
STATUTORY INSTRUMENTS

2004 No. 1740

The Products of Animal Origin (Third Country Imports) (England) (No. 2) Regulations 2004

PART 3

Provisions Applicable to Products in General

Prohibition of non-conforming products

15. Without prejudice to regulation 22 of the Dairy Products (Hygiene) Regulations 1995⁽¹⁾, no person shall introduce a non-conforming product into England from a third country, or a non-conforming product originating in a third country into England from elsewhere in the relevant territories unless—

- (a) it is a transit product; or
- (b) its destination establishment is a warehouse in a free zone, a free warehouse or a customs warehouse approved pursuant to Article 12(4)(b) of Directive 97/78/EC, or a ships' store complying with Article 13 of Directive 97/78/EC, located (in each case) outside the United Kingdom.

Prohibition of introduction of products except at border inspection posts

16.—(1) No product shall be introduced into England from a third country except at a border inspection post designated and approved for veterinary checks on that product.

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

(3) This regulation shall be enforced—

- (a) at points of entry by the Commissioners;
- (b) at premises referred to in regulation 4(1)(b) by the Agency; and
- (c) at any other place by the local authority.

(4) In cases where an officer of a local authority, when exercising any statutory function, discovers at a point of entry a consignment or product which he considers may have been introduced in breach of this regulation, he shall notify a customs officer and detain the consignment or product until a customs officer takes charge of it.

(5) For the purposes of the application of the Customs and Excise Management Act 1979⁽²⁾ to products introduced in contravention of this regulation, the time of introduction shall be the time of importation in accordance with section 5 of that Act.

(1) S.I.1995/1086, as amended by S.I. 1995/1763, 1996/1499, 1699, 1997/1729, 1998/2424, 2000/656 and 2002/1227.

(2) 1979 c. 2.

Advance notice of introduction or presentation

17.—(1) No person shall—

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

unless notice of its introduction has been given pursuant to this regulation to the official veterinary surgeon at a border inspection post designated and approved for veterinary checks on that product and a copy of it has been sent to the office of the Commissioners responsible for the area in which that border inspection post is situated.

(2) Where the border inspection post of introduction and the border inspection post of destination of an Article 9 product are both in England, no person shall present the product to a border inspection post unless notice of its presentation has been given pursuant to this regulation to the official veterinary surgeon at a border inspection post of destination designated and approved for veterinary checks on that product and a copy of it has been sent to the office of the Commissioners responsible for the area in which that border inspection post is situated.

(3) The notice referred to in paragraphs (1) and (2)—

- (a) shall be in the form set out as Part 1 of the common veterinary entry document;
- (b) may be supplied in electronic form;
- (c) shall be in English and also in an official language of the country of destination in the relevant territories referred to in the notice, if other than the United Kingdom;
- (d) shall arrive at the border inspection post—
 - (i) at least six working hours, in the case of a product introduced by air; and
 - (ii) at least one working day, in any other case,before the product is presented to the official veterinary surgeon at the border inspection post pursuant to regulation 18; and
- (e) in the case of a notice given to a border inspection post of destination, shall specify what checks have been carried out at the border inspection post of introduction.

(4) In paragraph (3) “working hours” means hours during which, and “working day” means a day on which, the border inspection post is open for the presentation of products to the official veterinary surgeon pursuant to regulation 18.

Presentation of products at border inspection posts

18.—(1) Any person responsible for a product which is introduced into England from a third country, or for an Article 9 product whose border inspection post of destination is in England which is introduced into England, shall present the product and the required documents, or ensure that the same are presented, without delay to the official veterinary surgeon at the inspection facility of the border inspection post to which notice of the product’s introduction or presentation was given pursuant to regulation 17.

(2) Where the border inspection post of introduction of an Article 9 product is in the United Kingdom and its border inspection post of destination is in England, any person responsible for the product after its removal from the border inspection post of introduction shall present the product and the required documents, or ensure that the same are presented, without delay to the official veterinary surgeon at the inspection facility of the border inspection post of destination to which notice of the product’s presentation was given pursuant to regulation 17.

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

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

Veterinary checks

19.—(1) Subject, in the case of transhipped products, to regulation 38, any person required by virtue of regulation 18 to present a product and its required documents, or to ensure that the same are presented, to an official veterinary surgeon shall permit the official veterinary surgeon, or an assistant appointed pursuant to regulation 6(1)(b) or 6(2)(c), to carry out on the product or the required documents, as the case may be—

- (a) a documentary check;
- (b) an identity check; and
- (c) subject to regulations 41, 46 and 50, a physical check,

and shall render the official veterinary surgeon or assistant such assistance as he may reasonably request to enable him to carry out any of the said checks.

(2) When a sample of a product is taken in the course of a physical check, no person shall remove the product or cause it to be removed from the border inspection post at which it was presented until the official veterinary surgeon has authorised its removal by issuing Part 2 of the common veterinary entry document for the product or for the consignment or part consignment which includes the product.

(3) Pending removal pursuant to paragraph (2) the person responsible for the consignment which includes the product shall store it under the supervision of the official veterinary surgeon at such place and under such conditions as the official veterinary surgeon may direct and shall pay the costs of such storage.

Common veterinary entry document to accompany consignment

20.—(1) The person responsible for a consignment or part of a consignment in respect of which Part 2 of the common veterinary entrance document has been issued, and any carrier who has charge of it for the time being, shall ensure that the common veterinary entry document accompanies the consignment or part—

- (a) in the case of a consignment or part intended for import, and subject to regulation 37(3), until the consignment or part first reaches, after import, premises where products are stored, processed, handled, bought or sold; and
- (b) in all other cases until the consignment or part is no longer subject to supervision by the customs authorities, within the meaning of Article 4(13) of the Customs Code.

(2) The person who occupies for the purposes of his business the premises referred to in subparagraph (1)(a) shall take possession of the common veterinary entry document referred to in paragraph (1) and retain the same at the premises for a period of one year commencing with the day following its arrival there.

Products which fail veterinary checks

21.—(1) This regulation applies, subject to regulation 22—

- (a) where, following a veterinary check at a border inspection post, the official veterinary surgeon there decides that a product (other than a transit product which fulfils the requirements of Part 7 or a product whose destination establishment is referred to in Regulation 15(b)) is a non-conforming product, or that there is some other irregularity in relation to the product; and
 - (b) where, following a veterinary check on a product located away from a border inspection post (other than a transit product which fulfils the requirements of Part 7 or a product whose destination establishment is referred to in Regulation 15(b)), an authorised officer decides that the product is a non-conforming product.
- (2) If sub-paragraph (1)(a) applies, the official veterinary surgeon shall serve a notice in writing on the person responsible for the product, and if sub-paragraph (1)(b) applies, the authorised officer shall serve a notice in writing on the person appearing to him to have charge of the product, requiring him either—
- (a) to redispach the product from the border inspection post, or, if sub-paragraph (1)(b) applies, from a border inspection post indicated in the notice, by the mode of transport by which it was introduced into England, to a destination, agreed with the official veterinary surgeon or the authorised officer, located in a third country within a period of sixty days commencing with the day following the service of the notice; or
 - (b) to dispose of the product in accordance with Regulation (EC) No. 1774/2002 in the facilities provided for that purpose nearest to the border inspection post or, if sub-paragraph (1)(b) applies, nearest to the location of the product.
- (3) The product must be disposed of in accordance with sub-paragraph (2)(b) where—
- (a) its redispach is precluded on animal or public health grounds by the results of a veterinary check, or by any animal or public health requirement laid down in a Community instrument in force on the date on which these Regulations are made, or is otherwise impossible; or
 - (b) the sixty-day period referred to in sub-paragraph (2)(a) has elapsed; or
 - (c) the person responsible for the product or, if sub-paragraph (1)(b) applies, the owner of the product, agrees immediately to its disposal.
- (4) The person responsible for, or, if sub-paragraph (1)(b) applies, the owner of, a product in respect of which a notice has been served pursuant to paragraph (2) shall ensure that it is stored until redispach or disposal under the supervision of the official veterinary surgeon or the authorised officer at such place and under such conditions as he may in the notice direct.
- (5) In paragraph (1)(a) “other irregularity” in relation to a product means—
- (a) its introduction into England from a third country, or its presentation to a border inspection post of destination in England, without notice given pursuant to regulation 17;
 - (b) any false or misleading information contained in a notice given pursuant to regulation 17;
 - (c) any false or misleading information given pursuant to regulation 45 or 49;
 - (d) any error, omission or false or misleading information in a required document, and any discrepancy between a required document and—
 - (i) the notice of the product’s introduction or presentation given pursuant to regulation 17; or
 - (ii) the product itself; or
 - (iii) the seals, stamps, marks or labels on the product, on the consignment which includes the product or on the container holding the product or the consignment;
 - (e) any defect in the product rendering it unfit for the purpose for which, according to the required documents, it is intended;

- (f) any defect in the seals, stamps, marks or labels referred to in sub-paragraph (5)(d) (iii), including, in the case of a packaged product, any contravention of the labelling requirements laid down for that product in any directive, decision or regulation listed in Schedule 1;
- (g) in the case of a product intended for import, any indication in the required documents that the product does not comply with the import conditions; and
- (h) in the case of a non-conforming product which is a transit product, or a product whose destination establishment is referred to in regulation 15(b), any contravention of the requirements laid down for that non-conforming product in any directive, decision or regulation listed in Schedule 1.

(6) Any person who is aggrieved by a decision referred to in sub-paragraph (1)(a) or (1)(b) may appeal within one month of the decision to a magistrates' court by way of complaint for an order and the Magistrates' Courts Act 1980⁽³⁾ shall apply to the proceedings.

(7) Pending the determination of an appeal pursuant to paragraph (6), paragraph (4) shall apply to the storage of the product concerned.

Treatment as animal by-products

22.—(1) If the official veterinary surgeon or authorised officer is of the opinion that a product to which regulation 21 applies presents no risk to animal or public health, he may authorise that the product be used in accordance with regulation 26 of the Animal By-Products Regulations 2003⁽⁴⁾ notwithstanding paragraphs (2), (3) and (4) of regulation 21.

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

(3) The authorisation may specify which of the uses in regulation 26 of the Animal By-Products Regulations 2003 is permitted.

Products containing unauthorised substances and excess residues

23.—(1) In this regulation—

- (a) “maximum residue limit” means a maximum residue limit listed in Annex I or Annex III to Council Regulation (EEC) No. 2377/90 (laying down a Community procedure for the establishment of maximum residue limits of veterinary medicinal products in foodstuffs of animal origin)⁽⁵⁾; and
- (b) “unauthorised substance” has the same meaning as “unauthorised substance or product” in Council Directive 96/23/EC (on measures to monitor certain substances and residues thereof in live animals and animal products and repealing Directives 85/358/EEC and 86/469/EEC and Decisions 89/187/EEC and 91/664/EEC)⁽⁶⁾.

(2) This regulation applies where a veterinary check on a consignment from a particular establishment of origin in a third country reveals the presence of an unauthorised substance, or reveals that a maximum residue limit has been exceeded, but no Community measures have yet been adopted in response to this.

(3) In the circumstances described in paragraph (2), paragraphs (4), (5), (6) and (7) shall apply to those of the next ten consignments introduced into the United Kingdom from that establishment which are introduced into England.

⁽³⁾ 1980 c. 43.

⁽⁴⁾ S.I. 2003/1482.

⁽⁵⁾ OJ No. L224, 18.8.90, p. 1, as last amended by Commission Regulation (EC) No. 1101/2004 (OJ No. L211, 12.6.2004, p. 3).

⁽⁶⁾ OJ No. L125, 23.5.96, p. 10, as last amended by Council Regulation (EC) No. 806/2003 (OJ No. L122, 16.5.03, p. 1).

(4) The official veterinary surgeon at the border inspection post at which any such consignment is introduced shall, by notice in writing served on the person responsible for the consignment, take charge of it and check the residues in the consignment by taking and analysing a representative sample of the products comprised in it.

(5) Upon service of a notice under paragraph (4), the person responsible for the consignment shall lodge with the official veterinary surgeon a deposit or guarantee sufficient to assure payment of all charges payable in accordance with Part 10 for veterinary checks carried out on the consignment, including the taking of samples, and any laboratory test or analysis carried out on any sample taken.

(6) If any veterinary check carried out on the consignment reveals the presence of unauthorised substances or their residues or reveals that a maximum residue limit has been exceeded, the official veterinary surgeon shall—

- (a) endorse on the required documents relating to the consignment a clear indication of the reasons for rejecting it; and
- (b) redispach the consignment, or such part of it as the official veterinary surgeon considers affected by the presence of unauthorised substances or their residues or by excess residues, accompanied by the required documents, to its third country of origin.

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

Consignments and products illegally introduced

24.—(1) This regulation applies—

- (a) where a consignment or product is introduced into England from a third country but is not presented pursuant to regulation 18;
- (b) where a consignment or product originating in a third country has been introduced into England from elsewhere in the relevant territories, but has not been presented at a border inspection post there;
- (c) where the border inspection post of destination of a consignment of Article 9 products is in England but the consignment is not presented there in accordance with regulation 18(1); and
- (d) where a consignment introduced into England is presented to the official veterinary surgeon at a border inspection post not designated and approved for veterinary checks on the products comprised therein.

(2) In the circumstances described in sub-paragraphs (1)(a), (b) and (c) an authorised officer shall, by notice in writing served on the person appearing to him to have charge of it, and, in the circumstances described in sub-paragraph (1)(d), the official veterinary surgeon shall, by notice in writing served on the person responsible for it, take charge of the consignment or product and either

- (a) redispach it, by the mode of transport by which it was first introduced into the relevant territories, to a destination, agreed with the owner, in the circumstances described in sub-paragraphs (1)(a), (b) and (c), or with the person responsible for the consignment, in the circumstances described in sub-paragraph (1)(d), located in a third country within a period of sixty days commencing with the day following the service of the notice; or
- (b) dispose of it as if it were Category 1 material under Regulation (EC) No. 1774/2002 in the facilities provided for that purpose nearest to the place at which the authorised officer or official veterinary surgeon takes charge of it.

Products dangerous to animal or public health

25. If an official veterinary surgeon or an authorised officer considers that a consignment or product from a third country presents a risk to animal or public health he shall, by notice in writing served on the person appearing to him to have charge of it, take charge of it and dispose of it in accordance with regulation 24(2)(b).

Serious or repeated infringements

26.—(1) Where the Secretary of State or the Agency reasonably concludes, on the basis of the results of veterinary checks, that products from a particular third country, part of a third country or establishment in a third country are implicated in serious or repeated infringements of any requirement laid down in a Community instrument relating to animal or public health, this regulation shall apply to those of the next ten consignments introduced into the United Kingdom from that third country, part of a third country or establishment, as the case may be, that are introduced into England.

(2) The official veterinary surgeon at the border inspection post at which any such consignment is introduced shall, by notice in writing served on the person responsible for the consignment, take charge of it and carry out a physical check thereon, including the taking of samples and laboratory tests and analyses.

(3) Upon service of a notice under paragraph (2) the person responsible for the consignment shall lodge with the official veterinary surgeon a deposit or guarantee sufficient to assure payment of all charges payable in accordance with Part 10 for veterinary checks carried out on the consignment, including the taking of samples, and any laboratory test or analysis carried out on any sample taken.

(4) If any veterinary check carried out on the consignment reveals an infringement of any requirement laid down in a Community instrument relating to animal or public health, the official veterinary surgeon shall either redispach or dispose of the consignment in accordance with regulation 21(2).

Invalidation of veterinary documents

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

Costs in respect of products redispached or disposed of

28.—(1) The person responsible for the product or consignment concerned or, where a notice has been served on the person appearing to have charge of the product or consignment, the owner of the product or consignment, or the person on whom a notification of seizure pursuant to the Customs and Excise Management Act 1979 has been served, shall pay on demand the costs of storing, transporting, redispaching and disposing of any product or consignment redispached or disposed of pursuant to regulation 21, 24, 25 or 26, or any powers exercised under the Customs and Excise Management Act 1979 in the enforcement of regulation 16.

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