out any measure taken under paragraphs (2) to (5) but, in circumstances where an animal is

slaughtered, is entitled to payment of a sum equal to the slaughter value of the animal after deduction of these costs.”.

(21) In regulation 23—

(a) In the heading, after “of” insert “ animals and ”;

(b) for paragraph (1), substitute—

“(1) An official veterinarian at a border control post must authorise the re-importation of consignments of the categories of animals and products referred to in points (a) and (b) of Article 47(1) originating from, and returning to, the European Union following a refusal of entry by a third country, provided that —

(a) the animals and genetic material have been authorised in advance by the competent authority and comply with the relevant animal health and animal welfare requirements;

(b) the products of animal origin and composite products comply with animal and public health requirements relating to consignments of products for human consumption originating in and returning to the Union following a refusal of entry by a third country; and

(c) the animal by-products comply with the animal health requirements laid down in Annex XIV to Commission Regulation (EU) 142/2011.”.

(22) For regulation 25, substitute—

“Special measures

25.—(1) Where the Scottish Ministers or Food Standards Scotland—

(a) have reasonable grounds for suspecting the existence of a disease, zoonosis, phenomenon or circumstance in a country outside the United Kingdom, such that animals or products originating from the whole or part of the country concerned are liable to pose risk to human or animal health; or

(b) are of the opinion that there is serious non-compliance with official control rules under the EU Regulation in relation to imports from the European Union, or equivalent official controls in countries other than a member State,

the Scottish Ministers or Food Standards Scotland may publish a written declaration of the special measures necessary in Scotland in order to contain the risk to human or animal health or the risk of non-compliant animals or products entering into Scotland.

(2) The special measures that the Scottish Ministers or Food Standards Scotland may require include—

(a) suspension of entry into Scotland of any animal or product originating in or dispatched from the whole or part of the country concerned;

(b) imposition of conditions requiring that any animals or products—

(i) prior to dispatch, or on arrival, are made the subject of specific treatment or controls;

(ii) be accompanied by an official certificate, an official attestation, or any other evidence (in any format that may be specified) that any import from the European Union complies with established official control rules under the EU Regulation or equivalent rules in other countries;

(c) such other measures as the Scottish Ministers or Food Standards Scotland consider necessary to contain the risk.

(3) The declaration must be published in such manner as the Scottish Ministers or Food Standards Scotland (as the case may be) think fit and may be amended or revoked by further declaration at any time.

(4) No person may import anything in breach of such a declaration.”.

(23) In regulation 27—

(a) in paragraphs (1), (2), and (3) for “border inspection post” substitute “ border control post ” in each place where it occurs;

(b) for paragraph (6), substitute—

“(6) Where a customs officer exercising a statutory function at any place under customs supervision discovers any animal or product suspected of being non-compliant, that officer must detain it and notify such detention to an authorised officer of the relevant enforcement authority.”.

(24) For regulation 28, substitute—

“Powers of entry

28.—(1) An authorised officer of the Scottish Ministers or an enforcement agency may enter any premises during normal working hours without prior notice at a reasonable hour (except any premises used wholly or mainly as a private dwelling) if the officer believes that it is necessary to enter for the purpose of enforcing these Regulations.

(2) An authorised officer must, if requested to do so, produce a duly authenticated authorisation document.

(3) A justice of the peace, sheriff or summary sheriff may sign a warrant to permit an enforcement officer to enter any premises, including dwelling-houses, if necessary by reasonable force, if the justice, sheriff or summary sheriff on sworn information in writing is satisfied—

(a) that there are reasonable grounds to enter those premises for the purpose of enforcing these Regulations; and

(b) that one or more of the conditions in paragraph (4) are met.

(4) The conditions are—

(a) that entry to the premises has been, or is likely to be, refused, and notice of the intention to apply for a warrant has been given to the occupier;

(b) that asking for admission to the premises, or giving such a notice, would defeat the object of the entry;

(c) that entry is required urgently;

(d) that the premises are unoccupied or the occupier is temporarily absent.

(5) A warrant is valid for 30 days from the date of signature.

(6) An authorised officer entering any premises which are unoccupied or from which the occupier is temporarily absent must leave them as effectively secured against unauthorised entry as they were before entry.

(7) An authorised officer may—

(a) be accompanied by such other persons (up to a maximum of three) as the officer considers necessary;

(b) bring onto the premises such equipment as the officer considers necessary.”.

(25) In regulation 29—

(a) in paragraph (f), after “inspect the contents;” omit “and”;

(b) after paragraph (g) insert—

- “(h) require the slaughter of any imported animal which is non-compliant with import or animal welfare requirements in these Regulations or the EU Regulation, or suspected by the Scottish Ministers of posing a risk to animal or human health; and
- (i) require the quarantine of any imported animal that is suspected by the Scottish Ministers of posing a risk to animal or human health;”.

(26) For regulation 30, substitute—

“Importation of animals and products constituting a risk to animal or public health

30.—(1) If imported animals or products are suspected by the Scottish Ministers of constituting a serious risk to human or animal health or animal welfare, or, in the case of suspected non-compliance, the animals or products come from a region contaminated by an epizootic disease, an authorised officer of the Scottish Ministers may require—

- (a) an investigation in order to confirm or eliminate that suspicion;
- (b) an investigation into the extent of any suspected non-compliance and to establish the import operator's responsibilities;
- (c) intensified official controls on consignments of animals or products from a particular region until such imports are no longer regarded by the officer of constituting such health risk;
- (d) the official detention of animals or products;
- (e) appropriate measures to ensure that the person responsible for the animals or products remedies the non-compliance and prevents further occurrences of such non-compliance.

(2) In a case within paragraph 1(a), the importer must assist the officer in establishing the region of origin.

(3) Where the Scottish Ministers are satisfied that imported animals or products constitute a risk to animal or public health, an authorised officer of the Scottish Ministers may, following written notice, take any reasonable action to ensure compliance with any rules laid down in accordance with Article 1(2) of the EU Regulation, including—

- (a) taking samples for testing and order or performed veterinary treatments on animals;
- (b) ordering the unloading of animals and their transfer via another means of transport to a specified holding for a specified quarantine period (whether or not involving the postponement of the slaughter of animals);
- (c) the slaughter or killing of animals provided that this is the most appropriate measure to safeguard human health as well as animal health and welfare;
- (d) restricting or prohibiting the placing on the market, the movement or the export of the animal or product, or requiring its return to the country of dispatch;
- (e) ordering the importer to increase the frequency and thoroughness of systematic checks and controls before importing further animals or products from the region;
- (f) ordering the isolation or closure, for an appropriate period of time, of all or part of a business operation (including any related internet and on-line sales of products that may constitute a risk to animal or human health) affected by the importation of an animal or product that constitutes a risk to animal or human health;
- (g) the recall, withdrawal, removal or destruction of products;
- (h) the treatment of products for human consumption;

- (i) the alteration of labels or corrective information to be provided to consumers;
 - (j) the temporary suspension or withdrawal of the registration or approval of an affected establishment, plant, holding or means of transport concerned or of an authorisation of a transporter;
 - (k) the use of products for purposes other than those for which they were originally intended.
- (4) An authorised officer of the Scottish Ministers must provide an affected business operator, or its representative, with—
- (a) written notification of the decision concerning the action or measure to be taken in accordance with this regulation, together with the reasons for that decision; and
 - (b) information on any right of review against such decision in accordance with regulation 30A.
- (5) All expenditure incurred as a result of actions taken by or on behalf of the Scottish Ministers under this regulation is to be borne by the responsible operators.
- (6) In the case of the issue of false or misleading official certificates in Scotland, or where there is evidence of abuse of official certificates, an authorised officer of the Scottish Ministers may take appropriate measures, including—
- (a) the temporary suspension of the certifying officer from certifying any certificates related to any relevant trade;
 - (b) the withdrawal of the authorisation of a person to sign official certificates; and
 - (c) any other measure believe by the officer to be necessary to prevent a reoccurrence of any non-compliance or abuse.”.
- (27) After regulation 30, insert—

“Review of decisions by an appointed person

- 30A.**—(1) Any person aggrieved by a decision made under these Regulations, other than decisions referred to in regulations 18 or 21, may request a review of that decision by a person appointed by the Scottish Ministers (“the appointed person”).
- (2) Within 21 days of the appointment of the appointed person, written representations may be made by the aggrieved person to the appointed person.
- (3) The appointed person must consider any written representations made when reviewing the disputed decision and must report in writing to the Scottish Ministers 21 days from the expiry of the period in (2) with a recommended course of action resulting from the review.
- (4) The Scottish Ministers must consider the report of the appointed person and promptly notify the owner of the outcome of the review and provide a copy of the report of the appointed person.
- (5) A review, or right of review, does not affect the obligation on the designated authority to take prompt action to eliminate or contain the risks to human or animal health.”.
- (28) In regulation 33—
- (a) after the words “these Regulations” in each place where they occur insert “ or the EU Regulation ”;
 - (b) in the second row of the table —
 - (i) in the first column, for “regulation 5(1)(b)” substitute “ regulation 5(1) and (1A) ”, and

- (ii) in the second column, for the description of the offence substitute “ Movements without correct accompanying document ”.

(29) For regulation 36, substitute—

“Penalties

36. A person who is guilty of any offence under these Regulations is liable—

- (a) on summary conviction to a fine not exceeding level 5 on the standard scale or to imprisonment for a term not exceeding three months or to both; or
- (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years, to a fine, or to both.”.

(30) In schedule 1—

(a) omit the rows relating to—

- (i) 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](#);
- (ii) Commission Regulation [\(EC\) No 136/2004](#) laying down procedures for veterinary checks at Community border inspection posts on products imported from third countries;
- (iii) Regulation [\(EC\) No 854/2004](#) of the European Parliament and the Council laying down specific hygiene rules for the organisation of official controls on products of animal origin intended for human consumption;
- (iv) 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;
- (v) Regulation [\(EC\) No 767/2009](#) of the European Parliament and of the Council of 13 July 2009 on the placing on the market and use of feed;

(b) after the item ‘Regulation (EU) 2016/1012’—

(i) in the first column, insert—

“Regulation (EU) 2017/625 of the European Parliament and of the Council on official controls and other official activities performed to ensure the application of feed and food law, rules on animal health and welfare, plant health and plant protection products ^{M27} and the Implementing Regulations and Delegated Regulations made under it”; and

(ii) in the second column, insert—

“Official controls and other official activities”.

(31) In schedule 2—

(a) in the title to Part 1, for “between” substitute “ with ”;

(b) in paragraph 2—

(i) omit sub-paragraph (1);

(ii) for sub-paragraph (2) substitute—

“(2) No person may transport cattle, pigs, sheep or goats to a member State unless authorised by the Scottish Ministers in accordance with Article 11 of Council Regulation 1/2005.”;

(c) in paragraphs 3 and 4(4), for “between” substitute “ with ”;

- (d) in paragraph 6, for “another member State, or brought into Scotland from another”, substitute “ a member State, or brought into Scotland from a ”;
- (e) in paragraph 8(1), after the words “authority for”, insert “ the import of certain birds and quarantine conditions for the purposes of ”;
- (f) for paragraph 10, substitute—

“Ship supply

10.—(1) A product that does not comply with import requirements and is sent from a border control post to a ship must be accompanied by the relevant health certificate relating to that product, and the master of the vessel must confirm delivery of the product by signing a certificate which must accompany the consignment to its place of destination.

(2) Within 15 days upon completion of delivery of products by ship, the operator responsible for the delivery, or the representative of the master of the vessel must return the counter-signed official certificate (or send via electronic means and systems) to the competent authorities of the border control post of —

- (a) entry; or
 - (b) the approved Customs warehouse.”;
 - (g) omit paragraph 11.
- (32) In schedule 3—
- (a) for paragraph 1, substitute—

“Case 1: Personal imports and small consignments

1.—(1) Products referred to in Articles 7 and 10 of Commission Delegated Regulation made in accordance with Article 48(d) and (e) of the EU Regulation.”;

- (b) for paragraph 3, substitute—

“Case 3: Research and diagnostic samples

3.—(1) Subject to sub-paragraph (2), research and diagnostic samples as defined in point (38) of Annex 1 to Regulation (EU) No 142/2011 ^{M28} are exempt from veterinary checks at the border control post provided that they have been authorised in advance by the Scottish Ministers and the consignment is sent directly from the point of entry to the authorised user.

- (2) Where research and diagnostic samples are in transit to a member State—
 - (a) the importer (or a representative) must present the samples at a border control post of entry; and
 - (b) the competent authority of the post must inform the competent authority of the member State of destination of the arrival of the samples, through the Integrated Management System for Official Controls.”;
- (c) in paragraph 4, in the heading and in the paragraph for “another member State” substitute “ a member State ”;
- (d) paragraph 5(1) omit “Annex II to”;
- (e) after paragraph 6, insert—

“Case 7: Invertebrate animals intended for scientific purposes

7.—(1) Invertebrate animals intended for scientific purposes such as research, educational activities or research related to product development activities are exempt from official controls at border control posts (other than controls carried out in accordance with Article 15(2) of Regulation (EU) No 1143/2014 ^{M29} provided that—

- (a) they comply with all requisite animal health requirements;
- (b) they have been authorised by the Scottish Ministers; and
- (c) when the activities relating to the scientific purposes have been carried out, they and any products derived from them (with the exception of any portions used for the scientific purposes) are disposed of or re-dispatched to the third country of origin.

(2) Paragraph (1) does not apply to honey bees (*Apis mellifera*), bumble bees (*Bombus* species), molluscs belonging to the phylum Mollusc or crustaceans belonging to the subphylum Crustacea.”.

Commencement Information

I24 Reg. 24 in force at 14.12.2019, see [reg. 1\(1\)](#)

Marginal Citations

- M16** [S.S.I. 2012/177](#), as last amended by [S.S.I. 2019/71](#).
- M17** OJ No L 255, 4.10.2019, p. 1.
- M18** OJ No L 54, 26.2.2011, p. 1, as last amended by OJ No L 185, 11.7.2019, p. 26.
- M19** OJ No. L 3, 5.1.2005, p. 1.
- M20** OJ No L 76, 16.3.2007, p. 12.
- M21** OJ No L 95, 7.04.2017, p. 1.
- M22** OJ No L 95, 7.4.2017, p. 1.
- M23** OJ No L 84, 31.3.2016, p.1.
- M24** OJ No L 261, 14.10.2019, p. 37.
- M25** OJ No L 165, 21.6.2019, p. 8.
- M26** OJ No L 250, 30.7.2019, p. 6.
- M27** OJ No L 95, 7.04.2017, p. 1.
- M28** OJ No L 54, 26.2.2011, p. 1, as last amended by OJ No L 185, 11.7.2019, p. 26.
- M29** OJ No L 317, 4.11.2014, p. 35.

Amendment to the Animal Health (Miscellaneous Fees) (Scotland) Regulations 2018

^{F13}**25**.

Textual Amendments

F13 [Reg. 25](#) revoked (1.7.2023) by [The Animal By-Products and Animal Health \(Miscellaneous Fees\) \(Scotland\) Regulations 2023 \(S.S.I. 2023/198\)](#), regs. 1(1), **11(c)**

Amendment to the Welfare of Animals at the Time of Killing (Scotland) Regulations 2012

26. In regulation 3(1)(b)(iii) of the Welfare of Animals at the Time of Killing (Scotland) Regulations 2012 ^{M30}, for “Article 22(1)” substitute “ Article 138 of Regulation (EU) 2017/625 of the

European Parliament and of the Council on official controls and other official activities performed to ensure the application of feed and food law, rules on animal health and welfare, plant health and plant protection products^{M31}”.

Commencement Information

I25 Reg. 26 in force at 14.12.2019, see [reg. 1\(1\)](#)

Marginal Citations

M30 [S.S.I. 2012/321](#), as last amended by S.S.I 2019/34.

M31 OJ No L 95, 7.4.2017, p. 1.

Amendment to the Beef and Pig Carcase Classification (Scotland) Regulations 2010

27. In regulation 2(1) of the Beef and Pig Carcase Classification (Scotland) Regulations 2010^{M32}, in the definition of “bovine carcase”, for the words from “provided for in” to “consumption” substitute “ as defined in Article 3(51) of the Regulation (EU) 2017/625 of the European Parliament and of the Council on official controls and other official activities performed to ensure the application of feed and food law, rules on animal health and welfare, plant health and plant protection products ”.

Commencement Information

I26 Reg. 27 in force at 14.12.2019, see [reg. 1\(1\)](#)

Marginal Citations

M32 [S.S.I. 2010/330](#), as last amended by [S.S.I. 2019/34](#).

Amendment to the Transmissible Spongiform Encephalopathies (Scotland) Regulations 2010

28.—(1) The Transmissible Spongiform Encephalopathies (Scotland) Regulations 2010^{M33} are amended as follows.

(2) In regulation 2—

(a) in the definition of “cutting plant” for “Article 31(2) of Regulation (EC) No 882/2004”, substitute “ Article 148 of Regulation (EU) 2017/625 ”;

(b) for the definition of “Regulation (EC) No. 882/2004”, substitute —

““Regulation (EU) 2017/625” means Regulation (EU) 2017/625 of the European Parliament and of the Council on official controls and other official activities performed to ensure the application of feed and food law, rules on animal health and welfare, plant health and plant protection products ”;^{M34}

(c) in the definition of “slaughterhouse” for “Article 31(2) of Regulation (EC) No 882/2004 (registration/approval of feed and food business establishments)”, substitute “ Article 148 of Regulation (EU) 2017/625 ”.

(3) In schedule 1 in paragraph (d) for “Regulation (EC) 882/2004”, substitute “ Regulation (EU) 2017/625 ”.

(4) In schedule 7, in paragraph 9(4) for “Article 31(2) of Regulation 882/2004 (registration/ approval of feed and food business establishments)” substitute “ Article 148 of Regulation (EU) 2017/625 ”.

Changes to legislation: There are currently no known outstanding effects for the The Official Controls (Agriculture etc.) (Scotland) Regulations 2019. (See end of Document for details)

Commencement Information

I27 Reg. 28 in force at 14.12.2019, see [reg. 1\(1\)](#)

Marginal Citations

M33 [S.S.I. 2010/177](#) as last amended by [S.S.I. 2019/118](#).

M34 OJ No L 95, 7.04.2017, p. 1.

PART 6

Revocation

Revocation

29. The Official Controls (Animals, Feed and Food) (Scotland) Regulations 2007^{M35} are revoked.

Commencement Information

I28 Reg. 29 in force at 14.12.2019, see [reg. 1\(1\)](#)

Marginal Citations

M35 [S.S.I. 2007/91](#) as last amended by [S.S.I. 2019/288](#).

St Andrew's House,
Edinburgh

MAIRI GOUGEON
Authorised to sign by the Scottish Ministers

EXPLANATORY NOTE

(This note is not part of these Regulations)

These Regulations implement in part Regulation (EU) 2017/625 of the European Parliament and of the Council on official controls and other official activities performed to ensure the application of feed and food law, rules on animal health and welfare and plant health and plant protection products (OJ No L 95, 7.4.2017, p. 1).

Regulation (EU) 2017/625 applies from 14 December 2019, which is the coming into force date of these Regulations.

These Regulations make provision in respect of official controls and other official activities at border control posts, and for related matters including consequential amendments to other implementing legislation. They revoke the Official Controls (Animals, Feed and food) (Scotland) Regulations 2007 (S.S.I. 2007/91).

These Regulations apply in respect of [genetically modified organisms for the purposes of feed and food production, animal health requirements, prevention and minimisation of risks to human and animal health from animal by-products and derived products, and welfare requirements for animals. They do not apply to feed and food law, or plant health and plant protection products. Part 1 provides for interpretation, for the designation of competent and designated authorities for the purposes of Regulation (EU) 2017/625, and for disclosure of information.

Part 2 provides for audits to be undertaken of official controls and other official activities in accordance with the Regulation (EU) 2017/625.

Part 3 provides for assistance and co-operation under Title IV of Regulation (EU) 2017/625, and for recovery of expenses.

Part 4 provides for enforcement and penalties.

Part 5 provides for consequential amendments as a result of the application of the Regulation (EU) 2017/625.

Part 6 revokes the Official Controls (Animals, Feed and Food) (Scotland) Regulations 2007 (S.S.I. 2007/91).

A full impact assessment has not been produced for these Regulations as no, or no significant, impact on the private, voluntary or public sector is foreseen.

Changes to legislation:

There are currently no known outstanding effects for the The Official Controls (Agriculture etc.) (Scotland) Regulations 2019.