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STATUTORY INSTRUMENTS

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**2004 No. 1214**

**The Products of Animal Origin (Third  
Country Imports) (England) Regulations 2004**

**PART 1**

*Introduction*

**Title, commencement and extent**

1. These Regulations may be cited as the Products of Animal Origin (Third Country Imports) (England) Regulations 2004; they apply in relation to England only and come into force on 1st May 2004.

**Interpretation**

2.—(1) In these Regulations—

“the Agency” means the Food Standards Agency;

“Article 9 product” means a product from a third country which is first introduced into the relevant territories at one border inspection post but is intended for import via another, as described (in relation to consignments) in Article 9(1) of Directive [97/78/EC](#), whether or not the product is transhipped or unloaded at the first border inspection post;

“authorised officer” means a person who is authorised by the Secretary of State, a local authority or the Agency, either generally or specially, to act in matters arising under these Regulations, whether or not he is an officer of the Secretary of State or of a local authority or the Agency;

“border inspection post” means—

- (a) a border inspection post which is included in the list contained in the Annex to Commission Decision [2001/881/EC](#)(1); or
- (b) a border inspection post in the Republic of Iceland or the Kingdom of Norway which is included in the list contained in the Annex to Decision No. 86/02/COL of the EFTA Surveillance Authority(2);

“border inspection post of destination” means the border inspection post via which an Article 9 product is intended for import;

“border inspection post of introduction” means the border inspection post at which an Article 9 product is first introduced into the relevant territories;

“carrier who has charge for the time being” of a product, consignment or part of a consignment includes the driver of any vehicle, the pilot of any aircraft and the master of any vessel (but not the driver of any train) transporting the same;

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(1) OJ No. L326, 11.12.01, p. 44, as last amended by Commission Decision [2004/273/EC](#) (OJ No. L86, 24.3.2004, p. 21).

(2) OJ No. L69, 13.3.2003, p. 31.

- “the Commissioners” means the Commissioners of Customs and Excise;
- “common veterinary entry document” means a document in the form set out in Annex III to Regulation (EC) No. 136/2004;
- “Community establishment of origin” means the premises located in a member State at which a returned product attained the form in which it was originally exported from the relevant territories;
- “consignment” means a quantity of products of the same type covered by the same veterinary certificate or veterinary document, or other document provided for by veterinary legislation, conveyed by the same means of transport and coming from the same third country or part of a third country;
- “corporate officer” means a director, manager, secretary or other similar officer of a body corporate, or a person who purports to act in any such capacity;
- “the Customs Code” means Council Regulation (EEC) No 2913/92 (establishing the Community Customs Code)(3);
- “customs officer” means an officer as defined in section 1(1) of the Customs and Excise Management Act 1979(4) (a person commissioned by the Commissioners);
- “the customs territory of the Community” has the same meaning as in Article 3 of the Customs Code;
- “customs warehouse” means a warehouse which fulfils the conditions of Articles 98 to 113 of the Customs Code, in which goods are stored subject to the customs warehousing procedure referred to in those Articles;
- “destination establishment”, in relation to a product, means the establishment identified in the “Country of destination” entry on the notice of the product’s introduction or presentation given pursuant to regulation 17;
- “Directive 92/118/EEC” means Council Directive 92/118/EEC (laying down animal health and public health requirements governing trade in and imports into the Community of products not subject to the said requirements laid down in specific Community rules referred to in Annex A (I) to Directive 89/662/EEC and, as regards pathogens, to Directive 90/425/EEC)(5);
- “Directive 97/78/EC” means Council Directive 97/78/EC (laying down the principles governing the organisation of veterinary checks on products entering the Community from third countries)(6);
- “documentary check” means the examination of the veterinary certificates or veterinary documents or other documents accompanying a consignment, carried out in accordance with Article 4(3) of Directive 97/78/EC and Annex I to Regulation (EC) No. 136/2004;
- “fishery products” means all seawater and freshwater animals, whether or not live, including—
- (a) aquaculture animals and aquaculture products as defined in Article 2 of Council Directive 91/67/EEC (concerning the animal health conditions governing the placing on the market of aquaculture animals and products)(7),

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(3) OJ No. L302, 19.10.92, p. 1, as last amended by the Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded (OJ No. L236, 23.9.2003, p. 33) (“the Act of Accession”).

(4) 1979 c. 2.

(5) OJ No. L62, 15.3.93, p. 49, as last amended by Commission Regulation (EC) No. 445/2004 (OJ No. L72, 11.3.2004, p. 60).

(6) OJ No. L24, 30.1.98, p. 9, as last amended by the Act of Accession.

(7) OJ No. L46, 19.2.91, p. 1, as last amended by Council Regulation (EC) No. 806/2003 (OJ No. L122, 16.5.2003, p. 1).

- (b) bivalve molluscs as defined in Article 2(1) of Council Directive [91/492/EEC](#) (laying down the health conditions for the production and the placing on the market of live bivalve molluscs)(**8**),
- (c) echinoderms, tunicates and marine gastropods, and
- (d) fishery products and aquaculture products as defined in Article 2 of Council Directive [91/493/EEC](#) (laying down the health conditions for the production and the placing on the market of fishery products)(**9**);

but excludes aquatic mammals, reptiles and frogs, and parts thereof;

“free circulation” has the same meaning as in Articles 23(2) and 24 of the Treaty establishing the European Community;

“free warehouse” and “free zone” have the same meanings as in Title IV, Chapter 3, Section 1 of the Customs Code;

“hay” means any grass, clover, lucerne or sainfoin which has been dried either naturally or artificially, and includes any product which is obtained by so drying any grass, clover, lucerne or sainfoin;

“identity check” means a check by visual inspection to ensure that the veterinary certificates or veterinary documents or other documents accompanying a consignment tally with the products comprised in the consignment, carried out in accordance with Article 4(4)(a) of Directive [97/78/EC](#);

“import”, as a noun, means release for free circulation within the meaning of Article 79 of the Customs Code;

“import conditions” in relation to a product, means the conditions laid down for the import of that product in any directive, decision or regulation listed in Schedule 1, including—

- (a) conditions as to the country or establishment of origin of the product,
- (b) specific requirements laid down for the import of that product into a particular member State or a particular area of a member State, and
- (c) conditions laid down for the import of that product for specific purposes;

“intermediate storage warehouse” means cold storage facilities approved for intermediate storage of products as referred to in Chapter 10 of Annex I to Directive [92/118/EEC](#);

“introduce” means bring into; and a person introduces a product into a territory or area, if—

- (a) he brings it into that territory or area as its owner;
- (b) he brings it into that territory or area as a carrier; or
- (c) a carrier brings it into that territory or area on that person’s instructions;

but a product on board a means of transport operating internationally and intended for consumption by the crew or passengers of that means of transport is not introduced into a territory or area if it is not unloaded, or if it is transferred directly from one means of transport operating internationally to another at the same port or airport and under supervision, within the meaning of Article 4(13) of the Customs Code, by the Commissioners;

“local authority” means—

- (a) where there is a port health authority, that port health authority;
- (b) where there is no port health authority, but where there is a unitary authority, within the meaning of the Local Government Changes for England Regulations 1994, that unitary authority;

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(8) OJ No. L268, 24.9.91, p. 1, as last amended by Council Regulation (EC) No. 806/2003 (OJ No. L122, 16.5.2003, p. 1).

(9) OJ No. L268, 24.9.91, p. 15, as last amended by Council Regulation (EC) No. 806/2003 (OJ No. L122, 16.5.2003, p. 1).

- (c) where there is no port health authority and no unitary authority—
  - (i) in a metropolitan or a non-metropolitan district, the council of that district; and
  - (ii) in each London borough, the council of that borough;
- (d) in the City of London, the Common Council; and
- (e) in the Isles of Scilly, the Council of the Isles of Scilly;

“non-conforming product” means a product which does not comply with the import conditions;

“official fish inspector” means an environmental health officer appointed as an official fish inspector by a local authority pursuant to regulation 6(2)(b);

“official veterinary surgeon” means a veterinary surgeon who has participated in a special training programme referred to in Article 27 of Directive [97/78/EC](#) and who is appointed by the Secretary of State pursuant to regulation 6(1)(a) or by a local authority pursuant to regulation 6(2)(a);

“operator” means—

- (a) in relation to a border inspection post, the person who provides premises and other facilities for the carrying out of veterinary checks at that border inspection post; and
- (b) in relation to a Community establishment of origin, an intermediate storage warehouse or a destination establishment, the person who occupies the same for the purposes of his business;

“owner”, in relation to a product, consignment or part of a consignment, means the person in whom the property in the product, consignment or part is for the time being vested;

“person appearing to have charge” of a product, consignment or part of a consignment means any person, including a carrier, who appears to have possession, custody or control thereof;

“person responsible for” a product, consignment, or part of a consignment means—

- (a) until the product, consignment or part first arrives at a border inspection post in England or, in the case of an Article 9 product, or a consignment or part of a consignment of Article 9 products, until it arrives at a border inspection post of destination in England—
  - (i) the person referred to in Article 38(1) of the Customs Code who brings the product, consignment or part into the customs territory of the Community;
  - (ii) a person referred to in Article 38(2) of the Customs Code who assumes responsibility for the carriage of the product, consignment or part after it has been brought into the customs territory of the Community; and
  - (iii) a person referred to in Article 44(2)(b) of the Customs Code, in whose name the persons referred to in sub-paragraphs (a)(i) and (ii) acted;
- (b) from the time the product, consignment or part first arrives at a border inspection post in England, or, in the case of an Article 9 product, or a consignment or part of a consignment of Article 9 products, from the time it arrives at a border inspection post of destination in England, until it leaves that first border inspection post, or that border inspection post of destination, as the case may be—
  - (i) the person referred to in Article 44(2)(b) of the Customs Code in whose name the persons referred to in sub-paragraphs (a)(i) and (ii) acted; or
  - (ii) if the product, consignment or part is in temporary storage, as referred to in Article 50 of the Customs Code, the person referred to in Article 51(2) of the Customs Code who holds it in temporary storage; or
  - (iii) if the person referred to in sub-paragraph (b)(i) or (ii), as the case may be, has appointed a representative in his dealings with the customs authorities, within the

meaning of Article 5 of the Customs Code, who is given or assumes responsibility for ensuring that the product, consignment or part undergoes veterinary checks, that representative; and

(c) after the product, consignment or part leaves that first border inspection post, or, in the case of an Article 9 product, or a consignment or part of a consignment of Article 9 products, after it leaves the border inspection post of destination—

(i) the person who made a customs declaration, within the meaning of Article 64 of the Customs Code, covering the product, consignment or part; or

(ii) if no such customs declaration has yet been made, the person capable of making it;

“physical check” means a check on the product itself (which may include checks on packaging and temperature and also sampling and laboratory testing) carried out in accordance with Article 4(4)(b) of, and Annex III to, Directive [97/78/EC](#) and, in the case of laboratory testing, Annex II to Regulation (EC) No. [136/2004](#);

“point of entry” means any place where goods are subject to customs supervision under Articles 37 and 38 of the Customs Code, other than a border inspection post;

“premises” includes any construction, installation, container or means of transport;

“product” means—

(a) any product of animal origin listed in the Annex to Commission Decision [2002/349/EC](#) (laying down the list of products to be examined at border inspection posts under Council Directive [97/78/EC](#))(**10**);

(b) hay; and

(c) straw,

but does not include composite food products as specified in Article 3 of Commission Decision [2002/349/EC](#);

“Regulation (EC) No. [1774/2002](#)” means Regulation (EC) No. [1774/2002](#) of the European Parliament and of the Council (laying down health rules concerning animal by-products not intended for human consumption)(**11**);

“Regulation (EC) No. [136/2004](#)” means Commission Regulation (EC) No. [136/2004](#) (laying down procedures for veterinary checks at Community border inspection posts on products imported from third countries)(**12**);

“the regulatory functions” means the functions assigned by these Regulations to authorised officers, official veterinary surgeons, official fish inspectors and assistants appointed pursuant to regulation 6;

“relevant document” means any required document and any other veterinary, commercial or other certificate or document relating to a product, including the manifest of any sea-going vessel or aircraft;

“the relevant territories” means an area comprising the territories of the member States, as listed in Annex I to Directive [97/78/EC](#), the Republic of Iceland, the Kingdom of Norway (except Svalbard), the Principality of Andorra and the Republic of San Marino;

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(10) OJ No. L121, 8.5.2002, p. 6, as read with Commission Decision [2002/995/EC](#) (OJ No. L353, 30.12.02, p. 1).

(11) OJ No. L273, 10.10.2002, p. 1, as last amended by Commission Regulation (EC) No. [668/2004](#), OJ No. L112, 19.4.2004, p. 1), and as read with Commission Regulations (EC) No. [811/2003](#), [812/2003](#) and [813/2003](#) (OJ No. L117, 13.5.2003, p. 14, p. 19 and p. 22), and Commission Decisions [2003/320/EC](#), [2003/321/EC](#), [2003/326/EC](#) and [2003/327/EC](#) (OJ No. L117, 13.5.2003, p. 24, p. 30, p. 42 and p. 44).

(12) OJ No. L21, 28.1.2004, p. 11.

“required document” means any original veterinary certificate, original veterinary document or other original document required in relation to a product by virtue of any directive, decision or regulation listed in Schedule 1;

“returned product” means a product originally exported from the customs territory of the Community which is returned there because it has been refused by a third country;

“ships' store” means closed premises referred to in Article 13(1)(c), or a specially approved warehouse referred to in Article 13(2)(a), of Directive [97/78/EC](#);

“straw” means any green cereal which has been dried either naturally or artificially and includes any product (other than grain) which is obtained by drying any green cereal;

“third country” means a country not comprised in the relevant territories;

“transhipped product” means an Article 9 product which is transhipped or unloaded in the way described (in relation to consignments) in Article 9(1) of Directive [97/78/EC](#) at its border post of introduction;

“transit” means transit from one third country to another, passing through one or more member States, under the external transit procedure referred to in Articles 91 to 97 of the Customs Code;

“transit product” means a product originating in a third country which, according to the information forwarded in advance referred to in Article 3(3) of Directive [97/78/EC](#), will undergo transit; and

“veterinary check” means any check provided for in Directive [97/78/EC](#) including a documentary check, an identity check or a physical check.

(2) Products introduced into England from the Republic of Iceland, other than fishery products, are regarded for the purposes of these Regulations as introduced from a third country.

(3) Any reference in these Regulations to a Community instrument is a reference to that instrument as amended on the date on which these Regulations are made.

### **Exemptions**

**3.—**(1) These Regulations do not apply to products introduced into England from a third country with the previous authorisation of the Secretary of State as trade samples, for exhibition, or for particular studies or analyses.

(2) The Secretary of State’s authorisation shall be in writing, may be made subject to conditions, and may be amended, suspended or revoked in writing at any time.

(3) Part 3, with the exception of regulation 25, and Parts 4 to 10 do not apply to—

(a) powdered infant milk, infant food, or special foods required for medical reasons containing meat, meat products, milk, or milk products from a third country if—

(i) they form part of a traveller’s personal luggage and are intended for his personal consumption or use;

(ii) they do not exceed in quantity that which could reasonably be consumed by an individual;

(iii) they do not require refrigeration before opening;

(iv) they are packaged proprietary brand products for direct sale to the final consumer; and

(v) their packaging is unbroken, unless they are in current use;

(b) meat, meat products, milk or milk products from the Faeroe Islands, Greenland, the Republic of Iceland, Liechtenstein, or Switzerland if—

- (i) they form part of a traveller's personal luggage, or are sent by post or carrier (otherwise than by way of trade or as a trade sample) and are addressed to a private individual in England;
  - (ii) they are intended for the personal consumption of the traveller or the addressee, as the case may be; and
  - (iii) their combined total weight in any traveller's personal luggage or in any consignment sent by post or carrier to a private individual does not exceed 5 kilograms; or
- (c) products in the personal luggage of a traveller if they are intended for his personal consumption or which are sent by post or carrier (otherwise than by way of trade or as a trade sample) and addressed to a private individual in England, if they are intended for his personal consumption, and if they—
- (i) are not meat, meat products, milk or milk products;
  - (ii) do not exceed one kilogram in weight;
  - (iii) come from a third country or part of a third country from which their importation is permitted in accordance with a list drawn up by an instrument in Schedule 1; and
  - (iv) do not come from a third country or part of a third country from which their importation is prohibited by any instrument in Schedule 1.
- (4) In this regulation “meat”, “meat products”, “milk” and “milk products” mean products of those types listed in sections 01–04 under the heading I.2, Title I in the Annex to Commission Decision [2002/349/EC](#).