
SCOTTISH STATUTORY INSTRUMENTS

2007 No. 194

**The Animals and Animal Products (Import
and Export) (Scotland) Regulations 2007**

PART V

GENERAL

Outbreaks of disease in other states

29.—(1) This regulation shall apply where the Scottish Ministers learn of or have reasonable grounds to suspect, either under the procedures set out in Article 10 of Council Directive [90/425/EEC](#) or Article 18 of Council Directive [91/496/EEC](#), or through any other means, the presence in any other state of a disease referred to in Schedule 6 (list of diseases), a zoonosis or any other disease or phenomenon liable to present a serious threat to public or animal health.

(2) In the circumstances described in paragraph (1) above, the Scottish Ministers may, for the purpose of preventing the introduction or spreading of disease into or within Scotland, by a declaration to be published in such manner as they think fit, give notice of the existence in another state of any disease or zoonosis or other cause likely to constitute a serious hazard, the area subject to the outbreak, and the types of animal or animal product affected.

(3) Upon such declaration being made, the entry into Scotland of any animal or animal product which is the subject of the declaration shall be in breach of the conditions of import in these Regulations unless it satisfies such conditions as may be specified in the declaration.

(4) A declaration made under this regulation may specify conditions under which the animal or animal product which is the subject of the declaration may be imported.

Notification of decisions

30. If the consignor or their representative, or the importer or their representative, so requests, any decision taken refusing entry or varying the conditions of entry shall be forwarded to them in writing by the person taking the decision, giving the reasons for the decision and the details of the right of appeal against the decision, including the relevant time limits.

Appointment of inspectors

31. The Scottish Ministers or, as the case may be, the local authority shall appoint inspectors for the purposes of the enforcement of these Regulations.

Powers of inspectors

32.—(1) Subject to regulation 11, an inspector shall, on producing, if required to do so, some duly authenticated document showing the inspector's authority, 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.

- (2) An inspector shall have powers to carry out all checks and examinations necessary for the enforcement of Council Directives [90/425/EEC](#) and [91/496/EEC](#), 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) carry out checks on whether staff are complying with the requirements of the Directives or other measures listed in Part I of Schedule 3 relating to animal products;
 - (c) take samples (and, if necessary, send the samples for laboratory testing) from—
 - (i) animals held with a view to being sold, put on the market or transported;
 - (ii) products held with a view to being stored or sold, put on the market or transported;
 - (iii) animals or animal products being transported in the course of intra Community trade;
 - (iv) animals at a border inspection post in the case of third country imports; or
 - (v) animals or animal products at the place of destination in the case of an import from another member State;
 - (d) examine documentary or data processing material relevant to the checks carried out under these Regulations; and
 - (e) take with them a representative of the European Commission acting for the purposes of Council Directive [90/425/EEC](#) or [91/496/EEC](#).
- (3) In this regulation, “premises” includes any place, installation, vehicle, ship, vessel, boat, craft, hovercraft or aircraft.

Recovery of expenses

33.—(1) The consignor, their representative and the person in charge of any animal or animal product shall be jointly and severally liable for any reasonable expenses arising out of or in connection with the exercise of any power conferred on an inspector under these Regulations relating to those animals or animal products.

- (2) In relation to any activity undertaken by a veterinary inspector for which a charge may be made under these Regulations at the veterinary inspector rate (“a chargeable activity”)—
- (a) the Scottish Ministers shall determine the veterinary inspector rate for that activity as representing the reasonable costs and expenses incurred in employing a veterinary inspector to undertake that chargeable activity during any given unit of time;
 - (b) the Scottish Ministers shall publish the current veterinary inspector rate on the website of the Scottish Executive⁽¹⁾; and
 - (c) time charged at the veterinary inspector rate shall be charged in units of half an hour or part thereof.

Obstruction

- 34.**—(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 and for the purposes of functions under these Regulations any assistance or information which the person acting in the execution of these Regulations may reasonably require of them; or

(1) www.scotland.gov.uk.

(c) furnish to any person acting in the execution of these Regulations any information which they know to be false or misleading.

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

Offences by bodies corporate

35.—(1) Where a body corporate is guilty of an offence under these Regulations, and that offence is proved to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of—

- (a) any director, manager, secretary or other similar officer of the body corporate; or
- (b) any person who was purporting to act in any such capacity,

that person as well as the body corporate, shall be guilty of the offence and be liable to be proceeded against and punished accordingly.

(2) For the purposes of paragraph (1) above, “director” in relation to a body corporate whose affairs are managed by its members, means a member of the body corporate.

(3) Where an offence under these Regulations is committed by a Scottish partnership and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a partner, that partner as well as the partnership shall be deemed to be guilty of that offence and be liable to be proceeded against and punished accordingly.

Offences and penalties

36.—(1) A person contravening any provision of these Regulations, except those listed in paragraph (2), or any notice served under any such provision shall be guilty of an offence.

(2) The provisions referred to in paragraph (1) are those contained in—

- (a) regulation 20(3);
- (b) paragraph 6 of Part I of Schedule 4; and
- (c) paragraph 2 of Part I of Schedule 5.

(3) A person guilty of an offence under regulation 34(1)(a) or (b) above 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.

(4) 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; or
- (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years or to both.

(5) No contravention of, or failure to comply with, a provision of these Regulations by the Scottish Ministers, a local authority, a veterinary inspector or an inspector shall constitute an offence.

Transitional arrangements and disapplication of provisions

37.—(1) These Regulations shall apply to a captive bird which has been lawfully imported pursuant to the Importation of Birds, Poultry and Hatching Eggs Order 1979(2) on or before 17th July 2006 as if the bird had been imported and, if it is in quarantine, placed in quarantine, in accordance with Part IV of Schedule 8 to these Regulations.

(2) S.I.1979/1702, as amended by S.I. 1990/2371.

(2) Where, on 17th July 2006, a quarantine centre or quarantine facility held an approval for the purposes of Commission Decision [2000/666/EC](#) that quarantine centre or quarantine facility shall be treated as approved in accordance with regulation 20 and Schedule 8 to these Regulations.

(3) Subject to paragraph (1), the provisions of the legislation listed in Schedule 9 shall not apply to imports from another member State of animals and animal products to which an instrument referred to in Part I of Schedule 3 applies, or to imports of an animal to which an instrument referred to in Schedule 7 applies from the country subject to that instrument, to the extent specified in column 3 of Schedule 9.

Revocations

38. The Regulations set out in column 1 of Schedule 10 are revoked to the extent specified in column 3 of that Schedule.