
STATUTORY INSTRUMENTS

1997 No. 1905

**The Bovines and Bovine Products (Despatch Prohibition
and Production Restriction) Regulations 1997**

Seizure of illegal goods

11.—(1) Where an inspector has a reasonable suspicion that a consignment of any—

- (a) goods of a kind described in regulation 3(1) or (2) above;
- (b) relevant goods;
- (c) controlled bovine by-products; or
- (d) material of a kind described in regulation 5 above,

is illegal, he may require the person in control of any commercial documentation or health certificate accompanying the consignment to deliver that documentation or certificate and any copies to him on demand.

(2) Where an inspector exercises the power conferred by paragraph (1) above he may, in respect of the consignment or any part of it—

- (a) give notice that, until the notice is withdrawn, it may not be removed or may not be removed except to some place specified in the notice;
- (b) give notice that it must be removed at the expense of the person who is or appears to be in control of the consignment to some place specified in the notice; or
- (c) seize it and remove it in order to have it dealt with by a justice of the peace

(3) Where an inspector exercises the power conferred by paragraph (2) above, he shall as soon as is reasonably practicable and in any event within 21 days, determine whether he is satisfied that the consignment is not illegal.

(4) Where the inspector is satisfied that the consignment is not illegal, he shall—

- (a) return any health certificate or commercial documentation which has been delivered to him;
- (b) withdraw any notice given pursuant to paragraph (2)(a) above relating to the consignment; and
- (c) return anything which he has seized and which, in the case of food, is not unfit for human consumption.

(5) Where the inspector is satisfied that the consignment is illegal, he shall inform the person in charge of the consignment of his intention to have it dealt with by a justice of the peace and—

- (a) any person who may be liable for prosecution in respect of the consignment shall, if he attends before the justice of the peace by whom the matter falls to be dealt with, be entitled to be heard and to call witnesses; and
- (b) the justice of the peace may, but need not, be a member of the court before which any person is charged with any offence in relation to the consignment.

(6) If it appears to a justice of the peace, on the basis of such evidence as he considers to be appropriate in the circumstances, that a consignment is illegal, he shall, unless he is satisfied that

there is no despatch risk in respect of the consignment (or any part of it) if it is returned to the owner, order—

- (a) the consignment to be destroyed or otherwise disposed of so as to prevent it from being despatched to another member State or a third country; and
- (b) any expenses reasonably incurred in connection with such destruction or disposal and (where the consignment was seized pursuant to paragraph (2)(c) above) in connection with storage prior to destruction, to be defrayed by the owner of the consignment.

(7) Where the justice of the peace is satisfied that there is no despatch risk in respect of a consignment if it is returned to the owner, he shall order the consignment to be returned to the owner.

(8) For the purposes of paragraphs (6) and (7) above, the “despatch risk” in respect of a consignment is the risk that—

- (a) (in the case of a consignment of any goods of a kind described in regulation 3(1) or (2) above) the owner will despatch some or all of those goods to another member State or a third country;
- (b) in the case of a consignment of controlled bovine by-products) the owner will use some or all of those by-products in any product liable to enter the human food chain or animal feed chain or in any cosmetic, medical or pharmaceutical product; or
- (c) (in the case of material of a kind described in regulation 5 above) the owner will consign some or all of that material to any establishment registered for the purposes of regulation 4 above.

(9) A consignment is “illegal” for the purposes of this regulation if—

- (a) it is falsely described on its packaging, wrapping, label or any container in which it is placed, or in any health certificate or commercial documentation accompanying it;
- (b) (in the case of a consignment of any goods of a kind described in regulation 3(1) or (2) above) it was brought to a place in Great Britain for despatch in contravention of regulation 3(1) or (2) above;
- (c) (in the case of a consignment of relevant goods) they were produced or despatched in contravention of regulation 3(4) above;
- (d) (in the case of a consignment of controlled bovine by-products) it was produced in contravention of regulation 4(1) above; or
- (e) (in the case of a consignment of material of a kind described in regulation 5 above) it was not consigned in an impervious container clearly labelled in accordance with regulation 5 above.

(10) In the application of this regulation to Scotland—

- (a) any reference to a justice of the peace includes a reference to the sheriff and to a magistrate;
- (b) paragraph (5)(b) above shall not apply; and
- (c) any order made under paragraph (6) above shall be sufficient evidence in any proceedings in relation to these Regulations of the fact that the consignment in question was falsely described.