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SCOTTISH STATUTORY INSTRUMENTS

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**2012 No. 177**

**The Trade in Animals and Related  
Products (Scotland) Regulations 2012**

**PART 1**

**Introduction**

**Citation, commencement and extent**

**1.** These Regulations—

- (a) may be cited as the Trade in Animals and Related Products (Scotland) Regulations 2012;
- (b) come into force on 1st July 2012; and
- (c) extend to Scotland only.

**Interpretation**

**2.—(1)** In these Regulations—

“animal” means an animal of any kind, including a bird, fish or invertebrate;

“authorised officer” means a person who is authorised by an enforcement authority, either generally or specifically, to act in matters arising under these Regulations, whether or not that person is an officer of an enforcement authority;

“border inspection post” means a port or airport approved as such by the European Commission<sup>(1)</sup>;

“Commission Decision [92/260/EEC](#)” means Commission Decision [92/260/EEC](#) on animal health conditions and veterinary certification for temporary admission of registered horses<sup>(2)</sup>;

“Commission Decision [2007/275/EC](#)” means Commission Decision [2007/275/EC](#) concerning lists of animals and products to be subject to controls at border inspection posts under Council Directives [91/496/EEC](#) and [97/78/EC](#)<sup>(3)</sup>;

“Council Directive [64/432/EEC](#)” means Council Directive [64/432/EEC](#) on animal health problems affecting intra-Community trade in bovine animals and swine<sup>(4)</sup>;

“Council Directive [91/68/EEC](#)” means Council Directive [91/68/EEC](#) on animal health conditions governing intra-Community trade in ovine and caprine animals<sup>(5)</sup>;

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<sup>(1)</sup> The Commission periodically publishes lists of border inspection posts. The list of approved border inspection posts is laid down in Commission Decision [2009/821/EC](#) (OJ L 296, 12.11.2009, p.1) as last amended by Commission Implementing Decision 2011/707/EU (OJ L 281, 28.10.2011, p.29) and is periodically reviewed and amendments made.

<sup>(2)</sup> OJ L 130, 15.5.1992, p.67 as last amended by Commission Decision 2010/463/EU (OJ L 220, 21.8.2010, p.74).

<sup>(3)</sup> OJ L 116, 4.5.2007, p.9 as last amended by Commission Regulation (EU) No 28/2012 (OJ L 12, 14.01.2012, p.1).

<sup>(4)</sup> OJ L 121, 29.7.64, p.1977, as last amended by Commission Decision 2009/976/EU (OJ L 336, 18.12.2009, p.36).

<sup>(5)</sup> OJ L 46, 19.2.1991, p.19, as last amended by Council Directive [2008/73/EC](#) (OJ L 219, 14.8.2008, p.40).

“Council Directive [91/496/EEC](#)” means Council Directive [91/496/EEC](#) laying down the principles governing the organization of veterinary checks on animals entering the Community from third countries and amending Directives [89/662/EEC](#), [90/425/EEC](#) and [90/675/EEC](#)(**6**);

“Council Directive [92/65/EEC](#)” means Council Directive [92/65/EEC](#) laying down 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 referred to in Annex A(I) to Directive [90/425/EEC](#)(**7**);

“Council Directive [97/78/EC](#)” means Council Directive [97/78/EC](#) laying down the principles governing the organisation of veterinary checks on products entering the Community from third countries(**8**);

“enforcement authority” means a person that enforces these Regulations under regulation 27;

“general customs official” means a general customs official designated under section 3(1) of the Borders, Citizenship and Immigration Act 2009(**9**);

“genetic material” means hatching eggs and animal semen, ova or embryos;

“local authority” means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994(**10**);

“official veterinarian” means a veterinary surgeon appointed by an enforcement authority under regulation 10(1);

“product” means a product listed in Annex I to Commission Decision [2007/275/EC](#) and, in addition, hay and straw;

“Regulation (EC) No [882/2004](#)” means Regulation (EC) No [882/2004](#) of the European Parliament and of the Council on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules(**11**);

“Regulation (EC) No [450/2008](#)” means Regulation (EC) No [450/2008](#) of the European Parliament and of the Council laying down the Community Customs Code (Modernised Customs Code)(**12**); and

“Regulation (EC) No [1069/2009](#)” means Regulation (EC) No [1069/2009](#) of the European Parliament and of the Council laying down health rules as regards animal by-products and derived products not intended for human consumption and repealing Regulation (EC) No 1774/2002 (Animal by-products Regulation)(**13**).

(2) A reference in these Regulations to an EU instrument listed in Schedule 1 is a reference to that instrument as amended from time to time.

### Exceptions for movement of pet animals

**3.—**(1) These Regulations do not apply in relation to the movement of pets accompanied by and under the responsibility of a natural person, where—

- (a) the movement is not the subject of a commercial transaction; and
- (b) in the case of cats, dogs and ferrets, not more than five animals are travelling with the person.

(6) OJ L 268, 24.9.1991, p.56, as last amended by Council Directive [2008/73/EC](#).

(7) OJ L 268, 14.9.1992, p.54, as last amended by Commission Decision 2010/684/EU (OJ L 293, 11.11.2010, p.62).

(8) OJ L 24, 30.1.1998, p.9, as last amended by Council Directive [2006/104/EC](#).

(9) [2009 c.11](#).

(10) [1994 c.39](#), which has been amended for purposes not relevant to these Regulations.

(11) OJ L 165, 30.4.2004, p.1, as last amended by Commission Regulation (EU) No 208/2011 (OJ L 58, 3.3.2011, p.29).

(12) OJ L 145, 4.6.2008, p.1.

(13) OJ L 300, 14.11.2009, p.1, as amended by Directive 2010/63/EU of the European Parliament and of the Council (OJ L 276, 20.10.2010, p.33).

(2) In this regulation “pet” means any animal of a species listed in Annex I to Regulation (EC) No 998/2003 on the animal health requirements applicable to the non-commercial movement of pet animals and amending Council Directive 92/65/EEC(14).

### **International agreements**

4. For the purposes of these Regulations, the movement of animals, genetic material or products to or from Iceland, Liechtenstein, Norway or Switzerland under any agreement between any of those countries and the European Union is treated as movement between member States.

## **PART 2**

### **Movement between member States**

#### **Movement of animals and genetic material between member States**

5.—(1) Subject to paragraphs (4) and (5), no animal or genetic material may be consigned to another member State, or brought into Scotland from another member State, unless—

- (a) paragraph (3) has been complied with;
- (b) it is accompanied by the completed, signed health certificate required for that animal or genetic material by the relevant instrument in Schedule 1; and
- (c) it complies with any additional requirements specified in Part 1 of Schedule 2.

(2) The consignee of an incoming consignment must keep the certificate mentioned in paragraph (1)(b) for at least three years.

(3) This paragraph is complied with where—

- (a) in the case of consignment to another member State, the consignor has arranged for the competent authority of the member State of destination to be notified at least 24 hours in advance of the intended arrival of consignment, using the Traces system established under Commission Decision 2004/292/EC on the introduction of the Traces system and amending Decision 92/486/EEC(15);
- (b) in the case of a consignment brought into Scotland, the importer or consignee has notified the Scottish Ministers, at least 24 hours in advance of the intended arrival of the consignment.

(4) Paragraph (1)(a) does not apply to registered horses bearing an identification document provided for by Council Directive 90/427/EEC on the zootechnical and genealogical conditions governing intra-Community trade in equidae(16).

(5) Paragraph (1)(b) does not apply to registered equidae or equidae for breeding and production covered by a bi-lateral agreement made under Article 6 of Council Directive 2009/156/EC on animal health conditions governing the movement and importation from third countries of equidae(17).

#### **Preparation of a health certificate**

6.—(1) In order to prepare a health certificate for the consignment of an animal or genetic material to another member State, the person intending to dispatch the consignment must apply to the Scottish Ministers for a uniquely numbered certificate.

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(14) OJ L 146, 13.6.2003, p.1, as last amended by Commission Regulation (EU) No 52/2012 (OJ L 18, 21.1.2012, p.1).

(15) OJ L 94, 31.3.2004, p.63, as last amended by Commission Decision 2005/515/EC (OJ L 187, 19.7.2005, p.29).

(16) OJ L 224, 18.8.1990, p.55, as last amended by Council Directive 2008/73/EC (OJ L 219, 14.8.2008, p.40).

(17) OJ L 192, 23.7.2010, p.1.

(2) The certificate must then be completed by a person authorised to do so by the Scottish Ministers, in accordance with the instructions sent by the Scottish Ministers with the certificate.

(3) The person completing the certificate must ensure that the conditions specified in the certificate are fulfilled and that all necessary examinations have been carried out.

(4) If everything is in order the person must sign the certificate.

(5) No person may sign a certificate unless authorised by the Scottish Ministers.

(6) No person may sign a certificate knowing it to be false, or not believing it to be true.

## PART 3

### Importation from a third country

#### Scope of this Part

7. This Part—

(a) applies in relation to the importation into Scotland from a country outside the European Union of any animal or product and includes situations where the ultimate destination is outside Scotland; and

(b) does not apply in the cases specified in Schedule 3.

#### Meaning of “CVED”

8. In this Part, “CVED” means the Common Veterinary Entry Document specified in—

(a) [Commission Regulation \(EC\) No 136/2004](#) laying down procedures for veterinary checks at Community border inspection posts on products imported from third countries<sup>(18)</sup>; and

(b) [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>(19)</sup>.

#### Border inspection post

9.—(1) If at any time the Scottish Ministers are of the opinion that a border inspection post no longer complies with the requirements for approval for a border inspection post set out in Annex II to Council Directive [97/78/EC](#) laying down the principles governing the organisation of veterinary checks on products entering the Community from third countries<sup>(20)</sup> or the conditions of the approval, they may serve a notice on the operator—

(a) specifying the breach;

(b) providing a time limit within which the requirements for approval or the conditions of approval must be complied with; and

(c) prohibiting the use of the facilities (or any part of the facilities) until the notice is complied with.

(2) If the notice is not complied with the Scottish Ministers may suspend the approval of the border inspection post.

(3) If the Scottish Ministers consider that the operation of a border inspection post creates a risk to human or animal health they must suspend the approval of the border inspection post.

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<sup>(18)</sup> OJ L 21, 28.1.2004, p.11, as last amended by [Commission Regulation \(EC\) No 206/2009](#) (OJ L 77, 24.3.2009, p.1).

<sup>(19)</sup> OJ L 49, 19.2.2004, p.11, as last amended by [Commission Regulation \(EC\) No 585/2004](#) (OJ L 91, 30.3.2004, p.17).

<sup>(20)</sup> OJ L 24, 30.1.1998, p.9, as last amended by Council Directive [2006/104/EC](#) (OJ L 363, 20.12.2006, p.352).

(4) Where the Scottish Ministers suspend the approval of a border inspection post under paragraph (2) or (3), they must inform the Commission and the other member States of the suspension and the reason for it.

### **Appointment of official veterinarians and official fish inspectors**

**10.**—(1) The enforcement authority must appoint suitably trained veterinary surgeons for the purpose of carrying out regulatory functions under these Regulations at border inspection posts.

(2) If the approval for a border inspection post permits the importation of any product for human consumption (other than snails) listed in the Table in Chapter 3 of Annex I to Commission Decision [2007/275/EC](#), the local authority may appoint suitably trained officers to be official fish inspectors for that post in relation to fish and fishery products, and that inspector has all the powers of an official veterinarian in relation to those products.

### **Place of importation**

**11.**—(1) No animal or product may be brought into Scotland other than at a border inspection post designated for that animal or product.

(2) In paragraph (1), “designated” means designated in the approval as a border inspection post by the European Commission.

### **Notification of importation**

**12.**—(1) The person responsible for a consignment of animals must notify its arrival to the border inspection post at least one working day before the consignment is due to arrive.

(2) The person responsible for a consignment of products must notify its arrival to the border inspection post before the consignment is unloaded from the means of transport that brought it to Scotland.

(3) The notification must be made by submitting the CVED with Part I completed.

(4) In the case of transshipment of products to another member State, the person responsible for the consignment must notify the official veterinarian at the border inspection post of arrival, at the time of arrival, of—

- (a) the estimated time of unloading of the consignment;
- (b) the border inspection post at which it will be checked;
- (c) the location of the consignment; and
- (d) the estimated time of departure.

### **Procedure on importation**

**13.**—(1) When a consignment has been unloaded, the person responsible for the consignment must without reasonable delay arrange for it, together with the documentation specified for that consignment by the relevant instrument in Schedule 1, to be presented at the border inspection post inspection facilities to enable the carrying out of—

- (a) the checks required by Article 4 of Council Directive [97/78/EC](#);
- (b) the checks required by Article 4 of Council Directive [91/496/EEC](#); or
- (c) the official controls referred to in Article 14(1) of Regulation [\(EC\) No 882/2004](#).

(2) The official veterinarian may serve on the person responsible for the consignment a notice specifying a reasonable time at which the consignment must be presented for inspection, and that person must comply with such a notice.

(3) The official veterinarian must carry out all necessary checks and controls specified in paragraph (1) and must only issue a CVED permitting entry if—

- (a) the consignment complies with the requirements relating to it in the relevant instrument in Schedule 1 and any additional requirements relating to it in Part 2 of Schedule 2;
- (b) the importation is not prohibited under paragraph (4); and
- (c) the correct fee for the checks has been paid or suitable arrangements have been made to secure future payment.

(4) The official veterinarian must not issue a CVED permitting entry if—

- (a) the animals are from a territory or part of a territory of a third country not included in the lists drawn up in accordance with EU legislation for the species concerned or from which imports are prohibited under that legislation;
- (b) the animals are suffering from or are suspected to be suffering from or infected by a contagious disease or a disease presenting a risk to human or animal health;
- (c) the exporting third country has not complied with the requirements provided for in EU legislation;
- (d) the animals are not in a fit state to continue their journey;
- (e) the veterinary certificate or document accompanying the animals does not meet the requirements of EU legislation relating to importation; or
- (f) the import is prohibited for any other reason provided for in EU legislation.

(5) If there is no EU legislation relating to the consignment, the official veterinarian must not issue a CVED unless importation has been authorised in writing under this paragraph by the Scottish Ministers, who may only grant an authorisation if satisfied that the consignment does not pose a risk to human or animal health, or to the animal health status of the United Kingdom.

(6) The official veterinarian must keep the original certificate accompanying the consignment for three years (except that, if the consignment is refused the official veterinarian must stamp it accordingly, return the original to the importer and keep a copy of it for three years).

### **Removal from a border inspection post**

**14.—(1)** No person may remove a consignment from a border inspection post unless the consignment is—

- (a) accompanied by a CVED issued by the official veterinarian and the movement is in accordance with the CVED; or
- (b) removed from the border inspection post under the authority of the official veterinarian.

(2) Where a consignment is removed from a border inspection post in accordance with paragraph (1)(a) the person transporting it from the border inspection post must ensure that it is transported to the destination specified in the CVED accompanied by its CVED.

### **Channelling**

**15.** In the case of a product, if box 30, 31, 33 or 34 of the CVED requires the consignment to be taken to a specific destination in the European Union—

- (a) the movement must be under customs supervision if this is specified in the CVED; and
- (b) on arrival, the occupier of the premises of consignment must immediately notify the Scottish Ministers of its arrival.

### **Destination outside the United Kingdom**

16.—(1) This regulation applies to a consignment brought into a border inspection post in Scotland but which is intended for an ultimate destination outside the United Kingdom.

(2) In the case of an animal consigned to a destination outside the European Union, the person notifying its importation under regulation 12 must provide documentary evidence that the country of destination will accept the animal, and the official veterinarian at the border inspection post may reject the animal if this is not provided.

(3) A consignment of products may be taken directly from the border inspection post (in the case of an airport this must be by air, and in the case of a port this must be by sea) to a destination outside the United Kingdom without a CVED, provided it does not remain at the border inspection post more than 12 hours (in the case of an airport) or seven days (in the case of a port).

(4) If a consignment is intended to be sent to a destination in the European Union, and the importation of the product into the European Union is not permitted, the official veterinarian must reject the consignment.

### **Unchecked consignments**

17. An enforcement authority must seize any consignment—

- (a) brought into Scotland other than through a border inspection post approved for that animal or product;
- (b) removed from a border inspection post without a CVED or the authority of the official veterinarian at the border inspection post; or
- (c) transported from the border inspection post to a destination other than that specified in the CVED.

### **Action following non-compliance – products**

18.—(1) In the case of a product, if the checks at a border inspection post show that the consignment does not satisfy the conditions in the relevant instrument in Schedule 1 and any additional requirements relating to it in Part 2 of Schedule 2, or where such checks reveal an irregularity, the official veterinarian, after consultation with the person responsible for the consignment, must—

- (a) provided there is no risk to human or animal health, permit the use of the consignment as animal by-products in accordance with Regulation (EC) No 1069/2009;
- (b) where health conditions permit, require the person in charge of the consignment to redispach the product outside the European Union from the same border inspection post to a destination agreed with the person responsible for the consignment, using the same means of transport, within a maximum time limit of 60 days; or
- (c) if the person responsible for the consignment gives immediate agreement, redispach is impossible or the 60-day time limit has elapsed, destroy the products.

(2) Pending redispach or confirmation of the reasons for rejection, the person responsible for the consignment must store the consignment under the supervision of the enforcement authority at the expense of the person responsible for the consignment.

(3) If a consignment of products is seized outside a border inspection post under regulation 17, the enforcement authority must—

- (a) dispose of the consignment as Category 1 material in accordance with Regulation (EC) No 1069/2009; or
- (b) act in accordance with paragraph (1)(b) or (c) of this regulation.

### **Consignments of products likely to constitute a risk to animal or human health**

**19.** If veterinary checks at a border inspection post indicate that a consignment of products is likely to constitute a danger to animal or human health, the official veterinarian must immediately seize and destroy it at the expense of the person responsible for it.

### **Serious or repeated infringements and breach of maximum residue limits**

**20.**—(1) If veterinary checks in any member State reveal that products entering the European Union from a particular third country, part of a third country or establishment in a third country, are implicated in serious or repeated infringements of any import requirement, or where those checks reveal that maximum residue levels have been exceeded, this regulation applies to the next ten consignments brought into Scotland from that third country, part of a third country or establishment.

(2) The official veterinarian must carry out a physical check on the product, and take samples and have them analysed.

(3) The person responsible for the consignment must lodge with the official veterinarian a deposit or guarantee sufficient to assure payment of all charges, including the taking of samples, tests and analysis.

(4) The official veterinarian may refuse to issue a CVED in respect of a consignment to which this regulation applies if the person responsible for the consignment has failed to comply with paragraph (3).

### **Action following non-compliance – animals**

**21.**—(1) If the checks at a border inspection post show that an animal does not satisfy the conditions in the relevant instrument in Schedule 1 and any additional requirements relating to it in Part 2 of Schedule 2, or where such checks reveal an irregularity, the official veterinarian, after consultation with the importer or the importer's representative, must—

- (a) shelter, feed and water and, if necessary, treat the animal;
- (b) if necessary, place it in quarantine or isolate it for so long as is necessary to ensure that there is no risk to human or animal health; or
- (c) where animal health or welfare requirements so allow, redispach it, within a time limit to be set by the official veterinarian, outside the European Union.

(2) If redispach is impossible, in particular for welfare reasons, the official veterinarian may arrange for the slaughter of the animal.

(3) If an animal is seized under regulation 17, the enforcement authority must isolate it and, following examination of the animal, either—

- (a) release the animal from restriction; or
- (b) require the animal to be slaughtered or re-exported outside the European Union.

(4) The importer or the importer's representative is liable for the costs incurred in these measures but is entitled to the slaughter value of the animal after deduction of these costs.

(5) When a horse is imported from a third country under Commission Decision [92/260/EEC](#), the importer or the importer's representative must re-export the horse within 90 days of import.

### **Appeals**

**22.**—(1) Any person who is aggrieved by a decision referred to in regulation 18 or 21 may appeal to the sheriff against that decision.

(2) An appeal under this regulation—



- (a) is to be made by way of summary application; and
  - (b) must be lodged with the sheriff clerk within the period of 28 days from the day on which the decision was made.
- (3) On good cause being shown, the sheriff may hear an appeal under this regulation notwithstanding that it was not lodged within the time mentioned in paragraph (2)(b).
- (4) When an application is made, the sheriff may make an order—
- (a) suspending the decision until the application is determined; and
  - (b) making such provision as seems appropriate in relation to the keeping of an animal or the storage of a product until then.
- (5) For the purposes of an appeal under this regulation, the sheriff may require the official veterinarian or the enforcement authority, as the case may be, to give reasons for that decision.
- (6) The sheriff may uphold an appeal under this regulation only if the sheriff considers that the official veterinarian or the enforcement authority in arriving at the decision—
- (a) erred in law;
  - (b) based the decision on any incorrect material fact;
  - (c) acted contrary to natural justice; or
  - (d) exercised discretion in an unreasonable manner.
- (7) In considering an appeal under this regulation, the sheriff may hear evidence by or on behalf of any party to the appeal.
- (8) On allowing an appeal under this regulation, the sheriff may—
- (a) remit the matter to the official veterinarian or the enforcement authority for reconsideration; or
  - (b) substitute for the decision of the official veterinarian or the enforcement authority another decision which could have been made under the regulation concerned (or where a substituted decision would have no practical effect, make such other order, including an order as to compensation, as seems appropriate in the circumstances).
- (9) On remitting a matter under paragraph (8)(a) above, the sheriff may—
- (a) specify a date by which the official veterinarian or the enforcement authority must, having reconsidered the matter, make another decision; and
  - (b) modify any procedural steps which otherwise would be required in relation to the matter by or under these Regulations.
- (10) The sheriff may include in the decision on an appeal under this regulation such order as to the expenses of the appeal as the sheriff thinks proper.
- (11) The decision of the sheriff is final.

### **Re-importation of products**

**23.—**(1) An official veterinarian at a border inspection post must authorise the re-importation of a consignment of products that originated in the European Union and was refused by a third country, if the consignment is accompanied—

- (a) by the original certificate or a copy authenticated by the competent authority which issued the certificate accompanying the consignment, together with details of the reasons for refusal and a guarantee that the conditions governing the storage and transport of the consignment have been observed, stating that the products in the consignment have not undergone any handling; or

- (b) in the case of sealed containers, by a certificate from the carrier stating that the content has not been handled or unloaded.
- (2) The official veterinarian must carry out a documentary and identity check and if necessary a physical check.
- (3) The importer must either—
  - (a) transport the consignment directly to the establishment of origin in the member State where the certificate was issued, in leak-proof means of transport, identified and sealed by the official veterinarian at the border inspection post so that the seals will be broken whenever the container is opened; or
  - (b) destroy the consignment as animal by-products.

#### **Admission of products into warehouses**

**24.** No person may bring a consignment of products that does not comply with the import requirements of these Regulations into a warehouse in a free zone, a free warehouse (which have the same meaning as in Title IV, Chapter 3, section 1 of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code<sup>(21)</sup>) or a customs warehouse.

## **PART 4**

### **Safeguard measures**

#### **Safeguard measures**

**25.**—(1) This regulation applies where the Scottish Ministers have, or the Food Standards Agency has, reasonable grounds for suspecting the existence of a disease, zoonosis, phenomenon or circumstance outside the United Kingdom liable to present a serious threat to human or animal health.

(2) The Scottish Ministers or the Food Standards Agency may by declaration suspend, or impose conditions upon, the entry into Scotland of any animal, product or genetic material from the whole or any part of the country concerned.

- (3) The declaration must—
  - (a) be in writing;
  - (b) be published in such manner as the Scottish Ministers or the Food Standards Agency thinks fit;
  - (c) specify the animal, product or genetic material and the third country or part of a third country concerned; and
  - (d) if it imposes conditions on bringing any animal, product or genetic material from a third country or part of a third country, specify those conditions.

(4) No person may bring anything into Scotland in breach of such declaration.

(5) A declaration may be amended, suspended or revoked by further declaration in writing published, so far as is practicable, in the same manner as the original declaration.

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(21) OJ L 302, 19.10.92, p.1, as last amended by Council Regulation (EC) No 1186/2009 (OJ L 324, 10.12.2009, p.23).

## PART 5

### Administration

#### Notifications and authorisations

- 26.** Any notification or authorisation under these Regulations—
- (a) must be in writing;
  - (b) may be subject to conditions; and
  - (c) may be amended, suspended or revoked by further notification or authorisation in writing at any time.

#### Enforcement

- 27.**—(1) At a border inspection post these Regulations are enforced—
- (a) in relation to animals by the Scottish Ministers; and
  - (b) in relation to products by the local authority.
- (2) Outside a border inspection post, these Regulations are enforced—
- (a) in relation to animals by the local authority;
  - (b) in relation to products—
    - (i) except where head (ii) applies, by the local authority; or
    - (ii) by the Food Standards Agency at any cutting plant, game-handling establishment or slaughterhouse, or premises at which the Agency enforces the Food Hygiene (Scotland) Regulations 2006<sup>(22)</sup>.
- (3) In addition, in relation to products, these Regulations are enforced by a general customs official in any place (other than the inspection facilities in a border inspection post) where goods are subject to customs supervision by that official under Articles 37 and 38 of [Council Regulation \(EEC\) No 2913/92](#) establishing the Community Customs Code.
- (4) The Scottish Ministers may direct, in relation to cases of a particular description or a particular case, that the Scottish Ministers will discharge any duty imposed on a local authority under this regulation.
- (5) The Scottish Ministers may recover from the local authority concerned any expenses reasonably incurred by them under paragraph (4).
- (6) An officer of an enforcement authority who, when exercising any statutory function, discovers at any place under customs supervision a consignment or product which the officer reasonably suspects has been brought into Scotland—
- (a) in breach of these Regulations; or
  - (b) from a third country and presents a risk to animal or public health,
- must notify a general customs official and detain the consignment or product until such officer takes charge of it.

#### Powers of entry

- 28.**—(1) An authorised officer may, on producing a duly authenticated authorisation if required, enter any premises (excluding any premises used only as a dwelling house) at any reasonable hour for the purpose of enforcing these Regulations.

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(22) [S.S.I. 2006/3](#), to which there are amendments not relevant to these Regulations.

(2) In this regulation “premises” includes any place, vehicle, trailer, container, stall, moveable structure, ship or aircraft.

(3) The officer may be accompanied by such other persons as the officer considers necessary, including any representative of the European Commission.

(4) Admission to any premises used only as a dwellinghouse may not be demanded as of right unless the entry is in accordance with a warrant granted under this regulation.

(5) If a sheriff, stipendiary magistrate or justice of the peace, on sworn information in writing, is satisfied that there are reasonable grounds for entry into any premises for the purpose of enforcing these Regulations and that either—

- (a) admission to the premises has been refused, or a refusal is anticipated, and that notice of the intention to apply for a warrant has been given to the occupier; or
- (b) an application for admission, or the giving of such notice, would defeat the object of the entry, or that the case is one of urgency, or that the premises are unoccupied or the occupier temporarily absent,

the sheriff, stipendiary magistrate or justice may by signed warrant authorise an authorised officer, together with any person who may accompany the officer under paragraph (3), to enter the premises, if need be by reasonable force.

(6) A warrant granted under this regulation continues in force for one month.

(7) An officer who enters any unoccupied premises must leave them as effectively secured against unauthorised entry as they were before entry.

### **Powers of authorised officers**

**29.** An authorised officer may—

- (a) inspect and examine any animal;
- (b) inspect any product, or genetic material, including its packaging, seals, marking, labelling and presentation, and any plant or equipment used for or in connection with it;
- (c) have access to, and inspect and copy any documents or records (in whatever form they are held), and remove them to enable them to be copied;
- (d) have access to, inspect and check the operation of any computer and any associated apparatus used in connection with the records, and may require any computer records to be produced in a form in which they may be taken away;
- (e) seize and detain anything required as evidence;
- (f) 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 and inspect the contents; and
- (g) take samples of any animal or product for laboratory tests, for checking against any relevant document relating to the animal or product,

for the purpose of enforcing these Regulations or any condition of import.

### **Consignments from another member State constituting a risk to health**

**30.—**(1) If an animal or genetic material brought in from another member State constitutes a serious risk to human or animal health or comes from a region contaminated by an epizootic disease, an authorised officer may serve a notice on the person appearing to be in charge of the animal or genetic material requiring that person—

- (a) to detain and isolate—
  - (i) the animal; and

- (ii) any animal with which it has been in contact; or
- (iii) the genetic material,

and take such further action as may be specified in the notice for the purpose of preventing the introduction or spreading of disease; or

- (b) without delay—
  - (i) to slaughter the animal; or
  - (ii) to destroy the genetic material,

in accordance with such conditions as may be specified in the notice.

(2) An authorised officer who knows or suspects that animals or genetic material do not comply with the provisions of Article 3 of Council Directive [90/425/EEC](#) concerning veterinary and zootechnical checks applicable in intra-Community trade in certain live animals and products with a view to the completion of the internal market<sup>(23)</sup>, may, if animal health and welfare considerations so permit, give the person in charge of the consignment or the person appearing to be in charge of those animals or genetic material by way of notice the choice of—

- (a) where the cause of non-compliance is the presence in animals of residues in excess of that permitted under regulation 9 of the Animals and Animal Products (Examination for Residues and Maximum Residue Limits) Regulations 1997<sup>(24)</sup>, maintaining the animals under supervision until the residue levels fall to the levels permitted by the legislation;
- (b) slaughtering the animals or destroying the genetic material in accordance with such conditions as may be specified in the notice; or
- (c) returning the animals or genetic material to the member State of dispatch, with the authorisation of the competent authority of the member State of dispatch and with prior notification to any member State of transit.

(3) If the consignment fails to comply only by reason of an irregularity in respect of the required consignment documentation, the authorised officer may not serve a notice under paragraph (2) unless—

- (a) the officer has given the person in charge of the consignment a notice requiring the production of the required documentation within seven days and the detention of the consignment in accordance with the terms of the notice; and
- (b) the required documentation has not been produced within that time.

(4) If a notice served under this regulation is not complied with the authorised officer may seize any animal or genetic material to which it relates, and arrange for the requirements of the notice to be complied with at the expense of the person on whom the notice was served.

### **Exchange of information**

**31.**—(1) The Commissioners of Her Majesty’s Revenue and Customs, a general customs official and an enforcement authority may exchange information for the purposes of these Regulations, and may divulge information to the enforcement authorities in Wales, England and Northern Ireland for the purposes of this Part or the equivalent legislation in those jurisdictions.

(2) Paragraph (1) is without prejudice to any other power of the Commissioners, any general customs official or any enforcement authority to disclose information.

(3) No person, including a servant of the Crown, may disclose any information received from the Commissioners or a general customs official under paragraph (1) if—

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<sup>(23)</sup> OJ L 224, 18.8.1990, p.29, as last amended by Directive [2002/33/EC](#) of the European Parliament and of the Council (OJ L 315, 19.11.2002, p.14).

<sup>(24)</sup> [S.I. 1997/1729](#), amended by [S.I. 2006/755](#) and [2009/1925](#).

- (a) the information relates to a person whose identity—
  - (i) is specified in the disclosure; or
  - (ii) can be deduced from the disclosure;
- (b) the disclosure is for a purpose other than the purposes specified in paragraph (1); and
- (c) the Commissioners have not given their prior consent to the disclosure.

### Fees and expenses

**32.**—(1) An enforcement authority may charge a reasonable fee in relation to any activity relating to the movement between member States of animals or genetic material under these Regulations, and the consignor's representative and the person in charge of an animal or genetic material are jointly and severally liable for that fee<sup>(25)</sup>.

(2) The consignor's representative and the person in charge of an animal or product are jointly and severally liable for any reasonable expenses incurred by an enforcement authority arising out of or in connection with the authority's enforcement of these Regulations relating to that animal or product.

(3) Where a person fails to comply with these Regulations, an enforcement authority may take such steps as are necessary to ensure the requirement is met and the person in default must reimburse any reasonable expenses incurred by the enforcement authority in taking such steps.

### Offences

**33.** A person commits an offence if the person—

- (a) intentionally obstructs any person acting in the execution of these Regulations;
- (b) without reasonable cause, fails to give any person acting in execution of these Regulations any assistance or information that that person may reasonably require for the purpose of carrying out functions under these Regulations;
- (c) furnishes to any person acting in the execution of these Regulations any information knowing it to be false or misleading; or
- (d) without reasonable excuse fails to comply with any of the following provisions—

<i>Provision</i>	<i>Description of offence</i>
regulation 5(1)(a) and (3)	Failure to notify
regulation 5(1)(b)	Bringing in or consigning an animal or genetic material without a health certificate
regulation 5(1)(c)	Failure to comply with additional requirements
regulation 5(2)	Failure to keep a certificate for at least three years
regulation 6(5)	Signing a certificate without being authorised by the Scottish Ministers
regulation 6(6)	Signing a certificate knowing it to be false, or not believing it to be true

<sup>(25)</sup> Fees relating to imports from third countries are established under Regulation (EC) No 882/2004 of the European Parliament and of the Council on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules (OJ L 165, 30.4.2004, p.1).

<i>Provision</i>	<i>Description of offence</i>
regulation 11	Importation other than at a border inspection post
regulation 12	Failure to notify
regulation 13(1)	Failure to present a consignment for inspection
regulation 13(2)	Failure to comply with a notice
regulation 14(1)	Removal from a border inspection post without a CVED or authority of the official veterinarian
regulation 14(2)	Failure to transport a consignment to the place specified in the CVED accompanied by its CVED
regulation 15	Movement other than under Customs supervision and failure to notify the Scottish Ministers
regulation 21(5)	Failure to re-export a horse
regulation 23(3)	Failure to transport in accordance with paragraph (3)(a) or to destroy consignment as animal by-products
regulation 24	Bringing a non-compliant product into a warehouse etc.
regulation 25(5)	Bringing in an animal or product in breach of a declaration
regulation 31(3)	Disclosure of information
Schedule 2:	
paragraph 2(2)	Transporting without approval
paragraph 4(1)	Trading in apes
paragraph 5(2)	Keeping records
paragraph 5(3)	Notification of movement
paragraph 6	Movement of animal by-products
paragraph 7(2)	Slaughter of animals
paragraph 7(3)	Keeping animals at their place of destination
paragraph 8(2)	Transport of birds to approved quarantine facilities or centres
paragraph 8(3)	Release of birds from quarantine
paragraph 10	Use of a certificate relating to ships' stores
Schedule 3 paragraph 3(3)	Destruction or redispach in accordance with the authorisation

**Protection of officials acting in good faith**

**34.**—(1) No authorised officer is personally liable in respect of any act done by that person in the performance or purported performance of the functions within the scope of that person’s employment, if the person did that act in the honest and reasonable belief that that person’s duty under these Regulations required or entitled the person to do so.

(2) Paragraph (1) does not relieve an enforcement authority from any liability in respect of acts of its officers.

**Offences by bodies corporate**

**35.**—(1) Where—

- (a) an offence under these Regulations has been committed by a body corporate or a Scottish partnership or other unincorporated association; and
- (b) it is proved that the offence was committed with the consent or connivance of, or was attributable to any neglect on the part of—
  - (i) the relevant individual; or
  - (ii) an individual purporting to act in the capacity of a relevant individual,

the individual as well as the body corporate, Scottish partnership or unincorporated association commits an offence and is liable to be proceeded against and punished accordingly.

(2) In paragraph (1), “relevant individual” means—

- (a) in relation to a body corporate—
  - (i) a director, manager, secretary or other similar officer of the body;
  - (ii) where the affairs of the body are managed by its members, a member;
- (b) in relation to a Scottish partnership, a partner; and
- (c) in relation to an unincorporated association other than a Scottish partnership, a person who is concerned in the management or control of the association.

**Penalties**

**36.**—(1) A person who commits an offence of disclosure in breach of regulation 31(3) is liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum, to imprisonment not exceeding 12 months, or to both; or
- (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years, to a fine, or to both.

(2) A person who commits any other offence under these Regulations is liable on summary conviction to a fine not exceeding the statutory maximum or, on conviction on indictment, to a fine.

**Consequential amendments**

**37.** Schedule 4 makes amendments consequential to these Regulations.

**Revocations**

**38.** The following are revoked:—

- (a) the Animals and Animal Products (Import and Export) (Scotland) Amendment (No. 2) Regulations 2006<sup>(26)</sup>;

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(26) S.S.I. 2006/450.



- (b) the Animals and Animal Products (Import and Export) (Scotland) Regulations 2007(27);
- (c) the Animals and Animal Products (Import and Export) (Scotland) Amendment Regulations 2007(28);
- (d) the Animals and Animal Products (Import and Export) (Scotland) Amendment Regulations 2008(29);
- (e) the Animals and Animal Products (Import and Export) (Scotland) Amendment Regulations 2009(30);
- (f) the Animals and Animal Products (Import and Export) (Scotland) Amendment Regulations 2010(31);
- (g) the Fresh Meat (Import Conditions) Regulations 1996(32);
- (h) the Miscellaneous Products of Animal Origin (Import Conditions) Regulations 1999(33);
- (i) the Products of Animal Origin (Import and Export) Regulations 1996(34);
- (j) the Products of Animal Origin (Import and Export) (Amendment) Regulations 1997(35);
- (k) the Products of Animal Origin (Import and Export) Amendment (Scotland) Regulations 2001(36);
- (l) the Products of Animal Origin (Third Country Imports) (Scotland) Regulations 2007(37);
- (m) the Products of Animal Origin (Third Country Imports) (Scotland) Amendment Regulations 2007(38);
- (n) the Products of Animal Origin (Third Country Imports) (Scotland) Amendment Regulations 2009(39); and
- (o) the Products of Animal Origin (Third Country Imports) (Scotland) Amendment Regulations 2010(40).

### **Saving provision**

#### **39.** Despite their revocation by regulation 38—

- (a) the Products of Animal Origin (Import and Export) Regulations 1996 continue to have effect in relation to the import into Scotland or export of a product to which those Regulations apply, where the process of import or export had commenced under those Regulations before the coming into force of these Regulations;
- (b) the Products of Animal Origin (Third Country Imports) (Scotland) Regulations 2007 continue to have effect in relation to the import into Scotland of a product to which those Regulations apply, where the process of import had commenced under those Regulations before the coming into force of these Regulations; and
- (c) the Animals and Animal Products (Import and Export) (Scotland) Regulations 2007 continue to have effect in relation to the import into Scotland or export of an animal

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

(28) S.S.I. 2007/375.

(29) S.S.I. 2008/155.

(30) S.S.I. 2009/227.

(31) S.S.I. 2010/343.

(32) S.I. 1996/3125.

(33) S.I. 1999/157.

(34) S.I. 1996/3124.

(35) S.I. 1997/3023.

(36) S.S.I. 2001/257.

(37) S.S.I. 2007/1.

(38) S.S.I. 2007/304.

(39) S.S.I. 2009/228.

(40) S.S.I. 2010/225.

or product to which those Regulations apply, where the process of import or export had commenced under those Regulations before the coming into force of these Regulations.

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