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SCOTTISH STATUTORY INSTRUMENTS

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**2006 No. 335**

**The Animals and Animal Products (Import and Export) (Scotland) Amendment Regulations 2006**

**Citation and commencement**

1. These Regulations may be cited as the Animals and Animal Products (Import and Export) (Scotland) Amendment Regulations 2006 and shall come into force on 17th July 2006 .

**Amendment to The Animals and Animal Products (Import and Export) (Scotland) Regulations 2000**

2. The Animals and Animal Products (Import and Export) (Scotland) Regulations 2000<sup>(1)</sup> are amended in accordance with regulation 3 below.

3.—(1) In regulation 1(2) (citation, commencement, interpretation and extent)—

(a) after the definition of “border inspection post” insert—

““captive bird” means a bird whose import is subject to the requirements of Commission Decision [2000/666/EC](#);

“Commission Decision [2000/666/EC](#)” means Commission Decision [2000/666/EC](#) laying down the animal health requirements and the veterinary certification for the import of birds, other than poultry and the conditions for quarantine<sup>(2)</sup>, as amended by and as read with the instruments listed in paragraph 8A of Part II of Schedule 5;

“Commission Regulation (EC) No. [282/2004](#)” means Commission Regulation (EC) No. [282/2004](#) introducing a document for the declaration of, and veterinary checks on, animals from third countries entering the Community<sup>(3)</sup>”; and

(b) after the definition of “place of destination” insert—

““quarantine centre”, “quarantine facility” and “quarantine unit” in relation to captive birds have the meanings given in Commission Decision [2000/666/EC](#), and references in these Regulations to an “approved” quarantine centre and quarantine facility shall be construed as referring to such a centre or facility approved in accordance with regulation 18A and Schedule 5A so long as that approval is not revoked or suspended;

“quarantine manager” in relation to captive birds has the meaning given in regulation 18A(9);”.

(2) For regulation 18 (Import Procedure) substitute—

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(1) S.S.I. 2000/216, as amended by S.S.I. 2000/300 and S.S.I. 2005/502.

(2) O.J. No. L 278, 31.10.00, p.26.

(3) O.J. L 49, 19.2.04, p.11.

**“Import procedure**

**18.—(1)** No person shall import any animal unless they have given one working day’s notice in writing of their intention to do so, specifying the number, nature and estimated time of arrival of the animal, to the official veterinarian of the border inspection post through which the animal is to be imported.

(2) On importation, the importer or their agent shall convey the animal, under the supervision of the enforcement authority, directly to the border inspection post examination area or, where the Decisions listed in Schedule 5 or the animal health conditions applicable to imports so require, to a quarantine centre as provided for in the second indent of the first subparagraph of Article 10.1 of Council Directive [91/496/EEC](#).

(3) In relation to captive birds, the importer or his agent shall at the expense of the importer ensure that—

- (a) the bird is conveyed from the border inspection post referred to in paragraph (2) to an approved quarantine facility or quarantine centre as provided for in Articles 2.4 and 3.1 and 3.2 of Commission Decision [2000/666/EC](#); and
- (b) the bird is placed and remains in quarantine at that approved quarantine centre or approved quarantine facility in accordance with Articles 3.3, 3.5, 4, 5 and 6 of Commission Decision [2000/666/EC](#) and regulation 18A.

(4) Without prejudice to regulation 18A and paragraph 6 of Part I of Schedule 5A no person shall remove any animal from a border inspection post, quarantine centre or quarantine facility unless the common veterinary entry document has been completed in accordance with Article 3.1 of Commission Regulation (EC) No. [282/2004](#) indicating that all necessary veterinary checks have been carried out to the satisfaction of the official veterinarian.

(5) No person shall remove any animal from Customs temporary storage arrangements—

- (a) unless the common veterinary entry document has been produced in accordance with Article 3.3 of Commission Regulation (EC) No. [282/2004](#) to an officer of Her Majesty’s Customs and Excise and the removal has been authorised by that officer;
- (b) to any place other than the place of destination specified in the common veterinary entry document, unless that person has been required to remove it to another place by means of a notice served on the person by an inspector.

(6) Subject to paragraphs (2) to (5), the person in charge of an animal imported from a third country shall ensure that it is conveyed to its place of destination without delay and that the original of the common veterinary entry document accompanies it to its place of destination in accordance with Article 3.4 of Commission Regulation (EC) No. [282/2004](#).

(7) Where a check involves the taking of a sample for testing and the test result is not immediately available, the official veterinarian may by notice served on the owner or the person in charge of an animal release that animal from the border inspection post, and require that person to keep the animal in accordance with such conditions as may be specified in the notice until the test results are available; and if the test reveals that the animal does not comply with the provisions of Article 5 of Council Directive [91/496/EEC](#) then the provisions of regulation 21 shall apply as they apply at a border inspection post.

(8) In the event of a notice served under paragraph (5) or (7) above not being complied with a veterinary inspector may seize or cause to be seized any animal to which it relates, and arrange for the requirements of the notice to be complied with.”.

(3) After regulation 18 (Import Procedure) insert—

### **“Quarantine for captive birds**

**18A.**—(1) The provisions of Part I of Schedule 5A shall have effect in relation to approvals for quarantine centres and quarantine facilities pursuant to Commission Decision [2000/666/EC](#).

(2) The quarantine manager shall ensure that the specific requirements described in Part II of Schedule 5A for the quarantine of captive birds are met.

(3) The importer of a captive bird shall meet the costs of sampling undertaken during the captive bird’s quarantine and shall pay the charges for the testing required under Articles 4.1, .4.3, 4.4c and 4.5 or undertaken in connection with Article 5 of Commission Decision [2000/666/EEC](#) as the Scottish Ministers may demand in writing in accordance with paragraph (4) of this regulation.

(4) For the purposes of testing of samples required under or otherwise undertaken in connection with the Decision—

- (a) the Veterinary Laboratory Agency is designated the official laboratory; and
- (b) the Scottish Ministers may make such charges as are provided for in Part III of Schedule 5A.

(5) No person may enter a quarantine centre or a quarantine facility unless—

- (a) they wear protective clothing and footwear suitable for preventing the spread of disease; and
- (b) they meet at least one of the following criteria—
  - (i) they are a member of staff at that quarantine centre or quarantine facility;
  - (ii) they have been authorised to enter by the Scottish Ministers or by a veterinary inspector; or
  - (iii) they otherwise do so in fulfilment of a statutory function relating to animal health, animal welfare or species conservation which they are appointed by the Scottish Ministers or by the local authority to perform.

(6) No person shall remove a live captive bird from a quarantine centre or quarantine facility without the approval of a veterinary inspector.

(7) No person shall remove or dispose of a carcass of a captive bird which dies in quarantine unless a veterinary inspector has authorised the removal or disposal.

(8) An inspector shall have powers in relation to the quarantine of captive birds to—

- (a) enter a quarantine centre or quarantine facility to check compliance with these Regulations or with an approval granted or sought under this regulation and Schedule 5A;
- (b) inspect and copy any records (in whatever form they are held) which the inspector considers relevant for checking compliance with the requirements of this Part and Schedule 5A; and
- (c) take such samples and carry out such inspections of a quarantine centre or quarantine facility and its equipment, and such clinical veterinary examinations as are required under Commission Decision [2000/666/EC](#).

(9) In this regulation “quarantine manager” means the person in charge of a quarantine centre or quarantine facility for which approval is required under Commission Decision [2000/666/EC](#).”

(4) For regulation 19 (Payment of Fees) substitute—

**“Payment of Fees**

**19.** The official veterinarian shall not authorise the release of animals from a quarantine centre, quarantine facility or border inspection post unless they are satisfied that all veterinary checks for which a charge is made have been paid for, and that, where relevant, a deposit covering any cost provided for in Article 9.1.a, 9.2, the second and third indents of Article 10.1, Article 10.6 and Article 12.2 of Council Directive [91/496/EEC](#) has been lodged.”.

(5) For regulation 20 (Consignments constituting a danger to health) substitute—

**“Consignments constituting a danger to health**

**20.**—(1) Subject to paragraph (2), where checks at a quarantine centre, quarantine facility or border inspection post or the test results referred to in regulation 18(7) reveal that an animal or a consignment of animals is likely to constitute a danger to animal or human health, the official veterinarian shall immediately seize and destroy the animal or consignment (as the case may be) and the costs of such action shall be payable by the importer or his representative.

(2) Where the presence of Avian Influenza or Newcastle disease is found at a quarantine centre or quarantine facility in accordance with Article 4.4 of Commission Decision [2000/666/EC](#), a veterinary inspector shall either—

- (a) (i) slaughter and destroy all birds within the quarantine facility or at the unit at the quarantine centre where disease has been found, as required under Article 4.4.a of the Decision; and
- (ii) by notice impose the other measures provided for in Article 4.4 of Commission Decision [2000/666/EC](#);

or

- (b) serve notice specifying the terms on which the derogation in Article 4.5 of the Decision is to be exercised.

(3) Where during quarantine required under the Decision psittaciformes are suspected or found to be suffering *Chlamydia psittaci*, the veterinary inspector shall by notice—

- (a) require the treatment of all birds in the consignment by means specified in that notice; and
- (b) extend the period of quarantine as required under Article 5 of the Decision.

- (a) (4) A notice served under paragraphs (2) and (3) shall be served upon the quarantine manager or other person appearing to the veterinary inspector to be in charge of the centre or facility at the time of service; and

- (b) a copy of that notice shall be sent to the importer of the birds concerned.”.

(6) In regulation 21(1)(Illegal Consignments) after “quarantine centre” insert “,quarantine facility”.

(7) For regulation 25 (Imports) substitute—

**“Imports**

**25.** No person shall import any animal to which this Part applies unless it is accompanied by the common veterinary entry document and the authenticated copy of the original health certificate issued at the point of importation into the European Community under Article 7.1 of Council Directive [91/496/EEC](#) and Article 3 of Regulation [\(EC\) No. 282/2004](#).”.

(8) For regulation 26 (Import procedure) substitute—

### **“Import Procedure**

**26.** The provisions of regulations 7 to 13, 16(2) and (3), 18(3) and (6), 18A(3) to (8), 20(2) and (3), 22 and 23 of these Regulations shall apply in relation to animals to which this Part applies.”

(9) For regulation 33 (Penalties) substitute—

### **“Penalties**

**33.—**(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 18A(3);
- (b) paragraph 6 of Part I of Schedule 3A; and
- (c) paragraph 2 of Part I of Schedule 3B.

(3) A person guilty of an offence under regulation 31(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.”

(10) For regulation 34 (Disapplication of provisions) substitute—

### **“Transitional arrangements and disapplication of provisions**

**34.—**(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(4) 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 5A to these Regulations.

(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 18A and Schedule 5A to these Regulations.

(3) Subject to paragraph (1), the provisions of the legislation listed in Schedule 6 shall not apply to imports from another member State of animals and animal products to which a Directive or other measure referred to in Part I of Schedule 3 applies, or to imports of an animal to which a Directive or other measure referred to in Schedule 5 applies from the country subject to that Directive or other measure, to the extent specified in column 3 of Schedule 6.”

(11) In Part 1 of Schedule 3 (Legislation on Intra-Area Trade)—

(a) after paragraph 6(d)(Poultry and Hatching Eggs) add—

- “(e) the official health certification accompanying poultry, hatching eggs and day-old chicks imported into Scotland from Italy shall include the words “The animal health conditions of this consignment are in accordance with Commission Decision 2005/926/EC(5)”;

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

(5) O.J. No. L 337, 22.12.05, p.60.

(f) in the case of hatching eggs from a protection zone established under Commission Decision [2006/115/EC](#) concerning certain protection measures in relation to highly pathogenic avian influenza in wild birds in the Community<sup>(6)</sup> (“the wild birds Decision”) which are–

(i) exported from such a protection zone in Scotland to another member State,  
or

(ii) imported from such a protection zone in another member State into Scotland,

pursuant to the derogation in Article 7 of the wild birds Decision, the official health certification required to accompany hatching eggs under Article 17 of Council Directive [90/539/EEC](#) in the form of Model 1 of Annex IV to that Directive shall contain a statement in the following terms:

“This consignment complies with the animal health conditions laid down in Commission Decision [2006/115/EC](#).”

(b) in paragraph 10 (Other animals, semen, ova and embryos) after the entry for “Commission Decision [2000/528/EC](#)” add–

“and Council Directive [2004/68/EC](#) (OJ No. L139, 30.4.2004, p. 321(7))”.

(12) In Schedule 5 (Community Legislation on Third Countries)–

(a) In Part I, paragraph 1 (Third countries from which member States may authorise certain imports), after sub-paragraph (2) insert–

“(2A) Commission Decision [2000/666/EC](#) as read with Council Directive [92/65/EEC](#).”; and

(b) In Part II–

(i) in paragraph 3 (Equidae General) for “; and Commission Decision [96/81/EC](#) (O.J. No. L 19, 25.1.96, p.53)” substitute–

“Commission Decision [96/81/EC](#) (O.J. No. L 19, 25.1.96, p.53);

Council Directive [2004/68/EC](#) (OJ No. L139, 30.4.2004, p. 321),”; and

(ii) after paragraph 8 (Poultry) insert–

**“Captive birds**

**8A.** Commission Decision [2000/666/EC](#) as read with or amended by–

Council Directive [92/65/EC](#);

Commission Decision [2001/383/EC](#) (OJ No. L137, 19.5.01, p. 28);

Commission Decision [2002/279/EC](#) (OJ No. L99, 16.04.02, p.17) and the European international instruments.

Relevant provisions in that instrument: Articles 1, 2, 3, 8, and 9.”

(13) After Schedule 5 insert the Schedule set out in the Schedule to these Regulations.

(14) In Schedule 6 (legislation which does not apply), for the provisions in the Importation of Birds, Poultry and Hatching Eggs Order 1979 listed in column 3 (Extent), substitute–

“Articles 4 to 7, 9.3 to 9.6, 10 to 12 except that article 4 shall continue to apply to all birds (including domestic fowl) and their hatching eggs other than–

<sup>(6)</sup> O.J. No. L 48, 18.2.06, p.48.

<sup>(7)</sup> A corrigendum has been published in O.J. No. L 226, 25.06.04, p.128.

- (a) those subject to the provisions of Council Directive [90/539/EEC](#) (excluding domestic fowl);
- (b) those birds and their hatching eggs traded within the Community which are subject to the provisions of Council Directive 92/65; and
- (c) those birds subject to the provisions of Commission Decision [2000/666/EC](#).”.

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