
SCOTTISH STATUTORY INSTRUMENTS

2012 No. 177

**The Trade in Animals and Related
Products (Scotland) Regulations 2012**

PART 5

Administration

Notifications and authorisations

- 26.** Any notification or authorisation under these Regulations—
- (a) must be in writing;
 - (b) may be subject to conditions; and
 - (c) may be amended, suspended or revoked by further notification or authorisation in writing at any time.

Enforcement

- 27.**—(1) At a border inspection post these Regulations are enforced—
- (a) in relation to animals by the Scottish Ministers; and
 - (b) in relation to products by the local authority.
- (2) Outside a border inspection post, these Regulations are enforced—
- (a) in relation to animals by the local authority;
 - (b) in relation to products—
 - (i) except where head (ii) applies, by the local authority; or
 - (ii) by the Food Standards Agency at any cutting plant, game-handling establishment or slaughterhouse, or premises at which the Agency enforces the Food Hygiene (Scotland) Regulations 2006⁽¹⁾.
- (3) In addition, in relation to products, these Regulations are enforced by a general customs official in any place (other than the inspection facilities in a border inspection post) where goods are subject to customs supervision by that official under Articles 37 and 38 of [Council Regulation \(EEC\) No 2913/92](#) establishing the Community Customs Code.
- (4) The Scottish Ministers may direct, in relation to cases of a particular description or a particular case, that the Scottish Ministers will discharge any duty imposed on a local authority under this regulation.
- (5) The Scottish Ministers may recover from the local authority concerned any expenses reasonably incurred by them under paragraph (4).

⁽¹⁾ [S.S.I. 2006/3](#), to which there are amendments not relevant to these Regulations.

(6) An officer of an enforcement authority who, when exercising any statutory function, discovers at any place under customs supervision a consignment or product which the officer reasonably suspects has been brought into Scotland—

- (a) in breach of these Regulations; or
- (b) from a third country and presents a risk to animal or public health,

must notify a general customs official and detain the consignment or product until such officer takes charge of it.

Powers of entry

28.—(1) An authorised officer may, on producing a duly authenticated authorisation if required, enter any premises (excluding any premises used only as a dwelling house) at any reasonable hour for the purpose of enforcing these Regulations.

(2) In this regulation “premises” includes any place, vehicle, trailer, container, stall, moveable structure, ship or aircraft.

(3) The officer may be accompanied by such other persons as the officer considers necessary, including any representative of the European Commission.

(4) Admission to any premises used only as a dwellinghouse may not be demanded as of right unless the entry is in accordance with a warrant granted under this regulation.

(5) If a sheriff, stipendiary magistrate or justice of the peace, on sworn information in writing, is satisfied that there are reasonable grounds for entry into any premises for the purpose of enforcing these Regulations and that either—

- (a) admission to the premises has been refused, or a refusal is anticipated, and that notice of the intention to apply for a warrant has been given to the occupier; or
- (b) an application for admission, or the giving of such notice, would defeat the object of the entry, or that the case is one of urgency, or that the premises are unoccupied or the occupier temporarily absent,

the sheriff, stipendiary magistrate or justice may by signed warrant authorise an authorised officer, together with any person who may accompany the officer under paragraph (3), to enter the premises, if need be by reasonable force.

(6) A warrant granted under this regulation continues in force for one month.

(7) An officer who enters any unoccupied premises must leave them as effectively secured against unauthorised entry as they were before entry.

Powers of authorised officers

29. An authorised officer may—

- (a) inspect and examine any animal;
- (b) inspect any product, or genetic material, including its packaging, seals, marking, labelling and presentation, and any plant or equipment used for or in connection with it;
- (c) have access to, and inspect and copy any documents or records (in whatever form they are held), and remove them to enable them to be copied;
- (d) have access to, inspect and check the operation of any computer and any associated apparatus used in connection with the records, and may require any computer records to be produced in a form in which they may be taken away;
- (e) seize and detain anything required as evidence;

- (f) 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 and inspect the contents; and
- (g) take samples of any animal or product for laboratory tests, for checking against any relevant document relating to the animal or product,

for the purpose of enforcing these Regulations or any condition of import.

Consignments from another member State constituting a risk to health

30.—(1) If an animal or genetic material brought in from another member State constitutes a serious risk to human or animal health or comes from a region contaminated by an epizootic disease, an authorised officer may serve a notice on the person appearing to be in charge of the animal or genetic material requiring that person—

- (a) to detain and isolate—
 - (i) the animal; and
 - (ii) any animal with which it has been in contact; or
 - (iii) the genetic material,

and take such further action as may be specified in the notice for the purpose of preventing the introduction or spreading of disease; or

- (b) without delay—
 - (i) to slaughter the animal; or
 - (ii) to destroy the genetic material,

in accordance with such conditions as may be specified in the notice.

(2) An authorised officer who knows or suspects that animals or genetic material do not comply with the provisions of Article 3 of Council Directive [90/425/EEC](#) concerning veterinary and zootechnical checks applicable in intra-Community trade in certain live animals and products with a view to the completion of the internal market⁽²⁾, may, if animal health and welfare considerations so permit, give the person in charge of the consignment or the person appearing to be in charge of those animals or genetic material by way of notice the choice of—

- (a) where the cause of non-compliance is the presence in animals of residues in excess of that permitted under regulation 9 of the Animals and Animal Products (Examination for Residues and Maximum Residue Limits) Regulations 1997⁽³⁾, maintaining the animals under supervision until the residue levels fall to the levels permitted by the legislation;
- (b) slaughtering the animals or destroying the genetic material in accordance with such conditions as may be specified in the notice; or
- (c) returning the animals or genetic material to the member State of dispatch, with the authorisation of the competent authority of the member State of dispatch and with prior notification to any member State of transit.

(3) If the consignment fails to comply only by reason of an irregularity in respect of the required consignment documentation, the authorised officer may not serve a notice under paragraph (2) unless—

- (a) the officer has given the person in charge of the consignment a notice requiring the production of the required documentation within seven days and the detention of the consignment in accordance with the terms of the notice; and

(2) OJ L 224, 18.8.1990, p.29, as last amended by Directive [2002/33/EC](#) of the European Parliament and of the Council (OJ L 315, 19.11.2002, p.14).

(3) [S.I. 1997/1729](#), amended by [S.I. 2006/755](#) and [2009/1925](#).

(b) the required documentation has not been produced within that time.

(4) If a notice served under this regulation is not complied with the authorised officer may seize any animal or genetic material to which it relates, and arrange for the requirements of the notice to be complied with at the expense of the person on whom the notice was served.

Exchange of information

31.—(1) The Commissioners of Her Majesty's Revenue and Customs, a general customs official and an enforcement authority may exchange information for the purposes of these Regulations, and may divulge information to the enforcement authorities in Wales, England and Northern Ireland for the purposes of this Part or the equivalent legislation in those jurisdictions.

(2) Paragraph (1) is without prejudice to any other power of the Commissioners, any general customs official or any enforcement authority to disclose information.

(3) No person, including a servant of the Crown, may disclose any information received from the Commissioners or a general customs official under paragraph (1) if—

- (a) the information relates to a person whose identity—
 - (i) is specified in the disclosure; or
 - (ii) can be deduced from the disclosure;
- (b) the disclosure is for a purpose other than the purposes specified in paragraph (1); and
- (c) the Commissioners have not given their prior consent to the disclosure.

Fees and expenses

32.—(1) An enforcement authority may charge a reasonable fee in relation to any activity relating to the movement between member States of animals or genetic material under these Regulations, and the consignor's representative and the person in charge of an animal or genetic material are jointly and severally liable for that fee⁽⁴⁾.

(2) The consignor's representative and the person in charge of an animal or product are jointly and severally liable for any reasonable expenses incurred by an enforcement authority arising out of or in connection with the authority's enforcement of these Regulations relating to that animal or product.

(3) Where a person fails to comply with these Regulations, an enforcement authority may take such steps as are necessary to ensure the requirement is met and the person in default must reimburse any reasonable expenses incurred by the enforcement authority in taking such steps.

Offences

33. A person commits an offence if the person—

- (a) intentionally obstructs any person acting in the execution of these Regulations;
- (b) without reasonable cause, fails to give any person acting in execution of these Regulations any assistance or information that that person may reasonably require for the purpose of carrying out functions under these Regulations;
- (c) furnishes to any person acting in the execution of these Regulations any information knowing it to be false or misleading; or
- (d) without reasonable excuse fails to comply with any of the following provisions—

(4) Fees relating to imports from third countries are established under Regulation (EC) No 882/2004 of the European Parliament and of the Council on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules (OJ L 165, 30.4.2004, p.1).

<i>Provision</i>	<i>Description of offence</i>
regulation 5(1)(a) and (3)	Failure to notify
regulation 5(1)(b)	Bringing in or consigning an animal or genetic material without a health certificate
regulation 5(1)(c)	Failure to comply with additional requirements
regulation 5(2)	Failure to keep a certificate for at least three years
regulation 6(5)	Signing a certificate without being authorised by the Scottish Ministers
regulation 6(6)	Signing a certificate knowing it to be false, or not believing it to be true
regulation 11	Importation other than at a border inspection post
regulation 12	Failure to notify
regulation 13(1)	Failure to present a consignment for inspection
regulation 13(2)	Failure to comply with a notice
regulation 14(1)	Removal from a border inspection post without a CVED or authority of the official veterinarian
regulation 14(2)	Failure to transport a consignment to the place specified in the CVED accompanied by its CVED
regulation 15	Movement other than under Customs supervision and failure to notify the Scottish Ministers
regulation 21(5)	Failure to re-export a horse
regulation 23(3)	Failure to transport in accordance with paragraph (3)(a) or to destroy consignment as animal by-products
regulation 24	Bringing a non-compliant product into a warehouse etc.
regulation 25(5)	Bringing in an animal or product in breach of a declaration
regulation 31(3)	Disclosure of information
Schedule 2:	
paragraph 2(2)	Transporting without approval
paragraph 4(1)	Trading in apes
paragraph 5(2)	Keeping records

<i>Provision</i>	<i>Description of offence</i>
paragraph 5(3)	Notification of movement
paragraph 6	Movement of animal by-products
paragraph 7(2)	Slaughter of animals
paragraph 7(3)	Keeping animals at their place of destination
paragraph 8(2)	Transport of birds to approved quarantine facilities or centres
paragraph 8(3)	Release of birds from quarantine
paragraph 10	Use of a certificate relating to ships' stores
Schedule 3 paragraph 3(3)	Destruction or redispach in accordance with the authorisation

Protection of officials acting in good faith

34.—(1) No authorised officer is personally liable in respect of any act done by that person in the performance or purported performance of the functions within the scope of that person's employment, if the person did that act in the honest and reasonable belief that that person's duty under these Regulations required or entitled the person to do so.

(2) Paragraph (1) does not relieve an enforcement authority from any liability in respect of acts of its officers.

Offences by bodies corporate

35.—(1) Where—

- (a) an offence under these Regulations has been committed by a body corporate or a Scottish partnership or other unincorporated association; and
- (b) it is proved that the offence was committed with the consent or connivance of, or was attributable to any neglect on the part of—
 - (i) the relevant individual; or
 - (ii) an individual purporting to act in the capacity of a relevant individual,

the individual as well as the body corporate, Scottish partnership or unincorporated association commits an offence and is liable to be proceeded against and punished accordingly.

(2) In paragraph (1), "relevant individual" means—

- (a) in relation to a body corporate—
 - (i) a director, manager, secretary or other similar officer of the body;
 - (ii) where the affairs of the body are managed by its members, a member;
- (b) in relation to a Scottish partnership, a partner; and
- (c) in relation to an unincorporated association other than a Scottish partnership, a person who is concerned in the management or control of the association.

Penalties

36.—(1) A person who commits an offence of disclosure in breach of regulation 31(3) is liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum, to imprisonment not exceeding 12 months, or to both; or
- (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years, to a fine, or to both.

(2) A person who commits any other offence under these Regulations is liable on summary conviction to a fine not exceeding the statutory maximum or, on conviction on indictment, to a fine.

Consequential amendments

37. Schedule 4 makes amendments consequential to these Regulations.

Revocations

38. The following are revoked:—

- (a) the Animals and Animal Products (Import and Export) (Scotland) Amendment (No. 2) Regulations 2006(5);
- (b) the Animals and Animal Products (Import and Export) (Scotland) Regulations 2007(6);
- (c) the Animals and Animal Products (Import and Export) (Scotland) Amendment Regulations 2007(7);
- (d) the Animals and Animal Products (Import and Export) (Scotland) Amendment Regulations 2008(8);
- (e) the Animals and Animal Products (Import and Export) (Scotland) Amendment Regulations 2009(9);
- (f) the Animals and Animal Products (Import and Export) (Scotland) Amendment Regulations 2010(10);
- (g) the Fresh Meat (Import Conditions) Regulations 1996(11);
- (h) the Miscellaneous Products of Animal Origin (Import Conditions) Regulations 1999(12);
- (i) the Products of Animal Origin (Import and Export) Regulations 1996(13);
- (j) the Products of Animal Origin (Import and Export) (Amendment) Regulations 1997(14);
- (k) the Products of Animal Origin (Import and Export) Amendment (Scotland) Regulations 2001(15);
- (l) the Products of Animal Origin (Third Country Imports) (Scotland) Regulations 2007(16);
- (m) the Products of Animal Origin (Third Country Imports) (Scotland) Amendment Regulations 2007(17);
- (n) the Products of Animal Origin (Third Country Imports) (Scotland) Amendment Regulations 2009(18); and

(5) S.S.I. 2006/450.

(6) S.S.I. 2007/194.

(7) S.S.I. 2007/375.

(8) S.S.I. 2008/155.

(9) S.S.I. 2009/227.

(10) S.S.I. 2010/343.

(11) S.I. 1996/3125.

(12) S.I. 1999/157.

(13) S.I. 1996/3124.

(14) S.I. 1997/3023.

(15) S.S.I. 2001/257.

(16) S.S.I. 2007/1.

(17) S.S.I. 2007/304.

(18) S.S.I. 2009/228.

- (o) the Products of Animal Origin (Third Country Imports) (Scotland) Amendment Regulations 2010⁽¹⁹⁾.

Saving provision

39. Despite their revocation by regulation 38—

- (a) the Products of Animal Origin (Import and Export) Regulations 1996 continue to have effect in relation to the import into Scotland or export of a product to which those Regulations apply, where the process of import or export had commenced under those Regulations before the coming into force of these Regulations;
- (b) the Products of Animal Origin (Third Country Imports) (Scotland) Regulations 2007 continue to have effect in relation to the import into Scotland of a product to which those Regulations apply, where the process of import had commenced under those Regulations before the coming into force of these Regulations; and
- (c) the Animals and Animal Products (Import and Export) (Scotland) Regulations 2007 continue to have effect in relation to the import into Scotland or export of an animal or product to which those Regulations apply, where the process of import or export had commenced under those Regulations before the coming into force of these Regulations.