
STATUTORY INSTRUMENTS

2004 No. 1214

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

PART 2

Enforcement

Enforcement authorities and exchange of information

- 4.—(1) These Regulations shall be executed and enforced—
- (a) by the Secretary of State at a border inspection post designated and approved for veterinary checks only on products referred to in Regulation (EC) No. 1774/2002;
 - (b) by the Agency at—
 - (i) premises required to be licensed under the Fresh Meat (Hygiene and Inspection) Regulations 1995(1), the Poultry Meat, Farmed Game Bird Meat and Rabbit Meat (Hygiene and Inspection) Regulations 1995(2), or the Wild Game Meat (Hygiene and Inspection) Regulations 1995(3); and
 - (ii) combined premises as defined in the Meat Products (Hygiene) Regulations 1994(4), or the Minced Meat and Meat Preparations (Hygiene) Regulations 1995(5); and
 - (c) subject to regulation 16, by each local authority within its area, including at any border inspection post therein, except at a border inspection post referred to in sub-paragraph (a) and at premises referred to in sub-paragraph (b).

(2) For the purposes of the execution or enforcement of these Regulations, the Secretary of State, the Commissioners, any local authority and the Agency may exchange amongst themselves any information received by them in the execution or enforcement of these Regulations.

(3) The Secretary of State, the Commissioners, any local authority and the Agency may share information received by them in the execution or enforcement of these Regulations with the enforcement authorities in Wales, Northern Ireland and Scotland for the purposes of the enforcement of the legislation on the introduction of products of animal origin from third countries in Wales, Northern Ireland and Scotland respectively.

(4) Paragraphs (2) and (3) are without prejudice to any other power of the Secretary of State, the Commissioners, any local authority and the Agency to disclose information.

(1) S.I. 1995/539, as amended by S.I. 1995/731, 1763, 2148, 2200, 3124, 3189, 1996/1148, 2235, 1997/2074, 2000/225, 656, 2215, 2001/1512, 2601, 2002/118 and 889.

(2) S.I. 1995/540, as amended by S.I. 1995/1763, 2148, 2200, 3205, 1997/1729, 2000/225, 656, 2215, 2001/3399 and 2002/889.

(3) S.I. 1995/2148, as amended by S.I. 1995/3205 and 2000/656.

(4) S.I. 1994/3082, as amended by S.I. 1995/539, 1763, 2200, 3205, 1996/1499, 1999/683, 2000/225, 656, 790, 2215 and 2002/118.

(5) S.I. 1995/3205, as amended by S.I. 1996/3124, 2000/225, 656, 2215, 2001/1512, 1739, 1771, 3451 and 2002/118.

Enforcement by an authorised officer or the Agency in place of local authority

5.—(1) If the Secretary of State considers that a local authority is failing or has failed to execute or enforce these Regulations generally, or in any class of cases, or in an individual case, she may empower an authorised officer or the Agency to execute or enforce them in place of that local authority.

(2) The Secretary of State or the Agency may recover from the local authority concerned any expenses reasonably incurred by her or it under paragraph (1).

Appointment of official veterinary surgeons and official fish inspectors

6.—(1) The Secretary of State shall appoint—

- (a) an official veterinary surgeon to carry out the regulatory functions at any border inspection post designated and approved for veterinary checks only on products referred to in Regulation (EC) No. 1774/2002; and
- (b) such appropriately trained assistants for each official veterinary surgeon appointed pursuant to sub-paragraph (a) as may be necessary for the proper and expeditious performance of the regulatory functions.

(2) A local authority shall appoint—

- (a) an official veterinary surgeon to carry out the regulatory functions at each border inspection post in its area, other than a border inspection post referred to in sub-paragraph (1)(a);
- (b) an official fish inspector to carry out the regulatory functions in relation to fishery products at each border inspection post in its area, other than a border inspection post referred to in sub-paragraph (1)(a); and
- (c) such appropriately trained assistants for each official veterinary surgeon appointed pursuant to sub-paragraph (2)(a), and each official fish inspector appointed pursuant to sub-paragraph (2)(b), as may be necessary for the proper and expeditious performance of the regulatory functions.

Exercise of enforcement powers

7.—(1) An official veterinary surgeon, an official fish inspector or an authorised officer may, at all reasonable hours and on producing, if so required, some duly authenticated document showing his authority, exercise the powers conferred by regulations 8 and 9 for the purpose of—

- (a) executing or enforcing these Regulations;
- (b) executing or enforcing any declaration made by the Secretary of State or the Agency pursuant to regulation 59;
- (c) ascertaining whether these Regulations are being or have been complied with; or
- (d) verifying the identity, origin or destination of any product.

(2) In the case of an official veterinary surgeon, an official fish inspector or an authorised officer appointed or authorised by a local authority, the powers conferred by regulations 8 and 9 shall be exercised—

- (a) within the area of that local authority, and
- (b) outside the area of that local authority for the purpose of ascertaining whether these Regulations are being or have been complied with within that area.

Powers of entry and inspection

- 8.—(1) An official veterinary surgeon, official fish inspector or authorised officer may—
- (a) enter any border inspection post or other land or premises (except land used only as a dwelling house) and inspect the same and anything therein or thereon;
 - (b) open any bundle, package, packing case, or item of personal luggage, or require any person in possession of or accompanying the same to open it;
 - (c) inspect the contents of any bundle, package, packing case or item of personal luggage opened pursuant to sub-paragraph (b);
 - (d) inspect any product, including its packaging, seals, marking, labelling and presentation, and any plant or equipment used for or in connection with any product; and
 - (e) take samples of any product.

(2) Where an official veterinary surgeon, official fish inspector or authorised officer takes a sample of a product otherwise than in the course of a physical check carried out pursuant to regulation 19(1), he may serve a notice in writing on the person appearing to him to have charge of the consignment which includes the product, requiring that the consignment or part thereof be stored until he serves a further notice in writing that the same may be removed, under the supervision of the official veterinary surgeon, official fish inspector or authorised officer, as the case may be, at such place and under such conditions as he may in the notice direct; and the costs of such storage shall be paid by the person responsible for the consignment.

(3) An official veterinary surgeon, official fish inspector or authorised officer entering any land or premises pursuant to sub-paragraph (1)(a) may take with him—

- (a) other persons acting under his instructions;
- (b) one or more representatives of the European Commission; and
- (c) one or more representatives of the authorities of a third country, appointed and acting in accordance with the provisions of one of the equivalence decisions listed in Schedule 2.

Powers in relation to documents

9. An official veterinary surgeon, official fish inspector or authorised officer may—
- (a) require any person appearing to him to have charge of a product, any person responsible for a product and any corporate officer, employee, servant or agent of any such persons, to produce any relevant document in his possession or under his control relating to the product, and to supply such additional information in his possession or under his control relating to the product as the official veterinary surgeon, official fish inspector or authorised officer may reasonably request;
 - (b) examine any relevant document relating to a product and, where it is kept by means of a computer, have access to and inspect and check the operation of any computer and associated apparatus or material which is or has been used in connection with that relevant document;
 - (c) take and retain such copies as he may think fit of any relevant document relating to a product; and
 - (d) seize and retain any relevant document relating to a product which the official veterinary surgeon, official fish inspector or authorised officer has reason to believe may be required as evidence in proceedings under these Regulations, and, where any such relevant document is kept by means of a computer, require it to be produced in a form in which it may be taken away.

Protection of officials acting in good faith

10.—(1) No authorised officer, official veterinary surgeon, official fish inspector, or assistant appointed pursuant to regulation 6 shall be personally liable in respect of any act done by him in the performance or purported performance of the regulatory functions within the scope of his employment, if he did that act in the honest belief that his duty under these Regulations required or entitled him to do so.

(2) Paragraph (1) shall not relieve the Secretary of State, a local authority or the Agency from any liability in respect of acts of her or their officers.

Entry warrants

11. If a justice of the peace, on sworn information in writing, is satisfied that there is reasonable ground for entry into any land or premises by an official veterinary surgeon, official fish inspector or authorised officer pursuant to regulation 8 for any of the purposes specified in regulation 7 and either—

- (a) that entry has been refused, or a refusal is reasonably expected, and that the official veterinary surgeon, official fish inspector or authorised officer has given notice of his intention to apply for an entry warrant to the occupier; or
- (b) that a request for entry, or the giving of such a notice, would defeat the object of entry, or that entry is urgently required, or that the land or premises are unoccupied, or the occupier is temporarily absent, and it would defeat the object of entry to await his return,

the justice may by warrant signed by him, and valid for one month, authorise the official veterinary surgeon, official fish inspector or authorised officer to enter the land or premises, if need be by reasonable force.

Local authority returns

12.—(1) For each border inspection post in its area, a local authority shall submit to the Secretary of State a return comprising—

- (a) the total number of consignments checked, categorised by groups of products and by country of origin;
- (b) a list of consignments of which samples were taken and the results of any test or analysis of each sample; and
- (c) a list of consignments required to be redispached or disposed of pursuant to regulation 21 by the official veterinary surgeon or official fish inspector, together with, in each case, their country of origin, establishment of origin (if known), a description of the product concerned and the reason for refusal.

(2) The Secretary of State shall determine how frequently the returns referred to in paragraph (1) are to be submitted and what period of time they are to cover.

Suspension of border inspection posts

13.—(1) If the Secretary of State is satisfied that—

- (a) the continued operation of a border inspection post presents a serious risk to public or animal health; or
- (b) there has been at a border inspection post a serious breach of the requirements for the approval of border inspection posts laid down in Annex II to Directive [97/78/EC](#) or in Commission Decision [2001/812/EC](#) (laying down requirements for the approval of

border inspection posts responsible for veterinary checks on products introduced into the Community from third countries)(6),

she shall serve on the operator of the border inspection post concerned a written notice stating that the approval of the premises as a border inspection post in accordance with Article 6(2) or 6(4) of Directive 97/78/EC is suspended.

(2) Upon service of a notice pursuant to paragraph (1) the premises shall cease to be a border inspection post, notwithstanding that they may still appear on the list of border inspection posts contained in the Annex to Commission Decision 2001/881/EC, until they are again approved as a border inspection post in accordance with Article 6(2)(a) of Directive 97/78/EC.

Regulatory functions of official fish inspectors

14. In Parts 3 to 9, and Part 13, where a fishery product is concerned, the expression “official veterinary surgeon” shall be construed as indicating an official fish inspector as defined in regulation 2(1).

(6) OJ No. L306, 23.11.2001, p. 28.