

2001 No. 95

ANIMALS

ANIMAL HEALTH

The Import and Export Restrictions (Foot-and-Mouth Disease) (Scotland) Regulations 2001

Made 9th March 2001

Coming into force at 11.50 p.m. on 9th March 2001

Laid before the Scottish Parliament 13th March 2001

The Scottish Ministers in exercise of the powers conferred by section 2(2) of the European Communities Act 1972(a) and all other powers enabling them in that behalf, hereby make the following Regulations:

Citation, commencement, extent and cessation

1.—(1) These Regulations may be cited as the Import and Export Restrictions (Foot-and-Mouth Disease) (Scotland) Regulations 2001 and shall come into force on 9th March 2001 at 11.50 p.m.

- (2) These Regulations extend to Scotland only.
- (3) These Regulations shall remain in force until midnight on 27th March 2001.

Interpretation

2.—(1) In these Regulations, unless the context otherwise requires—

“the Decision” means Commission Decision 2001/190/EC amending Commission Decision 2001/172/EC of 1st March 2001 concerning certain protection measures with regard to foot-and-mouth disease in the United Kingdom and repealing Decision 2001/145/EC(b);

“export” means export outside the British Islands;

“inspector” means a person appointed to be an inspector for the purposes of these Regulations by the Scottish Ministers or a local authority, and when used in relation to a person so appointed by the Scottish Ministers, includes a veterinary inspector;

“HACCP” means Hazard Analysis at Critical Control Points, which is a system in which the critical points of the manufacturing process have been identified, assessments have been made of the potential risks at those points, and necessary steps have been taken to minimise those risks;

“local authority” means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994(c);

“meat products” means meat products as defined in Article 2 of Council Directive 77/99/EEC (on health problems affecting the production and marketing of meat products and certain other products of animal origin)(d);

(a) 1972 c.68. Section 2(2) was amended by the Scotland Act 1998 (c.46), Schedule 8, paragraph 15(3). The functions conferred upon the Minister of the Crown under section 2(2) of the 1972 Act, insofar as within devolved competence, were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998.

(b) O.J. No. L 67, 9.3.01, p.88.

(c) 1994 c.39.

(d) O.J. No. L 26, 31.1.77, p.85 as last amended by Directive 92/45/EEC (O.J. No. L 268, 14.9.92, p.35).

“milk” and “milk products” have the meaning given in Article 2 of Council Directive 92/46/EC (laying down the health rules for the production and placing on the market of raw milk, heat-treated milk and milk-based products)(a);

(2) A reference in these Regulations to anything done in writing or produced in written form includes a reference to an electronic communication, as defined in the Electronic Communications Act 2000(b), which has been recorded and is consequently capable of being reproduced.

(3) Any reference in these Regulations–

(a) to a numbered regulation is a reference to the regulation so numbered in these Regulations; and

(b) to a numbered paragraph is a reference to the paragraph so numbered in the regulation in which it occurs.

Import and export of live animals

3.—(1) No person shall export any live animal of the bovine, ovine, caprine or porcine species or any other biungulate.

(2) By way of derogation from the preceding paragraph, the Scottish Ministers may by licence in writing authorise the export of biungulate animals originating outside the United Kingdom if the animals travelled through the United Kingdom in direct and uninterrupted transit on main roads or by rail or sea.

(3) No person shall import any live animal or species susceptible to foot-and-mouth disease into Scotland from another member State.

Export of fresh meat

4.—(1) No person shall export any fresh meat of animals of the bovine, ovine, caprine or porcine species or other biungulate.

(2) The prohibition in paragraph (1) shall not apply in relation to–

(a) fresh meat obtained before 1st February 2001 provided that the meat is clearly identified and since that date has been transported and stored separately from meat which is not destined for dispatch outside the United Kingdom;

(b) fresh meat from animals reared and slaughtered outside the United Kingdom;

(c) fresh meat obtained from cutting plants situated in the United Kingdom under the following conditions:–

(i) the only meat processed in the establishment is fresh meat described in subparagraph (a) and (b), fresh meat from animals reared outside the United Kingdom, transported directly and under official control in sealed means of transport to a slaughterhouse for immediate slaughter, or fresh meat from animals reared and slaughtered outside the United Kingdom;

(ii) all the meat must bear the health mark in accordance with Chapter XI of Annex I to Council Directive 64/433/EEC (on animal health problems affecting intra-Community trade in fresh meat)(c);

(iii) the plant is operated under strict veterinary control; and

(iv) the meat is clearly identified and transported and stored separately from meat which is not destined for export.

(3) Meat consigned to another member State shall be accompanied by an official certificate prepared on behalf of the Scottish Ministers which bears the following words:–

“Meat conforming to Commission Decision 2001/172/EC of 1st March 2001 concerning certain protection measures with regard to foot-and-mouth disease in the United Kingdom”.

(a) O.J. No. L 268, 14.9.92, p.1 as last amended by Council Directive 94/71/EC (O.J. No. L 368, 31.12.94, p.33).

(b) 2000 c.7.

(c) O.J. No. L 121, 27.9.64, p.2012/64; Directive updated by Directive 91/497/EEC (O.J. No. L 268, 24.9.91, p.69) as last amended by Directive 95/23/EC (O.J. No. L 243, 11.10.95, p.7).

Export of meat products

5.—(1) No person shall export meat products of animals of the bovine, ovine, caprine, or porcine species or any other biungulate coming from the United Kingdom.

(2) The prohibition in paragraph (1) shall not apply to meat products which have undergone one of the treatments laid down in Article 4(1) of Council Directive 80/215/EEC (on animal health problems affecting intra-Community trade in meat products)(a), or to meat products as defined in Council Directive 77/99/EEC which have been subjected during preparation uniformly throughout the substance to a pH value of less than 6.

(3) The prohibition in paragraph (1) shall not apply to—

- (a) meat products prepared from meat derived from biungulate animals slaughtered before 1st February 2001 provided that the meat products are clearly identified and since that date have been transported and stored separately from meat products which are not destined for export; or
- (b) meat products prepared in establishments under the following conditions:—
 - (i) all fresh meat used in the establishment must be from animals reared outside the United Kingdom and transported directly and under official control in sealed means of transport to a slaughterhouse for immediate slaughter;
 - (ii) all meat products used in the final product must conform to the conditions in subparagraph (a) or be made from fresh meat obtained from animals reared and slaughtered outside the United Kingdom;
 - (iii) all meat products must bear the health mark in accordance with Chapter VII of Annex A to Directive 77/99/EEC;
 - (iv) the establishment must be operated under strict veterinary control; and
 - (v) the meat products must be clearly identified and transported and stored separately from meat and other meat products which are not destined for export.

(4) Meat products consigned to another member State shall be accompanied by an official certificate prepared on behalf of the Scottish Ministers which bears the following words:—

“Meat products conforming to Commission Decision 2001/172/EC of 1st March 2001 concerning certain protection measures with regard to foot-and-mouth disease in the United Kingdom”.

(5) Paragraph (4) shall not apply to meat products which conform to the requirements of paragraph (2) if such compliance is stated in the commercial document accompanying the consignment, endorsed in accordance with regulation 12, and the products either—

- (a) are consigned in hermetically sealed containers; or
- (b) have been processed in an establishment operating HACCP and an auditable standard operating procedure which ensures that standards for treatment are met and recorded.

Export of milk

6.—(1) No person shall export milk.

(2) The prohibition in paragraph (1) shall not apply to milk which has been subjected to at least—

- (a) an initial pasteurisation in accordance with the norms defined in paragraph 3(b) of Chapter 1 in Annex I to 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 1989/662/EEC and, as regards pathogens, to Directive 1990/425/EEC)(b) followed by a second heat treatment by high temperature pasteurisation, UHT, sterilisation or by a drying process which includes a heat treatment with an equivalent effect to one of the above; or
- (b) an initial pasteurisation in accordance with the norms defined in paragraph 3(b) of Chapter 1 in Annex I to Council Directive 92/118/EEC, combined with the treatment by which the pH is lowered below 6 and held there for at least one hour.

(a) O.J. No. L 47, 21.2.80, p.4.
(b) O.J. No. L 62, 15.3.93, p.49.

(3) The prohibition in paragraph (1) shall not apply in relation to milk prepared in establishments situated in the United Kingdom under the following conditions:–

- (a) all milk used in the establishment must either conform to the conditions of paragraph (2) or be obtained from animals outside the United Kingdom;
- (b) the establishment must be operated under strict veterinary control;
- (c) the milk must be clearly identified and transported and stored separately from milk and milk products which are not destined for export;
- (d) transport of raw milk from outside the United Kingdom to the establishment must be carried out in vehicles which were cleansed and disinfected prior to operation and had no subsequent contact with holdings in the United Kingdom keeping animals of species susceptible to foot-and-mouth disease.

(4) Milk consigned to another member State shall be accompanied by an official certificate prepared on behalf of the Scottish Ministers which bears the following words:–

“Milk conforming to Commission Decision 2001/172/EC of 1st March 2001 concerning certain protection measures with regard to foot-and-mouth disease in the United Kingdom”.

(5) Paragraph (4) shall not apply to milk which conforms to the requirements of paragraph (2) if such compliance is stated in the commercial document accompanying the consignment, endorsed in accordance with regulation 12, and the milk either–

- (a) is consigned in hermetically sealed containers; or
- (b) has been processed in an establishment operating HACCP and an auditable standard operating procedure which ensures that standards for treatment are met and recorded.

Export of milk products

7.—(1) No person shall export milk products.

(2) The prohibition in paragraph (1) shall not apply in relation to–

- (a) milk products produced before 1st February 2001;
- (b) milk products prepared from milk which complies with paragraphs (2) or (3) of regulation 6;
- (c) milk products subjected to heat treatment at a temperature of at least 72°C for 15 seconds or an equivalent treatment.

(3) The prohibitions described in paragraph (1) shall not apply to milk products prepared in establishments under the following conditions:–

- (a) all milk used in the establishment will either conform to the conditions of regulation 6(2) or be obtained from animals outside the United Kingdom;
- (b) all milk products used in the final product will either conform to the conditions of paragraph (2) or be made from milk obtained from animals outside the United Kingdom;
- (c) the establishment shall be under strict veterinary control;
- (d) the milk products must be clearly identified and transported and stored separately from milk and milk products which are not destined for export.

(4) Milk products consigned to another member State shall be accompanied by an official certificate prepared on behalf of the Scottish Ministers which bears the following words:–

“Milk products conforming to Commission Decision 2001/172/EC of 1st March 2001 concerning certain protection measures with regard to foot-and-mouth disease in the United Kingdom”.

(5) Paragraph (4) shall not apply to milk products which conform to the requirements of paragraph (2) if such compliance is stated in the commercial document accompanying the consignment, endorsed in accordance with regulation 12, and the milk products either–

- (a) are consigned in hermetically sealed containers; or
- (b) have been processed in an establishment operating HACCP and an auditable standard operating procedure which ensures that standards for treatment are met and recorded.

Export of semen, etc.

8.—(1) No person shall export semen, ova or embryos of animals of the bovine, ovine, caprine and porcine species and other biungulates.

(2) The prohibition in paragraph (1) shall not apply in relation to frozen bovine semen and embryos produced before 1st February 2001.

(3) The health certificate provided for in Council Directive 88/407/EEC (laying down the animal health requirements applicable to intra-Community trade in and imports of deep-frozen semen of domestic animals of the bovine species)(a) accompanying frozen bovine semen consigned to another member State shall bear the following words:—

“Frozen bovine semen conforming to Commission Decision 2001/172/EC of 1st March 2001 concerning certain protection measures with regard to foot-and-mouth disease in the United Kingdom”.

(4) The health certificate provided for in Council Directive 89/556/EEC (on animal health conditions governing intra-Community trade in and importation from third countries of embryos of domestic animals of the bovine species)(b) accompanying bovine embryos consigned to another member State shall bear the following words:—

“Bovine embryos conforming to Commission Decision 2001/172/EC of 1st March 2001 concerning certain protection measures with regard to foot-and-mouth disease in the United Kingdom”.

Export of hides and skins

9.—(1) No person shall export hides and skins of animals of the bovine, ovine, caprine and porcine species and other biungulates.

(2) The prohibition in paragraph (1) shall not apply in relation to hides and skins which were produced before 1st February 2001 or which conform to the requirements of paragraph 1A indents 2 to 5 or paragraph 1B, indents 3 and 4 of Chapter 3 of Annex I to Directive 92/118/EEC if treated hides and skins are separated effectively from untreated hides and skins.

(3) The hides and skins consigned to another member State must be accompanied by an official certificate prepared on behalf of the Scottish Ministers stating—

“Hides and skins conforming to Commission Decision 2001/172/EC of 1st March 2001 concerning certain protection measures with regard to foot-and-mouth disease in the United Kingdom”.

(4) Paragraph (3) shall not apply to hides and skins which conform to the requirements of either—

(a) paragraph 1A indents 2 to 5 of Chapter 3 of Annex 1 to Council Directive 92/118/EEC;
or

(b) paragraph 1B indents 3 and 4 of Chapter 3 to Annex I to Council Directive 92/118/EEC, if compliance with those conditions is stated in the commercial document accompanying the consignment, endorsed in accordance with regulation 12.

Export of animal products

10.—(1) No person shall export animal products of the bovine, ovine, caprine and porcine species and other biungulates not otherwise mentioned in these Regulations, produced after 1st February 2001.

(2) No person shall export dung or manure.

(3) The prohibition in paragraph (1) shall not apply in relation to—

(a) animal products which have been subject to—

(i) heat treatment in a hermetically sealed container with a Fo value of 3.00 or more;
or

(ii) heat treatment in which the centre temperature is raised to at least 70°C;

(a) O.J. L 194, 22.7.88, p.10.

(b) O.J. L 302, 19.10.89, p.11.

- (b) blood and blood products as defined in Chapter 7 of Annex I to Council Directive 92/118/EEC which have been subjected to–
 - (i) heat treatment at a temperature of 65°C for at least three hours followed by an effectiveness check;
 - (ii) irradiation at 2.5 megarads or gamma rays followed by an effectiveness check; or
 - (iii) change of pH to pH5 or lower for at least two hours, followed by an effectiveness check;
- (c) lard and rendered fats which have been subject to the heat treatment prescribed in paragraph 2(A) of Chapter 9 of Annex I to Council Directive 92/118/EEC;
- (d) animal casings to which the provisions of paragraph B Chapter 2 of Annex I to Council Directive 92/118/EEC apply adapted as necessary to suit the case;
- (e) sheep wool, ruminant hair and pigs’ bristles which have undergone factory washing or have been obtained from tanning unprocessed sheep wool, ruminant hair and pigs’ bristles which are securely enclosed in packaging and dry;
- (f) semi-moist and dried petfood conforming to the requirements of paragraph 2 and 3 respectively of Chapter 4 of Annex I to Council Directive 92/118/EEC;
- (g) composite products which are not subject to further treatment containing products of animal origin on the understanding that the treatment was not necessary for finished products the ingredients of which comply with the respective animal health conditions laid down in these Regulations;
- (h) game trophies in accordance with paragraph 2(b) of Part B in Chapter 13 to Annex I to Council Directive 92/118/EEC.

(4) The animal products must be accompanied by an official certificate prepared on behalf of the Scottish Ministers which bears the following words:–

“Animal products conforming to Commission Decision 2001/172/EC of 1st March 2001 concerning certain protection measures with regard to foot-and-mouth disease in the United Kingdom”.

(5) Paragraph (4) shall not apply to products specified in sub-paragraphs (b), (c) or (d) of paragraph (3) which have a commercial document required under the Products of Animal Origin (Import and Export) Regulations 1996(a) endorsed in accordance with regulation 12 of these Regulations.

(6) Paragraph (4) shall not apply to products specified in sub-paragraphs (e) of paragraph (3) which are accompanied by a commercial document stating compliance with the conditions laid down in paragraphs (2) and (4) of Chapter 15 of Annex I to Council Directive 92/118/EEC.

(7) Paragraph (4) shall not apply to products specified in sub-paragraph (g) of paragraph (3) which are consigned in hermetically sealed containers or have been processed in an establishment operating HACCP and an auditable standard operating procedure which ensures that standards for treatment are met and recorded if they have a commercial document required under the Products of Animal Origin (Import and Export) Regulations 1996 endorsed in accordance with regulation 12 of these Regulations.

Exemptions

11. The prohibitions in regulations 5, 6, 7 and 10 shall not apply in relation to–

- (a) products produced and packaged outside the United Kingdom if the packaging indicates the country of origin and they remain in their original packaging; or
- (b) products which are –
 - (i) produced in an establishment approved by the Scottish Ministers from pre-processed products originating outside the United Kingdom which, since introduction into the United Kingdom have been transported, stored and processed separately from products not destined for export; and
 - (ii) accompanied by a commercial document or official certificate as required by these Regulations.

(a) S.I. 1996/3124.

Endorsement of commercial documents

12.—(1) Where reference is made to a commercial document being endorsed in accordance with this regulation, the document must have attached to it an official certificate prepared on behalf of the Scottish Ministers stating that the production process has been audited and found to be in accordance with these Regulations and suitable to destroy the foot-and-mouth disease virus and that provisions are in place to avoid possible re-contamination with the foot-and-mouth disease virus after treatment.

(2) That certificate shall bear a reference to the Decision, shall be valid for 30 days, shall state the expiry date and shall be renewable after inspection of the establishment.

Third country certificates

13. No person shall export anything to which these Regulations apply to a third country unless the consignment is accompanied by an official certificate prepared on behalf of the Scottish Ministers and signed by an inspector certifying compliance with these Regulations.

Powers of inspectors

14.—(1) An inspector shall, on producing, if required to do so, some duly authenticated document showing the authority of that inspector, have the right at all reasonable hours to enter any land or premises for the purposes of ascertaining whether there is or has been on the premises any contravention of these Regulations and in this regulation “premises” includes any place, installation, vehicle (including any container, trailer, semi-trailer, caravan or other thing which is designed or adapted to be towed by another vehicle), ship, vessel, boat, craft, hovercraft or aircraft.

(2) An inspector shall have powers to carry out all checks and examinations necessary for the enforcement of the Decision, and in particular may—

- (a) carry out inspections of any processes used for the marking and identification of animals, any premises and any installation;
- (b) examine documentary or data processing material relevant to the checks carried out under these Regulations; and
- (c) be accompanied by a representative of the European Commission acting for the purposes of the Decision.

Power of detention

15. The Scottish Ministers may detain any vehicle or vessel to enable an inspector to exercise a power under these Regulations, but only for as long as is reasonably necessary.

Illegal consignments

16.—(1) Where an inspector knows or suspects that animals or animal products are intended for export and do not comply with the requirements of these Regulations, that inspector may serve a notice on the person in charge of the consignment prohibiting the export of the animals or products in the consignment until the inspector is satisfied that the animals or products comply with the Regulations.

(2) No person shall export anything subject to a notice served under this regulation unless it has been revoked.

(3) A notice under this section shall be in writing, may be subject to conditions and may be amended or revoked by further notice in writing at any time.

Obstruction

17.—(1) No person shall—

- (a) intentionally obstruct any person acting in the execution of these Regulations;
- (b) without reasonable cause, fail to give to any person acting in the execution of these Regulations any assistance or information which that person may reasonably require for the purposes of the functions of that person under these Regulations; or
- (c) furnish to any person acting in the execution of these Regulations any information which is known to be false or misleading in a material particular.

(2) Nothing in paragraph (1)(b) shall be construed as requiring any person to answer any question or give any information if to do so might incriminate that person.

Penalties

18.—(1) A person contravening any provision of these Regulations shall be guilty of an offence.

(2) A person guilty of an offence under regulation 17(1)(a) or (b) shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale or to imprisonment for a term not exceeding three months or to both.

(3) A person guilty of any other offence under these Regulations shall be liable—

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

Offences by bodies corporate

19.—(1) Where an offence under these Regulations committed by a body corporate or a partnership is proved to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of, any director, manager, secretary or similar officer of the body corporate, or any person who was purporting to act in any such capacity (or in the case of a partnership, a partner or a person who was purporting to act as such), that person as well as the body corporate or the partnership, as the case may be, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, the provisions of paragraph (1) shall apply in relation to the acts and defaults of a member in connection with the members' functions of management as if the member were a director of the body corporate.

Effect of certificates, etc. issued in England and Wales

20. For the purposes of these Regulations, any certificate, licence or approval issued or granted by the Minister of Agriculture, Fisheries and Food or the National Assembly of Wales of an equivalent nature to a certificate, licence or approval issued by the Scottish Ministers under these Regulations shall have effect in or as regards Scotland as if issued or granted by the Scottish Ministers.

Enforcement

21. These Regulations shall be enforced by the Scottish Ministers or the local authority.

Revocations

22. The Export Restrictions (Foot-and-Mouth Disease) Regulations 2001(a), the Export Restrictions (Foot-and-Mouth Disease) (Amendment) Regulations 2001(b) and the Export Restrictions (Foot-and-Mouth Disease) Amendment (Scotland) Regulations 2001(c) are hereby revoked.

DAVID R DICKSON

A member of the staff of the Scottish Ministers

Pentland House,
Edinburgh
9th March 2001

(a) S.I. 2001/498 amended by S.I. 2001/627 and S.S.I. 2001/61.

(b) S.I. 2001/627.

(c) S.S.I. 2001/61.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations implement in Scotland restrictions on imports and exports of certain animals and animal products in accordance with Commission Decision 2001/190/EC of 6th March 2001 amending Decision 2001/172/EC concerning certain protection measures with regard to foot-and-mouth disease in the United Kingdom (O.J. No. L 67, 9.3.2001, p.88).

They revoke the Export Restrictions (Foot-and-Mouth Disease) Regulations 2001 (S.I 2001/498), the Export Restrictions (Foot-and-Mouth Disease) (Amendment) Regulations 2001, in so far as they apply in Scotland, and the Export Restrictions (Foot-and-Mouth Disease) Amendment (Scotland) Regulations 2001 (S.S.I. 2001/61).

They prohibit the import and export of specified live animals (regulation 3) and restrict the export of fresh meat, meat products, milk, milk products, semen and embryos from biungulate animals, hides and skins, and animal products (regulations 4 to 10). The restrictions differ from the previous Regulations in that the veterinary certificate required for the export of these products can in some circumstances be replaced by a commercial certificate, suitable endorsed in accordance with regulation 12.

The Regulations also permit for the first time certain products in transit, and products made from pre-processed products originating outside the United Kingdom (regulation 11).

The Regulations require a certification for exports to third countries as well as to other member State (regulation 13).

They give inspectors appointed by the Scottish Ministers powers to enter premises and carry out examinations (regulation 14) and empower the Scottish Ministers to stop and detain vehicles and vessels pending examination by an inspector (regulation 15). They introduce a notice procedure whereby an inspector can prohibit export of a consignment if the inspector is not satisfied that products comply with these Regulations (regulation 16).

Obstruction of a person carrying out duties under the Regulations is prohibited (regulation 17).

Breach of the Regulations is, under regulation 18, punishable—

- (a) on summary conviction, to a fine not exceeding level 5 on the standard scale or the statutory maximum or to imprisonment not exceeding three months or to both;
- (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years or to both.

Provision is made for offences by bodies corporate (regulation 19).

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