
WELSH STATUTORY INSTRUMENTS

2007 No. 376

**The Products of Animal Origin (Third
Country Imports) (Wales) Regulations 2007**

PART 1

Introduction

Title, application and commencement

1.—(1) The title of these Regulations is the Products of Animal Origin (Third Country Imports) (Wales) Regulations 2007.

(2) These Regulations apply in relation to Wales and come into force on 14 February 2007.

Interpretation

2.—(1) In these Regulations—

“the Agency” (*“yr Asiantaeth”*) means the Food Standards Agency;

“Article 9 product” (*“cynnyrch Erthygl 9”*) means a product from a third country which is first brought 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” (*“swyddog awdurdodedig”*) means a person who is authorised by the National Assembly, a local authority or the Agency, either generally or specially, to act in matters arising under these Regulations, whether or not he or she is an officer of the National Assembly or of a local authority or the Agency;

“border inspection post” (*“safle arolygu ar y ffin”*) means—

- (a) a border inspection post which is included in the list contained in the Annex to Decision [2001/881/EC](#); 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⁽¹⁾;

“border inspection post of destination” (*“safle arolygu ar y ffin ar gyfer cyrchfan”*) means the border inspection post via which an Article 9 product is intended for import;

“border inspection post of introduction” (*“safle arolygu ar y ffin ar gyfer cyflwyno”*) means the border inspection post at which an Article 9 product is first brought into the relevant territories;

“carrier who has charge for the time being” (*“cludydd sydd â gofal am y tro”*) of a product, consignment or part 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;

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

“the Commissioners” (“*y Comisiynwyr*”) means the Commissioners for Her Majesty’s Revenue and Customs;

“common veterinary entry document” (“*dogfen fynediad filfeddygol gyffredin*”) means a document in the form set out in Annex III to Regulation (EC) No. 136/2004 (laying down procedures for veterinary checks at Community border inspection posts on products imported from third countries)(2);

“Community establishment of origin” (“*sefydliad tarddiad Cymunedol*”) 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” (“*llwyth*”) 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;

“the Customs Code” (“*y Cod Tollau*”) means Council Regulation (EEC) No. 2913/92 (establishing the Community Customs Code)(3);

“the customs territory of the Community” (“*tiriogaeth dollau'r Gymuned*”) has the same meaning as in Article 3 of the Customs Code;

“customs warehouse” (“*warws dollau*”) 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;

“Decision 2001/881/EC” (“*Penderfyniad 2001/881/EC*”) means Commission Decision 2001/881/EC (drawing up a list of border inspection posts agreed for veterinary checks on animals and animal products from third countries and updating the detailed rules concerning the checks to be carried out by the experts of the Commission)(4);

“destination establishment” (“*sefydliad cyrchfan*”), in relation to a product, means the establishment identified in the “delivery address” entry in Part 1 of the common veterinary entry document;

“Directive 97/78/EC” (“*Cyfarwyddeb 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)(5);

“documentary check” (“*gwiriad dogfenno*”) 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” (“*cynhyrchion pysgodfeydd*”) means all wild or farmed seawater and freshwater animals, whether or not live, and all edible forms, parts and products of such animals, 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)(6);
- (b) filter-feeding lamellibranch molluscs; and
- (c) echinoderms, tunicates and marine gastropods intended for human consumption,

(2) OJ No. L136, 22.01.2004, p. 11.

(3) OJ No. L302, 19.10.92, p. 1, as last amended by Council Regulation (EC) No. 648/2005 (OJ No. L117, 4.5.2005, p. 13).

(4) OJ No. L326, 11.12.2001, p. 44, as last amended by Commission Decision 2006/414/EC (OJ No. L164, 16.6.2006, p. 27).

(5) OJ No. L24, 30.1.98, p. 9, as last amended by Regulation (EC) No. 882/2004 of the European Parliament and of the Council (see Corrigendum OJ No. L191, 28.5.2004, p. 1).

(6) 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).

but excludes aquatic mammals, reptiles and frogs, and parts of those animals;

“free warehouse” (“*warws rydd*”) and “free zone” (“*parth rhydd*”) have the same meanings as in Title IV, Chapter 3, Section 1 of the Customs Code;

“identity check” (“*gwiriad adnabod*”) 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” (“*mewnforio*”), as a noun, means release for free circulation within the meaning of Article 79 of the Customs Code;

“import conditions” (“*amodau mewnforio*”) in relation to a product, means—

- (a) the conditions laid down for the import of that product in any Directive, Decision or Regulation listed in Schedule 1, including—
 - (i) specific requirements laid down for the import of that product into a particular member State or a particular area of a member State; and
 - (ii) conditions laid down for the import of that product for specific purposes;
- (b) the conditions laid down for the import of that product in any Decision listed in Schedule 2;
- (c) the conditions as to the country of origin of the product as laid down in any list of the third countries or parts of third countries from which imports of specified products are permitted and drawn up under paragraph 1 of Article 11 of Regulation (EC) No. 854/2004; and
- (d) the conditions as to the establishment of origin of the product as laid down in any list of establishments from which imports of specified products are permitted and drawn up under paragraph 1 of Article 12 of Regulation (EC) No. 854/2004 (laying down specific rules for the organisation of official controls on products of animal origin intended for human consumption)(7);

“local authority” (“*awdurdod lleol*”) means—

- (a) where there is a port health authority, that port health authority;
- (b) where there is no port health authority, the council of the county or county borough as the case may be;

“National Assembly” (“*Cynulliad Cenedlaethol*”) means the National Assembly for Wales of Cathays Park, Cardiff CF10 3NQ;

“non-conforming product” (“*cynnyrch nad yw'n cydymffurfio*”) means a product which does not comply with the import conditions;

“official fish inspector” (“*arolygydd pysgod swyddogol*”) means an environmental health officer appointed as an official fish inspector by a local authority under regulation 6(2)(b);

“official veterinary surgeon” (“*milfeddyg swyddogol*”) means a veterinary surgeon who is appointed by the National Assembly under regulation 6(1)(a) or by a local authority under regulation 6(2)(a);

“operator” (“*gweithredydd*”) 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

(7) OJ No. L139, 30.04.2004, p. 206, as amended by Corrigendum to Regulation (EC) No. 854/2004 (OJ No. L226, 25.06.2004, p. 83).

(b) in relation to a Community establishment of origin or a destination establishment, the person who occupies the same for the purposes of his or her business;

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

“part consignment” (*“rhanlwyth”*) means a consignment which has been split up into parts in accordance with Article 5 of Regulation (EC) No. 136/2004;

“person appearing to have charge” (*“person y mae'n ymddangos ei fod â gofal”*), in relation to a product, consignment, or part consignment, means any person, including a carrier, who appears to have possession, custody or control of the product, consignment or part consignment;

“person responsible for” (*“person sy'n gyfrifol dros”*), in relation to a product, consignment, or part consignment, is construed in accordance with regulation 3;

“physical check” (*“gwiriad ffisegol”*) means a check on a product (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;

“premises” (*“mangre”*) includes any construction, installation, container or means of transport;

“product” (*“cynnyrch”*) 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)(8);
- (b) any grass, clover, lucerne or sainfoin which has been dried either naturally or artificially, and any product which is obtained by so drying any grass, clover, lucerne or sainfoin; and
- (c) any green cereal which has been dried either naturally or artificially, and any product (other than grain) which is obtained by drying any green cereal,

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

“Regulation (EC) No. 1774/2002” (*“Rheoliad (EC) Rhif 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)(9);

“Regulation (EC) No. 136/2004” (*“Rheoliad (EC) Rhif 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)(10);

“the regulatory functions” (*“y swyddogaethau rheoliadol”*) means the functions assigned by these Regulations to authorised officers, official veterinary surgeons, official fish inspectors and assistants appointed under regulation 6;

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

“the relevant territories” (*“y tiriogaethau perthnasol”*) 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

(8) OJ No. L121, 8.5.2002, p. 6, as read with Commission Regulations (EC) No. 136/2004 (OJ No. L21, 28.1.2004, p. 11) and (EC) No. 745/2004 (OJ No. L122, 26.4.2004, p. 1).

(9) OJ No. L273, 10.10.2002, p. 1, as last amended by Commission Regulation (EC) No. 208/2006 (OJ No. L36, 8.2.2006, p. 25) 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), 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) and Commission Regulation (EC) No. 780/2004 (OJ No. L123, 27.4.2004, p. 64).

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

Kingdom of Norway (except Svalbard), the Principality of Andorra, the Faroe Islands and the Republic of San Marino;

“required document” (“*dogfen ofynnol*”) 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” (“*cynnyrch a ddychwelwyd*”) 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” (“*storfa longau*”) 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;

“third country” (“*trydydd wlad*”) means a country not comprised in the relevant territories;

“transhipped product” (“*cynnyrch a drawslwythwyd*”) 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” (“*tramwy*”) 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” (“*cynnyrch tramwy*”) 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” (“*gwiriad milfeddygol*”) means any check provided for in Directive 97/78/EC including a documentary check, an identity check or a physical check.

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

(3) Subject to paragraph (4), for the purposes of these Regulations, a person brings a product into a territory or area if—

- (a) he or she brings it into that territory or area as its owner;
- (b) he or she 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.

(4) A product on board a means of transport operating internationally which is intended for consumption by the crew or passengers of that means of transport is not brought into a territory or area if—

- (a) the product is not unloaded; or
- (b) 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.

(5) Any reference in these Regulations to a Community instrument is a reference to that instrument as amended from time to time.

Person responsible for a consignment

3.—(1) In these Regulations, a reference to “person responsible for”, in relation to a product, consignment or part consignment is construed in accordance with the following paragraphs.

(2) Until—

- (a) the product, consignment or part consignment first arrives at a border inspection post in Wales; or

- (b) in the case of an Article 9 product, or a consignment or part consignment of Article 9 products, it arrives at a border inspection post of destination in Wales,

the person responsible for the product, consignment or part consignment is the person specified in paragraph (3).

(3) The person referred to in paragraph (2) is—

- (a) the person referred to in Article 38(1) of the Customs Code who brings the product, consignment or part consignment into the customs territory of the Community;
- (b) a person referred to in Article 38(2) of the Customs Code who assumes responsibility for the carriage of the product, consignment or part consignment after it has been brought into the customs territory of the Community; or
- (c) a person in whose name the persons referred to in sub-paragraph (a) or (b) acted.

(4) From the time—

- (a) the product, consignment or part consignment first arrives at a border inspection post in Wales until it leaves that border inspection post; or
- (b) in the case of an Article 9 product, or a consignment or part consignment of Article 9 products, it arrives at a border inspection post of destination in Wales until it leaves that border inspection post of destination,

the person responsible for the product, consignment or part consignment is the person specified in paragraph (5).

(5) The person referred to in paragraph (4) is—

- (a) the person in whose name the persons referred to in paragraph (3)(a) or (b) acted;
- (b) if the product, consignment or part consignment 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
- (c) if—
 - (i) a person referred to in sub-paragraph (a) or (b), has appointed a representative in his or her dealings with the customs authorities, within the meaning of Article 5 of the Customs Code, and
 - (ii) the representative is given or assumes responsibility for ensuring that the product, consignment or part consignment undergoes veterinary checks,

that representative.

(6) After—

- (a) the product, consignment or part consignment leaves a border inspection post referred to in paragraph (4)(a); or
- (b) in the case of an Article 9 product, or a consignment or part consignment of Article 9 products, it leaves the border inspection post of destination,

the person responsible for the product, consignment or part consignment is the person specified in paragraph (7).

(7) The person referred to in paragraph (6) is—

- (a) the person who made a customs declaration, within the meaning of Article 64 of the Customs Code, covering the product, consignment or part consignment; or
- (b) if no such customs declaration has been made, the person capable of making it.

Exemption for authorised products and personal imports

4.—(1) Parts 3 to 9 do not apply to products brought into Wales from a third country with the previous authorisation of the National Assembly as trade samples, for exhibition, or for particular studies or analyses.

(2) The National Assembly's authorisation—

- (a) must be in writing;
- (b) must in the case of products brought in—
 - (i) as trade samples or for exhibition, be made subject to a condition that they must not be marketed; and
 - (ii) for particular studies or analyses, be made subject to a condition that they must not be supplied for human consumption;
- (c) may be made subject to such other conditions (if any) as it considers necessary for the protection of public or animal health; and
- (d) may be amended, suspended or revoked in writing at any time.

(3) No person may—

- (a) use a product to which the exemption in paragraph (1) applies for any purpose for which it has not been authorised, or contravene any condition referred to in paragraph (2)(b); or
- (b) contravene any other condition of the National Assembly's authorisation in relation to such a product.

(4) In the case of products brought in for exhibition or studies and any quantities of products brought in for analyses that remain following those analyses, the person who brought them in must as soon as possible when the exhibition, studies or analyses have finished, and in accordance with any conditions specified in the National Assembly's authorisation—

- (a) redispach them to a third country; or
- (b) dispose of them in accordance with Regulation (EC) No. 1774/2002 and the Animal By-Products (Wales) Regulations 2006⁽¹¹⁾.

(5) Where an authorised officer considers that there has been a breach of paragraph (3)(a) or (4) in relation to a product, he or she must by notice in writing served on the person appearing to have charge of that product, take charge of it and either—

- (a) redispach it to a destination, agreed with the person who brought it in, 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 takes charge of it.

(6) Where an authorised officer considers that there has been a breach of paragraph (3)(b) in relation to a product, he or she may by notice in writing served on the person appearing to have charge of that product, take charge of it and take either of the steps specified in paragraph (5)(a) and (b).

(7) Part 3, with the exception of regulation 25, and Parts 4 to 9 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 or her personal consumption or use;

⁽¹¹⁾ S.I.2006/1293 (W.127).

- (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 Faroe 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 Wales;
 - (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 or her 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 Wales, if they are intended for his or her 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.
- (8) In this regulation “meat” (“*cig*”), “meat products” (“*cynhyrchion cig*”), “milk” (“*llaeth*”) and “milk products” (“*cynhyrchion llaeth*”) 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](#).