

2007 No. 562

ANIMALS

ANIMAL HEALTH

**The Foot-and-Mouth Disease (Export Restrictions) (Scotland)
(No. 2) Regulations 2007**

Made - - - - - *13th December 2007*

Coming into force in accordance with article 1

Laid before the Scottish Parliament- *17th December 2007*

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PART 1 — Centres or holdings from which semen or embryos may be collected

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The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972(a) and all other powers enabling them to do so.

Citation, commencement, cessation and extent

1.—(1) These Regulations may be cited as the Foot-and-Mouth Disease (Export Restrictions) (Scotland) (No. 2) Regulations 2007, and come into force at 1800 hours on 13th December 2007.

(2) These Regulations cease to have effect on 31st December 2007.

(3) These Regulations extend to Scotland and, in so far as they extend beyond Scotland, do so only as a matter of Scots law.

Interpretation

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

“animal” means a live animal of the bovine, ovine, caprine or porcine species or other biungulate;

“the Decision” means Commission Decision 2007/554/EC concerning certain protection measures against foot-and-mouth disease in the United Kingdom and repealing Decision 2007/552/EC(b);

“disease” means foot-and-mouth disease;

“export” includes consigning for export;

“inspector” means a person appointed by the Scottish Ministers or a local authority to be an inspector for the purposes of—

(a) these Regulations;

(b) the Animal Health Act 1981(c);

(c) the Products of Animal Origin (Import and Export) Regulations 1996(d);

(d) the Products of Animal Origin (Third Country Imports) (Scotland) Regulations 2007(e);
or

(e) the Animals and Animal Products (Import and Export) (Scotland) Regulations 2007(f);

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

“restricted area” means the areas specified in Schedule 1.

Export of animals

3.—(1) No person shall export an animal.

(2) By way of derogation from paragraph (1), a person may export an animal originating outside the restricted area if the first and second conditions are met.

(3) The first condition is that at least three days before export the Scottish Ministers have notified the central and local veterinary authorities of the member State of the intended export.

(4) The second condition is that the animal is accompanied by a health certificate which bears in the case of—

(a) 1972 c.68. Section 2(2) was amended by the Scotland Act 1998 (c.46), Schedule 8, paragraph 15(3), and by section 27(1) of the Legislative and Regulatory Reform Act 2006 (c.51) (“the 2006 Act”). The functions conferred upon the Minister of the Crown under section 2(2) of the European Communities Act 1972, 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 210, 10.8.2007, p.36, as amended by Commission Decisions 2007/588/EC, 2007/608/EC, 2007/663/EC, 2007/664/EC, 2007/709/EC, 2007/746/EC, 2007/796/EC and 2007/833/EC.

(c) 1981 c.22.

(d) S.I. 1996/3124, as amended by S.I. 1997/3023, 1998/994, 1999/663, 2000/656 and, as regards Scotland, S.S.I. 2000/62, 171, 288 and 2001/169 and 257.

(e) S.S.I. 2007/1, as amended by S.S.I. 2007/304.

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

- (a) a bovine, porcine, ovine and caprine animal, the words–
“Animals conforming to Commission Decision 2007/554/EC of 9th August 2007 concerning certain protection measures against foot-and-mouth disease in the United Kingdom”; and
- (b) any other animal, the words–
“Live biungulates conforming to Commission Decision 2007/554/EC of 9th August 2007 concerning certain protection measures against foot-and-mouth disease in the United Kingdom”.

Export of semen, ova and embryos

4.—(1) No person shall export semen, ova or embryos of an animal produced in or coming from the restricted area.

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

- (a) Semen, ova and embryos produced before 15th July 2007;
- (b) frozen semen of a bovine, ovine, caprine or porcine species, or frozen embryos of a bovine, ovine or caprine species, imported into the United Kingdom in accordance with the conditions in–
 - (i) 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);
 - (ii) 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);
 - (iii) Council Directive 90/429/EEC laying down the animal health requirements applicable to intra-Community trade in and imports of semen of domestic animals of the porcine species(c); or
 - (iv) Council Directive 92/65/EEC laying down the animal health requirements governing trade in and imports into the Community of animals, semen, ova and embryos not subject to animal health requirements laid down in specific Community rules(d),

and which since introduction into the United Kingdom have been stored and transported separately from semen, ova and embryos from the restricted area not eligible for export; or

- (c) frozen semen or embryos–
 - (i) from a bovine, ovine, caprine or porcine animal–
 - (aa) kept at for at least 90 days prior to the date of and during collection on a holding outside the restricted area; or
 - (bb) moved to premises outside the restricted area from premises also outside that area during the 90 days prior the date of collection;
 - (ii) that have been collected from donor animals kept in centres or on holdings which comply with Part I of Schedule 2; and
 - (iii) that have been stored in accordance with Part II of Schedule 2 for a minimum period of 30 days following collection during which the centre or holding described in subparagraph (c)(ii) must have had no case of disease.

(3) The health certificate accompanying frozen bovine semen exported to another member State must bear the words–

(a) O.J. No. L 194, 22.7.1988, p.10 as last amended by the Act of Accession of Austria, Finland and Sweden.
(b) O.J. No. L 302, 19.10.1989, p.11 as last amended by Act of Accession of Austria, Finland and Sweden.
(c) O.J. No. L 224, 18.8.1990, p.62 as last amended by Council Decision 2001/36/EC (O.J. No. L 13, 19.1.2000, p.21).
(d) O.J. No. L 268, 14.09.1992, p.54 as last amended by Council Decision 2007/265/EC.

“Frozen bovine semen conforming to Commission Decision 2007/554/EC of 9th August 2007 concerning certain protection measures against foot-and-mouth disease in the United Kingdom”.

(4) The health certificate accompanying frozen porcine semen exported to another member State must bear the words—

“Frozen porcine semen conforming to Commission Decision 2007/554/EC of 9th August 2007 concerning certain protection measures against foot-and-mouth disease in the United Kingdom”.

(5) The health certificate accompanying frozen ovine or caprine semen exported to other member States must bear the words—

“Frozen ovine/caprine semen conforming to Commission Decision 2007/554/EC of 9th August 2007 concerning certain protection measures against foot-and-mouth disease in the United Kingdom”.

(6) The health certificate accompanying frozen ovine or caprine embryos exported to other member States must bear the words—

“Frozen ovine/caprine embryos conforming to Commission Decision 2007/554/EC of 9th August 2007 concerning certain protection measures against foot-and-mouth disease in the United Kingdom”.

(7) Frozen bovine embryos exported to another member State must be accompanied by a health certificate bearing the words—

“Bovine embryos conforming to Commission Decision 2007/554/EC of 9th August 2007 concerning certain protection measures against foot-and-mouth disease in the United Kingdom”.

Offers to export

5. No person shall offer to export, or accept orders for the export of, anything prohibited from being exported by these Regulations, whether on the internet or otherwise.

Activities in other parts of Great Britain

6. Where these Regulations require that a thing is done by the Scottish Ministers, a thing done by the equivalent authority for the same purpose in another part of Great Britain shall be treated as if it had been done by the Scottish Ministers.

Sharing of information

7.—(1) The Scottish Ministers and any local authority may exchange information for the purposes of these Regulations and of the Decision, and may disclose information to an enforcement authority in another part of the British Islands.

(2) Paragraph (1) is without prejudice to any other power of the Scottish Ministers or any local authority to disclose information.

Powers of an inspector

8.—(1) An inspector shall, on producing, if required to do so, some duly authenticated document showing the authority to do so, have the right to enter any land or premises at all reasonable hours for the purpose of ascertaining whether there is or has been on the land or premises any contravention of these Regulations.

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

(a) detain any vehicle, vessel, container or anything which the inspector reasonably suspects to contain animals or things controlled by these Regulations and intended for export for

as long as is reasonably necessary to determine whether the consignment complies with the conditions for export;

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

(3) 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), train, ship, vessel, boat, craft, hovercraft or aircraft.

Illegal exports

9.—(1) An inspector who has reasonable grounds to suspect that anything other than an animal is intended to be exported in contravention of these Regulations may seize and remove that thing.

(2) An inspector who has seized and removed a thing shall forthwith—

- (a) apply to the sheriff for an order under paragraph (3); and
- (b) intimate that application to any person appearing to the inspector to be in charge of the thing.

(3) The sheriff, if satisfied that it was intended to export the thing in contravention of these Regulations, shall—

- (a) if satisfied that the thing can be returned to the owner without a significant risk of a further attempt to export it in contravention of these Regulations, order that it is so returned; or
- (b) if not satisfied that the thing can be returned in accordance with sub-paragraph (a), order that it is to be put into storage (if practicable) or destroyed.

(4) The owner and any person in charge of a thing destroyed or disposed of in accordance with an order under paragraph (3) shall be jointly and severally liable for the costs incurred in the return to the owner, removal to storage, storage, or destruction or other disposal.

(5) An inspector may apply to the sheriff for the destruction of a thing stored in accordance with an order under paragraph (3), and the sheriff shall order that it is to be destroyed if satisfied that the owner cannot—

- (a) be found; or
- (b) pay the costs associated with storage of the thing.

Obstruction

10. 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 their functions under these Regulations.

False information

11. No person shall provide to any person acting in the execution of these Regulations any information which the first mentioned person knows to be false or misleading.

Offences by bodies corporate

12.—(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 officer or 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 this regulation, “director” in relation to a body corporate whose affairs are managed by its members, means a member or partner of the body corporate.

Penalties

13. A person contravening any provision of these Regulations is guilty of an offence and 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.

Enforcement

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

Revocation

15. The Foot-and-Mouth Disease (Export and Movement Restrictions) (Scotland) (No 2) Regulations 2007^(a) are revoked.

NEIL RITCHIE

A member of the staff of the Scottish Ministers

Pentland House,
Edinburgh
13th December 2007

^(a) S.S.I. 2007/552.

SCHEDULE 1

Regulation 2

Areas subject to export restrictions

GROUP	ADNS⁽¹⁾	Administrative Unit
England	41	Bracknell Forest Borough
	66	Slough
	76	Windsor and Maidenhead
	77	Wokingham
	138	The following district of Buckinghamshire County: South Buckinghamshire
	148	The following districts of Hampshire County: Hart Rushmoor
	163	Surrey (except Tandridge District)
	168	The following boroughs of the Greater London Authority: Hillingdon Hounslow Richmond upon Thames Kingston upon Thames Ealing Harrow Brent Hammersmith and Fulham Wandsworth Merton Sutton

⁽¹⁾ ADNS means the Animal Disease Notification System set up by Commission Decision 2005/176 of 1st March 2005 laying down a codified form and the codes for the notification of animal diseases pursuant to Council Directive 82/894/EEC(a).

(a) O.J. No. L 59, 5.3.2005, p.40.

PART 1

Centres or holdings from which semen or embryos may be collected

1. The centre or holding must have been free from disease for at least three months prior to, and thirty days after, the date of collection of the semen or embryos.
2. It must be situated in the centre of an area of 10 km radius in which there has been no case of disease for at least the 30 days prior to the date of collection.

PART 2

Storage conditions for frozen semen and embryos

3. Frozen bovine semen must have been stored in accordance with the Bovine Semen (Scotland) Regulations 2007(a).
4. Frozen bovine embryos must have been stored in accordance with the Bovine Embryo (Collection, Production and Transfer) Regulations 1995(b).
5. Frozen porcine semen must have been stored in accordance with Chapters I and II of Annex A of Council Directive 90/429/EEC laying down the animal health requirements applicable to intra-Community trade in and imports of semen of domestic animals of the porcine species(c).
6. Frozen porcine embryos must have been stored in accordance with Chapter III of Annex D of Council Directive 92/65/EEC.
7. Frozen ovine or caprine semen must have been stored in accordance with Chapters I and III of Annex D of Council Directive 92/65/EEC.
8. Frozen ovine or caprine embryos must have been stored in accordance with Chapter III of Annex D of Council Directive 92/65/EEC.

(a) S.S.I. 2007/330.

(b) S.I. 1995/2478.

(c) O.J. No. L 224, 18.8.1999, p.62 as last amended by Council Regulation (EC) No. 806/2003 (O.J. No. L 122, 16.5.2003, p.1).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations revoke and re-make with amendments the Foot-and-Mouth Disease (Export and Movement Restrictions) (Scotland) (No. 2) Regulations 2007.

They implement Commission Decision 2007/554/EC concerning certain protection measures against foot-and-mouth disease in the United Kingdom dated 9th August 2007 (“the principal Decision”), as amended most recently by Commission Decision 2007/833/EC dated 13th December 2007.

The Principal Decision as most recently amended provides for a prohibition on the export from the United Kingdom of FMD susceptible animals and genetic material coming from a high risk area for disease control purposes, and for derogations enabling the member State to authorise the dispatch or export of certain categories of animal and material. The prohibitions are to have effect until 31st December 2007.

These Regulations give effect to the prohibitions for Scotland, and exercise the derogations provided for by the principal Decision. The high risk area is, for the purpose of these Regulations, the restricted area as specified by article 2 and Schedule 1.

These Regulations provide in particular for prohibitions and restrictions on—

- export from Scotland of live animals (regulation 3),
- the export of semen, ova or embryos of bovine, ovine, caprine, porcine and other biungulate animals from the restricted area (regulation 4),

The prohibitions on dispatch under these Regulations do not apply to certain animals or material as specified in the applicable regulations.

They create an offence of offering to export anything which it is prohibited to export under the Regulations (regulation 5).

They provide for things done elsewhere in the British Islands to be treated for certain purposes as if done in Scotland (regulation 6).

They provide for sharing of information relating to these Regulations (regulation 7).

They provide powers in respect of enforcement (regulations 8 and 9) and create offences of obstruction and providing false information (regulations 10 and 11).

The Regulations are enforced by the Scottish Ministers or the local authority (regulation 14).

Breach of the Regulations is an offence, punishable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum of £5000 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.

A regulatory impact assessment has not been prepared for these Regulations.

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