
SCOTTISH STATUTORY INSTRUMENTS

2002 No. 445

**The Products of Animal Origin (Third
Country Imports) (Scotland) Regulations 2002**

PART II

ENFORCEMENT

Enforcement authorities

4. These Regulations shall be executed and enforced—
- (a) by the Scottish Ministers at a border inspection post within Scotland designated and approved for veterinary checks only on products referred to in Annex I of Directive 92/118/EEC which are not intended for human consumption;
 - (b) by the Agency at—
 - (i) premises required to be licensed under the Fresh Meat (Hygiene and Inspection) Regulations 1995(1), the Poultry Meat, Farmed Game Bird Meat and Rabbit Meat (Hygiene and Inspection) Regulations 1995(2) or the Wild Game Meat (Hygiene and Inspection) Regulations 1995(3); and
 - (ii) combined premises as defined in the Meat Products (Hygiene) Regulations 1994(4), or the Minced Meat and Meat Preparations (Hygiene) Regulations 1995(5); and
 - (c) subject to regulation 5(1) by the local authority at any border inspection post in its area, except a border inspection post referred to in paragraph (a), and elsewhere in its area, except at premises referred to in paragraph (b).

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

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

(2) The Scottish Ministers or the Agency may recover from the local authority concerned any expenses reasonably incurred by them or it under paragraph (1).

Appointment of official veterinary surgeons and official fish inspectors

- 6.—(1) The Scottish Ministers shall appoint—

(1) S.I. 1995/539, amended by S.I. 1995/1763 and 2200 and 1996/1148 and 2235, 1997/1729 and 2074 and S.S.I. 2000/62, 171 and 288, 2001/160, 358, 394 and 429 and 2002/35 and 234.
(2) S.I. 1995/540, amended by S.I. 1995/1763, 2200 and 3205, 1997/1729 and S.S.I. 2000/62, 171 and 288 and 2002/87 and 234.
(3) S.I. 1995/2148, amended by S.I. 1995/3205 and S.S.I. 2000/62.
(4) S.I. 1994/3082, amended by S.I. 1995/539, 1763, 2200 and 3205, 1996/1499 and 1999/683 and S.S.I. 2000/62, 171 and 288 and 2001/160, 358, 394 and 429 and 2002/35.
(5) S.I. 1995/3205, amended by S.I. 1996/3124, S.S.I. 2000/62, 171 and 288, 2001/358, 394 and 429 and 2002/35.

- (a) an official veterinary surgeon to carry out the regulatory functions at any border inspection post within Scotland designated and approved for veterinary checks only on products referred to in Annex I of Directive 92/118/EEC which are not intended for human consumption; and
 - (b) such appropriately trained assistants for each official veterinary surgeon appointed pursuant to sub-paragraph (a) as may be necessary for the proper and expeditious performance of the regulatory functions.
- (2) A local authority shall appoint–
- (a) an official veterinary surgeon to carry out the regulatory functions at each border inspection post in its area, other than a border inspection post referred to in sub paragraph (1)(a);
 - (b) an official fish inspector to carry out the regulatory functions in relation to fishery products at each border inspection post in its area, other than a border inspection post referred to in sub-paragraph (1)(a); and
 - (c) such appropriately trained assistants for each official veterinary surgeon appointed pursuant to sub-paragraph (2)(a), and each official fish inspector appointed pursuant to sub-paragraph (2)(b), as may be necessary for the proper and expeditious performance of the regulatory functions.

Exercise of enforcement powers

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

- (a) executing or enforcing these Regulations;
- (b) executing or enforcing any declaration made by the Scottish Ministers or the Agency pursuant to regulation 54;
- (c) ascertaining whether these Regulations are being or have been complied with; or
- (d) verifying the identity, origin or destination of any product.

Powers of entry and inspection

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

(2) Where an official veterinary surgeon, official fish inspector or authorised officer takes a sample of a product otherwise than in the course of a physical check carried out pursuant to regulation 19(1), that veterinary surgeon, inspector or officer may serve notice on the person appearing to that veterinary surgeon, inspector or officer to have charge of the consignment which includes the product, requiring that the consignment or part thereof be stored until that veterinary surgeon, inspector or officer serves a further notice that the same may be removed, under the

supervision of the veterinary surgeon, inspector or officer, as the case may be, at such place and under such conditions as may be directed in the notice; and the costs of such storage shall be paid by the recipient of the notice or the person responsible for the consignment.

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

- (a) other persons acting under the instructions of that veterinary surgeon, inspector or officer;
- (b) one or more representatives of the European Commission; and
- (c) one or more representatives of the authorities of a third country, appointed and acting in accordance with the provisions of one of the equivalence decisions listed in Schedule 4.

Powers in relation to documents

9. An official veterinary surgeon, official fish inspector or authorised officer may—

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

Protection of officials acting in good faith

10.—(1) No authorised officer, official veterinary surgeon, official fish inspector, or assistant appointed pursuant to regulation 6 shall be personally liable in respect of any act done in the performance or purported performance of the regulatory functions within the scope of that officer's, veterinary surgeon's, inspector's or assistant's employment if it was done in the honest belief that a duty under these Regulations required or entitled such an act.

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

Entry warrants

11. If a sheriff or justice of the peace, on sworn information in writing, is satisfied that there is reasonable ground for entry into any land or premises by an official veterinary surgeon, official fish inspector or authorised officer for any of the purposes specified in regulations 7, 8, or 9 and either—

- (a) that entry has been refused, or a refusal is reasonably expected, and that notice of the intention to apply for an entry warrant has been given to the occupier; or

(b) that a request for entry, or the giving of such a notice, would defeat the object of entry, or that entry is urgently required, or that the land or premises are unoccupied, or the occupier is temporarily absent, and it would defeat the object of entry to await the occupier's return, the sheriff or justice may issue a warrant valid for a period of no more than one month authorising the official veterinary surgeon, official fish inspector or authorised officer to enter the land or premises, if need be by reasonable force.

Local authority returns

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

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

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

Suspension of border inspection posts

13.—(1) If the Scottish Ministers are satisfied that—

- (a) the continued operation of a border inspection post within Scotland presents a serious risk to public or animal health; or
- (b) there has been at a border inspection post within Scotland a serious breach of the requirements for the approval of border inspection posts laid down in Annex II to Directive 97/78/EC or the Annex to Commission Decision [2001/812/EC](#) laying down requirements for the approval of border inspection posts responsible for veterinary checks on products introduced into the Community from third countries⁽⁶⁾,

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

(2) Upon service of a notice pursuant to paragraph (1) the premises shall cease to be a border inspection post, notwithstanding that it may still appear on the list of border inspection posts referred to in Article 6(2) or 6(4) of Directive 97/78/EC, until it is again designated and approved in accordance with Article 6 (2) or 6(4).

Regulatory functions of official fish inspectors

14. In Parts III to VIII and XII, where a fishery product is concerned, the expression “official veterinary surgeon” shall be construed as indicating an official fish inspector.

(6) O.J. No. L 306, 23.11.2001, p.28.