

SCOTTISH STATUTORY INSTRUMENTS

2012 No. 177

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

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 [^{F1}third country] of any animal or product [^{F2}subject to official controls at border control posts]; ^{F3}...

[^{F4}(aa) applies subject to the derogations and modifications set out in schedule 5; and]

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

Textual Amendments

F1 Words in reg. 7(a) substituted (31.12.2020) by The Trade in Animals and Related Products (EU Exit) (Scotland) (Amendment) Regulations 2020 (S.S.I. 2020/458), regs. 1(3), **2(5)(a)(i)**

F2 Words in reg. 7(a) substituted (14.12.2019) by The Official Controls (Agriculture etc.) (Scotland) Regulations 2019 (S.S.I. 2019/412), regs. 1(1), **24(7)**

F3 Word in reg. 7(a) omitted (31.12.2020) by virtue of The Trade in Animals and Related Products (EU Exit) (Scotland) (Amendment) Regulations 2020 (S.S.I. 2020/458), regs. 1(3), **2(5)(a)(ii)**

F4 Reg. 7(aa) inserted (31.12.2020) by The Trade in Animals and Related Products (EU Exit) (Scotland) (Amendment) Regulations 2020 (S.S.I. 2020/458), regs. 1(3), **2(5)(b)**

[^{F5}Meaning and use of Common Health Entry Document (“CHED”)]

8.—(1) A Common Health Entry Document (“CHED”) means a document or an electronic equivalent in the format specified in Commission Implementing Regulation (EU) 2019/1715 laying down rules for the functioning of the information management system for official controls and its system components (the IMSOC Regulation).

(2) Where the imported consignment is required to be accompanied by a CHED to the premises of final destination, the operator responsible for the consignment must complete the relevant part of the document for the complete identification of the consignment and the place of destination.

(3) The cases where and conditions under which the use of a CHED is required are specified in—

(a) Commission Implementing Regulation (EU) 2019/1013 on prior notification of consignments of certain categories of animals and goods entering the Union; and

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- (b) Commission Delegated Regulation (EU) 2019/1602 supplementing Regulation (EU) 2017/625 of the European Parliament and of the Council concerning the Common Health Entry Document accompanying consignments of animals and goods to their destination.
- (4) Where a CHED is required, the operator responsible for the consignment must comply with the provisions of Article 56 of the [F6Official Controls Regulation].]

Textual Amendments

F5 Reg. 8 substituted (14.12.2019) by [The Official Controls \(Agriculture etc.\) \(Scotland\) Regulations 2019 \(S.S.I. 2019/412\)](#), regs. 1(1), **24(8)**

F6 Words in reg. 8(4) substituted (31.12.2020) by [The Trade in Animals and Related Products \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2020 \(S.S.I. 2020/458\)](#), regs. 1(3), **2(6)**

[F7Border Control Posts

9.—(1) A border control post is a place (together with the facilities at that place) designated by the Scottish Ministers in accordance with Article 59 of the [F8Official Controls Regulation] for the purpose of the performance of official controls as specified in Article 47(1) of that Regulation.

(2) If at any time the Scottish Ministers are of the opinion that any part of the inspection facilities at a border control post no longer complies with the requirements for approval, the relevant authority may, in accordance with Articles 61 to 63 of the [F9Official Controls Regulation], serve a notice on the operator—

- (a) specifying the nature of the non-compliance;
- (b) providing a time limit within which the requirements must be complied with; and
- (c) prohibiting the use of that part of the facilities until the requirements are complied with.

(3) If the notice is not complied with, the Scottish Ministers may suspend the approval in relation to that part of the inspection facilities.

(4) The Scottish Ministers must suspend the approval of a border control post, and order its activities to cease for all, or specified categories of, animals or products where the Scottish Ministers consider that—

- (a) the operator of a border control post is in serious breach of the requirements relating to the performance of official controls for any of the categories of animal or product for which the border control post has been designated;
- (b) the operator of a border control post is in serious breach of the requirements for approval; or
- (c) the operation of the border control post creates a risk to human or animal health or animal welfare.

F10(5)]

Textual Amendments

F7 Reg. 9 substituted (14.12.2019) by [The Official Controls \(Agriculture etc.\) \(Scotland\) Regulations 2019 \(S.S.I. 2019/412\)](#), regs. 1(1), **24(9)**

F8 Words in reg. 9(1) substituted (31.12.2020) by [The Trade in Animals and Related Products \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2020 \(S.S.I. 2020/458\)](#), regs. 1(3), **2(7)(a)**

F9 Words in reg. 9(2) substituted (31.12.2020) by [The Trade in Animals and Related Products \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2020 \(S.S.I. 2020/458\)](#), regs. 1(3), **2(7)(a)**

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F10 Reg. 9(5) omitted (31.12.2020) by virtue of [The Trade in Animals and Related Products \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2020 \(S.S.I. 2020/458\)](#), regs. 1(3), **2(7)(b)**

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 [^{F11}border control posts].

(2) If the approval for a [^{F12}border control post] permits the importation of [^{F13}fishery products, aquatic invertebrates, live bivalve molluscs, live enchinoderms, live tunicates and live marine gastropods intended for human consumption], 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.

Textual Amendments

F11 Words in reg. 10(1) substituted (31.12.2020) by [The Trade in Animals and Related Products \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2020 \(S.S.I. 2020/458\)](#), regs. 1(3), **2(8)(a)**

F12 Words in reg. 10(2) substituted (31.12.2020) by [The Trade in Animals and Related Products \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2020 \(S.S.I. 2020/458\)](#), regs. 1(3), **2(8)(b)**

F13 Words in reg. 10(2) substituted (14.12.2019) by [The Official Controls \(Agriculture etc.\) \(Scotland\) Regulations 2019 \(S.S.I. 2019/412\)](#), regs. 1(1), **24(10)**

Place of importation

11.—(1) No animal or product may be brought into Scotland other than at a [^{F14}border control post] designated for that animal or product.

^{F15}(2)

Textual Amendments

F14 Words in reg. 11(1) substituted (31.12.2020) by [The Trade in Animals and Related Products \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2020 \(S.S.I. 2020/458\)](#), regs. 1(3), **2(9)(a)**

F15 Reg. 11(2) omitted (31.12.2020) by virtue of [The Trade in Animals and Related Products \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2020 \(S.S.I. 2020/458\)](#), regs. 1(3), **2(9)(b)**

Notification of importation

12.—^{F16}(1) The person responsible for a consignment of animals or products must notify the border control post of the expected date of its arrival at the border control post at least one working day before it is due to arrive.

(1A) Where the person responsible for a consignment of animals or products can provide evidence of a logistical constraint preventing the notification under paragraph (1), that requirement may be satisfied by notification of its expected time of arrival at least four hours in advance.]

^{F17}(2)

(3) The notification must be made by submitting the [^{F18}CHED] with Part I completed.

^{F19}(4) In the case of a transshipment of products from one border control post to another, the person responsible for the consignment must notify the official veterinarian at the border control post of destination of —

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- (a) the estimated time of arrival;
- (b) the border control post at which the transshipment will be checked;
- (c) the identification and location of the consignment;
- (d) the estimated time of departure.]

Textual Amendments

- F16** Reg. 12(1)(1A) substituted for reg. 12(1) (14.12.2019) by [The Official Controls \(Agriculture etc.\) \(Scotland\) Regulations 2019 \(S.S.I. 2019/412\)](#), regs. 1(1), **24(11)(a)**
- F17** Reg. 12(2) omitted (14.12.2019) by virtue of [The Official Controls \(Agriculture etc.\) \(Scotland\) Regulations 2019 \(S.S.I. 2019/412\)](#), regs. 1(1), **24(11)(b)**
- F18** Word in reg. 12(3) substituted (31.12.2020) by [The Trade in Animals and Related Products \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2020 \(S.S.I. 2020/458\)](#), regs. 1(3), **2(10)**
- F19** Reg. 12(4) substituted (14.12.2019) by [The Official Controls \(Agriculture etc.\) \(Scotland\) Regulations 2019 \(S.S.I. 2019/412\)](#), regs. 1(1), **24(11)(c)**

[^{F20}Procedure on importation

13.—(1) When the consignment has been unloaded, the person responsible for the consignment must with reasonable expedition arrange for it, together with the [^{F21}relevant export health certificate, as published by the Scottish Ministers or the Secretary of State from time to time, and other documentation specified for that consignment in retained direct EU legislation relating to importation], to be presented at the border control post inspection facilities to enable official controls in accordance with—

- (a) Chapter 5 of the [^{F22}Official Controls Regulation], together with relevant implementing and delegated acts; and
- (b) Article 37(1) of Regulation (EU) No 2016/1012.

(2) Operators responsible for the consignment must ensure that the consignment is presented for official controls at the border control post at a reasonable time during the working day.

(3) The competent authority must carry out all necessary official controls specified in paragraph (1) and must only issue a CHED permitting entry if—

- [^{F23}(a) the consignment complies with the requirements of the following, so far as relevant and when read with any other provisions of the legislation referred to below which apply in relation to such requirements—
 - (i) the legislation listed in regulation 7(2) of the TARP (ALF) Regulations 2022, as modified by Part 5 of those Regulations or by the legislation referred to in paragraph (ii);
 - (ii) any legislation made by the appropriate authority under the functions listed in the Schedule to the TARP (ALF) Regulations 2022, where applicable.]
- (b) the importation is not prohibited under paragraph (4); and
- (c) the correct fee for the checks has been or will be paid.

(4) In the case of live animals, the official veterinarian must not issue a CHED permitting entry if—

- (a) the animals are from a territory or part of a territory of a third country not included in [^{F24}a list of approved third countries, or if imports from that country are otherwise prohibited];
- (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;

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- (c) the exporting third country has not complied with the requirements provided for in [F25 retained direct EU legislation relating to importation];
- (d) the animals are not in a fit state to continue their journey; or
- (e) the veterinary certificate or document accompanying the animals does not meet the requirements of [F26 retained direct EU legislation] relating to importation.
- (5) If there are no requirements in legislation F27... relating to the consignment, the official veterinarian must not issue a CHED unless the importation has been authorised in writing under this paragraph by—
- (a) Food Standards Scotland in respect of any product for which only public health requirements apply; or
- (b) the Scottish Ministers for any other product.
- (6) An authorisation under paragraph 5(a) may only be granted if Food Standards Scotland is satisfied that the consignment does not pose a risk to human health.
- (7) An authorisation under paragraph 5(b) may only be granted if the Scottish Ministers are satisfied that the consignment does not pose a risk to human or animal health, or to the animal health status of the United Kingdom.
- (8) The official veterinarian must retain evidence of authorisation or refusal of a consignment for a period of three years from the date of the importation.]

Textual Amendments

- F20** Reg. 13 substituted (14.12.2019) by [The Official Controls \(Agriculture etc.\) \(Scotland\) Regulations 2019 \(S.S.I. 2019/412\)](#), regs. 1(1), 24(12)
- F21** Words in [reg. 13\(1\)](#) substituted (31.12.2020) by [The Trade in Animals and Related Products \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2020 \(S.S.I. 2020/458\)](#), regs. 1(3), **2(11)(a)(i)**
- F22** Words in [reg. 13\(1\)\(a\)](#) substituted (31.12.2020) by [The Trade in Animals and Related Products \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2020 \(S.S.I. 2020/458\)](#), regs. 1(3), **2(11)(a)(ii)**
- F23** [Reg. 13\(3\)\(a\)](#) substituted (13.12.2022) by [The Trade in Animals and Related Products \(Amendment and Legislative Functions\) Regulations 2022 \(S.I. 2022/1322\)](#), regs. 2, **6(3)**
- F24** Words in [reg. 13\(4\)\(a\)](#) substituted (31.12.2020) by [The Trade in Animals and Related Products \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2020 \(S.S.I. 2020/458\)](#), regs. 1(3), **2(11)(b)(i)**
- F25** Words in [reg. 13\(4\)\(c\)](#) substituted (31.12.2020) by [The Trade in Animals and Related Products \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2020 \(S.S.I. 2020/458\)](#), regs. 1(3), **2(11)(b)(ii)**
- F26** Words in [reg. 13\(4\)\(e\)](#) substituted (31.12.2020) by [The Trade in Animals and Related Products \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2020 \(S.S.I. 2020/458\)](#), regs. 1(3), **2(11)(b)(iii)**
- F27** Words in [reg. 13\(5\)](#) omitted (31.12.2020) by virtue of [The Trade in Animals and Related Products \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2020 \(S.S.I. 2020/458\)](#), regs. 1(3), **2(11)(c)**

[F28 Removal from a border control post

14.—(1) No person may remove a consignment from a border control post unless it is accompanied by a CHED, or its electronic equivalent, issued by the official veterinarian, or the official fish inspector in the case of a consignment of fish and fishery products, and the movement is in accordance with that document.

(2) The person transporting a consignment from a border control post must ensure that the CHED accompanies the consignment and must transport it directly to the destination specified therein.

(3) These requirements do not apply if the consignment is removed from a border control post under the authority of the relevant official veterinarian or fish inspector (as appropriate).

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(4) In the case of live animals, the person responsible for transporting the animals to the final destination must have the appropriate transport authorisation in accordance with Article 4 of Council Regulation (EC) 1/2005 inside the vehicle.]

Textual Amendments

F28 Reg. 14 substituted (14.12.2019) by [The Official Controls \(Agriculture etc.\) \(Scotland\) Regulations 2019 \(S.S.I. 2019/412\)](#), regs. 1(1), **24(13)**

[^{F29}Supervision and monitoring consignments

15. Where a consignment is required to be taken under supervision from a border control post [^{F30}(within the meaning of Article 3(38) of the Official Controls Regulation)] to a specific destination in [^{F31}Great Britain]—

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

Textual Amendments

F29 Reg. 15 substituted (14.12.2019) by [The Official Controls \(Agriculture etc.\) \(Scotland\) Regulations 2019 \(S.S.I. 2019/412\)](#), regs. 1(1), **24(14)**

F30 Words in reg. 15 inserted (31.12.2020) by [The Trade in Animals and Related Products \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2020 \(S.S.I. 2020/458\)](#), regs. 1(3), **2(12)(a)**

F31 Words in reg. 15 substituted (31.12.2020) by [The Trade in Animals and Related Products \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2020 \(S.S.I. 2020/458\)](#), regs. 1(3), **2(12)(b)**

Destination outside [^{F32}Great Britain]

16.—(1) This regulation applies to a consignment brought into a [^{F33}border control post] in Scotland but which is intended for an ultimate destination outside [^{F32}Great Britain].

(2) In the case of an [^{F34}imported animal], the person notifying its importation under regulation 12 must provide documentary evidence that the country [^{F35}or territory] of destination will accept the animal, and the official veterinarian at the [^{F36}border control post] may reject the animal if this is not provided.

[^{F37}(3) Products that arrive at a border control post for an ultimate destination outside [^{F32}Great Britain] and which are subject to animal health check requirements [^{F38}under regulation 13(3)(a)], may be taken directly from the border control post to the destination outside [^{F32}Great Britain] without a CHED, so long as the products do not remain for more than three days at an airport border control post or 30 days at a sea port border control post.]

[^{F39}(3A) Product that are not subject to import check requirements, and which arrive at a border control post for an ultimate destination outside [^{F32}Great Britain], may be taken directly from the border control post to their destination without a CHED, so long as the products do not remain at the border control post for more than 90 days.]

(4) If a consignment is intended to be sent to a destination in the [^{F40}British Islands], and the importation of the product into [^{F41}any of the territories of the British Islands] is not permitted, the official veterinarian must reject the consignment.

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Textual Amendments

- F32** Words in [reg. 16](#) substituted (31.12.2020) by [The Trade in Animals and Related Products \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2020 \(S.S.I. 2020/458\)](#), regs. 1(3), **2(13)(a)**
- F33** Words in [reg. 16\(1\)](#) substituted (31.12.2020) by [The Trade in Animals and Related Products \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2020 \(S.S.I. 2020/458\)](#), regs. 1(3), **2(13)(b)**
- F34** Words in [reg. 16\(2\)](#) substituted (31.12.2020) by [The Trade in Animals and Related Products \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2020 \(S.S.I. 2020/458\)](#), regs. 1(3), **2(13)(c)(i)**
- F35** Words in [reg. 16\(2\)](#) inserted (31.12.2020) by [The Trade in Animals and Related Products \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2020 \(S.S.I. 2020/458\)](#), regs. 1(3), **2(13)(c)(ii)**
- F36** Words in [reg. 16\(2\)](#) substituted (31.12.2020) by [The Trade in Animals and Related Products \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2020 \(S.S.I. 2020/458\)](#), regs. 1(3), **2(13)(c)(iii)**
- F37** [Reg. 16\(3\)](#) substituted (14.12.2019) by [The Official Controls \(Agriculture etc.\) \(Scotland\) Regulations 2019 \(S.S.I. 2019/412\)](#), regs. 1(1), **24(15)(a)**
- F38** Words in [reg. 16\(3\)](#) substituted (13.12.2022) by [The Trade in Animals and Related Products \(Amendment and Legislative Functions\) Regulations 2022 \(S.I. 2022/1322\)](#), regs. 2, **6(4)**
- F39** [Reg. 16\(3A\)](#) inserted (14.12.2019) by [The Official Controls \(Agriculture etc.\) \(Scotland\) Regulations 2019 \(S.S.I. 2019/412\)](#), regs. 1(1), **24(15)(b)**
- F40** Words in [reg. 16\(4\)](#) substituted (31.12.2020) by [The Trade in Animals and Related Products \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2020 \(S.S.I. 2020/458\)](#), regs. 1(3), **2(13)(d)(i)**
- F41** Words in [reg. 16\(4\)](#) substituted (31.12.2020) by [The Trade in Animals and Related Products \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2020 \(S.S.I. 2020/458\)](#), regs. 1(3), **2(13)(d)(ii)**

Unchecked consignments

17. An enforcement authority must seize any consignment—
- (a) brought into Scotland other than through a [^{F42}border control post] approved for that animal or product;
 - [^{F43}(b) removed from a border control post without a CHED or the authority of the official veterinarian or official fish inspector (as the case may be) at the post; or
 - (c) transported from the border control post to a destination other than that specified in the entry document.]

Textual Amendments

- F42** Words in [reg. 17\(a\)](#) substituted (31.12.2020) by [The Trade in Animals and Related Products \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2020 \(S.S.I. 2020/458\)](#), regs. 1(3), **2(14)**
- F43** [Reg. 17\(b\)\(c\)](#) substituted (14.12.2019) by [The Official Controls \(Agriculture etc.\) \(Scotland\) Regulations 2019 \(S.S.I. 2019/412\)](#), regs. 1(1), **24(16)**

[^{F44}Action following non-compliance: products

18.—(1) This regulation applies in relation to any consignment of a product if the checks at a border control post show that the consignment does not comply with the rules referred to in Article 1(2) of the [^{F45}Official Controls Regulation].

(2) The official veterinarian or the official fish inspector (as appropriate) must place the consignment under detention and refuse its entry into Scotland.

(3) The official veterinarian or the official fish inspector (as appropriate) may order the person responsible for the consignment to—

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- (a) subject the consignment to special treatment in accordance with Article 71(1) and (2) or to any other measure necessary to ensure compliance with the rules referred to in Article 1(2) of the ^[F45]Official Controls Regulation] and, where appropriate and provided there is no risk to human or animal health, allocate the consignment for purposes other than those for which it was originally intended;
 - (b) where health conditions permit, require the person in charge of the consignment to re-dispatch the consignment in accordance with Article 72 of the ^[F45]Official Controls Regulation] from the same border control post to a destination outside ^[F46]Great Britain] agreed with the person responsible for the consignment, using the same means of transport, within a maximum time limit of 60 days from arrival at the border control post; or
 - (c) if the person responsible for the consignment gives immediate agreement, where re-dispatch is impossible or the 60-day time limit has elapsed, destroy the products.
- (4) The official veterinarian or official fish inspector (as appropriate) may exceptionally authorise destruction, re-dispatch, special treatment, or any other measure that may be taken in respect of a consignment, to be taken in respect of a part of the consignment only, provided that the action taken—
- (a) is such as to ensure compliance;
 - (b) does not pose a risk to human or animal health; and
 - (c) does not disrupt official control operations.
- (5) Pending re-dispatch or confirmation of the reasons for rejection, the person responsible for the consignment must, at that person's expense, store the consignment under the supervision of the enforcement authority.
- (6) If a consignment of products is seized outside a border control post under regulation 17, the enforcement authority must order that the consignment be retained or recalled, and placed under official detention without delay, and paragraphs (2) and (3) of this regulation apply.
- (7) The importer or the importer's representative is liable for the costs incurred in carrying out any measure taken under paragraphs (2) to (6) but, in circumstances where the consignment is destroyed, is entitled to payment of a sum equal to the value of the product after deduction of these costs.
- (8) The importer or the importer's representative may not later than 24 hours after notification of the non-compliance, make written representations to the Scottish Ministers regarding any decision taken under this regulation, and the Scottish Ministers must respond in writing to the representations within 24 hours after receiving them.]

Textual Amendments

- F44** Reg. 18 substituted (14.12.2019) by [The Official Controls \(Agriculture etc.\) \(Scotland\) Regulations 2019 \(S.S.I. 2019/412\)](#), regs. 1(1), **24(17)**
- F45** Words in reg. 18 substituted (31.12.2020) by [The Trade in Animals and Related Products \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2020 \(S.S.I. 2020/458\)](#), regs. 1(3), **2(15)(a)**
- F46** Words in reg. 18(3) substituted (31.12.2020) by [The Trade in Animals and Related Products \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2020 \(S.S.I. 2020/458\)](#), regs. 1(3), **2(15)(b)**

^[F47]Consignments of products likely to constitute a risk to animal or animal health

19. If the official controls at the border control post indicate that the consignment is likely to constitute a danger to animal or human health, the official veterinarian or the official fish inspector (as the case may be) must immediately place the consignment under official detention, and order that the person responsible for the consignment destroy it or arrange special treatment in accordance with Article 71 of the ^[F48]Official Controls Regulation] at that person's expense.]

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Textual Amendments

- F47** Reg. 19 substituted (14.12.2019) by [The Official Controls \(Agriculture etc.\) \(Scotland\) Regulations 2019 \(S.S.I. 2019/412\)](#), regs. 1(1), **24(18)**
- F48** Words in reg. 19 substituted (31.12.2020) by [The Trade in Animals and Related Products \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2020 \(S.S.I. 2020/458\)](#), regs. 1(3), **2(16)**

[^{F49} Serious contraventions, repeated contraventions, and breach of maximum residue limits

20.—(1) This regulation applies where, as regards products from a third country, part of a third country or an establishment in a third country, the official veterinarian or official fish inspector (as appropriate)—

- (a) suspects that there has been—
 - (i) a serious contraventions of any import requirement; or
 - (ii) a series of contraventions of such requirements; or
- (b) is satisfied that maximum residue levels have been exceeded.

(2) This regulation applies to the next ten consignments, or to consignments with a net weight of 300 tonnes, whichever is the lesser.

(3) The Scottish Ministers may apply intensified official controls where the official veterinarian or official fish inspector has reason to suspect fraudulent or deceptive practices by the operator responsible for a consignment.

(4) The official veterinarian or official fish inspector must carry out a physical check on the suspected non-compliant consignment and take appropriate measures in accordance with Section 3 of Chapter 5 under Title 2 [^{F50}of the Official Controls Regulation].

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

Textual Amendments

- F49** Reg. 20 substituted (14.12.2019) by [The Official Controls \(Agriculture etc.\) \(Scotland\) Regulations 2019 \(S.S.I. 2019/412\)](#), regs. 1(1), **24(19)**
- F50** Words in reg. 20(4) inserted (31.12.2020) by [The Trade in Animals and Related Products \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2020 \(S.S.I. 2020/458\)](#), regs. 1(3), **2(17)**

[^{F51} Action following non-compliance: animals

21.—(1) If the checks at a border control post show that an animal does not comply with the rules referred to in Article 1(2) of the [^{F52}Official Controls Regulation] relating to that animal, or where such checks reveal an irregularity, the official veterinarian must initially place the animal under detention, isolation or quarantine, as appropriate, where it must be kept, cared for or treated under appropriate conditions pending further official decision on the fate of the animal.

(2) Unless immediate action is necessary in order to respond to a risk to human or animal health or animal welfare or to the environment, the official veterinarian may, after consultation with the importer or the importer's representative, order the person responsible for the consignment—

- (a) to shelter, feed and water and, if necessary, treat the animal;

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- (b) if necessary, to 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) to re-dispatch the animal in accordance with Article 72 of the [F52Official Controls Regulation] without delay.
- (3) If re-dispatch is impossible, in particular for animal welfare reasons, the official veterinarian may order the importer or the importer's representative to arrange of the slaughter of the animal to spare any unavoidable pain, distress or suffering.
- (4) If an animal is seized outside a border control post, the enforcement authority must order the consignment to be retained or recalled, and placed under official detention without delay, and paragraphs (1) and (2) apply.
- (5) The official veterinarian may exceptionally authorise partial destruction, re-dispatch, special treatment, or any other measure that may be taken in respect of consignment of animals to be taken in respect of a part of any such consignment, provided that such action—
- (a) is such as to ensure compliance with the import check requirements of the [F52Official Controls Regulation];
 - (b) does not pose a risk to human or animal health; and
 - (c) does not disrupt official control operations.
- (6) The Scottish Ministers must consider any representations made within 24 hours of notification of the non-compliance by the person responsible for the consignments.
- (7) The importer or the importer's representative is liable for the costs incurred in carrying out any measure taken under paragraphs (2) to (5) but, in circumstances where an animal is slaughtered, is entitled to payment of a sum equal to the slaughter value of the animal after deduction of these costs.]

Textual Amendments

- F51** Reg. 21 substituted (14.12.2019) by [The Official Controls \(Agriculture etc.\) \(Scotland\) Regulations 2019 \(S.S.I. 2019/412\)](#), regs. 1(1), **24(20)**
- F52** Words in reg. 21 substituted (31.12.2020) by [The Trade in Animals and Related Products \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2020 \(S.S.I. 2020/458\)](#), regs. 1(3), **2(18)**

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 [^{F53} animals and] products

23.—^{F54}(1) An official veterinarian at a border control post must authorise the re-importation of consignments of the categories of animals and products referred to in points (a) and (b) of Article 47(1) [^{F55}of the Official Controls Regulation] originating from, and returning to, [^{F56}Great Britain] following a refusal of entry by a third country, provided that —

- (a) the animals and genetic material have been authorised in advance by the competent authority and comply with the relevant animal health and animal welfare requirements;
 - (b) the products of animal origin and composite products comply with animal and public health requirements relating to consignments of products for human consumption originating in and returning to [^{F57}Great Britain] following a refusal of entry by a third country; and
 - (c) the animal by-products comply with the animal health requirements laid down in Annex XIV to Commission Regulation (EU) 142/2011.]
- (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 ^{F58}..., in leak-proof means of transport, identified and sealed by the official veterinarian at the [^{F59}border control post] so that the seals will be broken whenever the container is opened; or

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[^{F60}(b) dispose of any product comprising the consignment in accordance with Regulation (EC) No 1069/2009.]

[^{F61}(4) During the transitional staging period, animals and products that originate from Scotland and which have been rejected from entering the European Union at a member State border control post are not required to re-enter Scotland through a border control post if—

- (a) the re-entry has been pre-notified through the appropriate computerised information management system to the Scottish Ministers or Food Standards Scotland; and
 - (b) Scottish Ministers or Food Standards Scotland have not notified the importer that the product is high risk or, in the case of animals and products that are high risk, have authorised re-entry other than through a border control post before re-entry is to take place.
- (5) In paragraph (4)—
- (a) “the transitional staging period” has the same meaning as in paragraph 2 of Annex 6 to the Official Controls Regulation;
 - (b) “pre-notified” means notification that has been given at least one working day before the expected time of arrival at a point of entry into Scotland or, where the importer can provide evidence of a logistical constraint preventing such notification, by notification at least 4 hours in advance of the expected time of arrival;
 - (c) “high risk” means the animals or products are suspected of constituting a serious risk to human or animal health or animal welfare.]

Textual Amendments

- F53** Words in reg. 23 heading inserted (14.12.2019) by [The Official Controls \(Agriculture etc.\) \(Scotland\) Regulations 2019 \(S.S.I. 2019/412\)](#), regs. 1(1), **24(21)(a)**
- F54** Reg. 23(1) substituted (14.12.2019) by [The Official Controls \(Agriculture etc.\) \(Scotland\) Regulations 2019 \(S.S.I. 2019/412\)](#), regs. 1(1), **24(21)(b)**
- F55** Words in reg. 23(1) inserted (31.12.2020) by [The Trade in Animals and Related Products \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2020 \(S.S.I. 2020/458\)](#), regs. 1(3), **2(19)(a)(i)**
- F56** Words in reg. 23(1) substituted (31.12.2020) by [The Trade in Animals and Related Products \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2020 \(S.S.I. 2020/458\)](#), regs. 1(3), **2(19)(a)(ii)**
- F57** Words in reg. 23(1) substituted (31.12.2020) by [The Trade in Animals and Related Products \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2020 \(S.S.I. 2020/458\)](#), regs. 1(3), **2(19)(a)(iii)**
- F58** Words in reg. 23(3)(a) omitted (31.12.2020) by virtue of [The Trade in Animals and Related Products \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2020 \(S.S.I. 2020/458\)](#), regs. 1(3), **2(19)(b)(i)**
- F59** Words in reg. 23(3)(a) substituted (31.12.2020) by [The Trade in Animals and Related Products \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2020 \(S.S.I. 2020/458\)](#), regs. 1(3), **2(19)(b)(ii)**
- F60** Reg. 23(3)(b) substituted (1.7.2012) by [The Trade in Animals and Related Products \(Scotland\) Amendment Order 2012 \(S.S.I. 2012/198\)](#), arts. 1(b), **2(2)**
- F61** Reg. 23(4)(5) inserted (31.12.2020) by [The Trade in Animals and Related Products \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2020 \(S.S.I. 2020/458\)](#), regs. 1(3), **2(19)(c)**

Admission of products into warehouses

[^{F62}24.—[^{F63}(1)] No person may bring a consignment of products that does not comply with the import requirements of these Regulations into [^{F64}a free zone or premises approved by HMRC.]

[^{F65}(2) In this regulation “free zone” and “premises approved by HMRC” have the same meaning as in Part 2 of schedule 2 of the Taxation (Cross-border Trade) Act 2018.]]

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Textual Amendments

- F62** Reg. 24 substituted (28.2.2019) by [The Environment, Food and Rural Affairs \(Miscellaneous Amendments and Revocations\) \(Scotland\) Regulations 2018 \(S.S.I. 2018/391\)](#), regs. 1(1), **35(5)**
- F63** Reg. 24 renumbered as reg. 24(1) (31.12.2020) by [The Trade in Animals and Related Products \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2020 \(S.S.I. 2020/458\)](#), regs. 1(3), **2(20)(a)**
- F64** Words in reg. 24(1) substituted (31.12.2020) by [The Trade in Animals and Related Products \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2020 \(S.S.I. 2020/458\)](#), regs. 1(3), **2(20)(b)**
- F65** Reg. 24(2) inserted (31.12.2020) by [The Trade in Animals and Related Products \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2020 \(S.S.I. 2020/458\)](#), regs. 1(3), **2(20)(c)**

[^{F66}Additional requirements in specific cases

24A. Schedule 2 (additional requirements in specific cases) has effect.]

Textual Amendments

- F66** Reg. 24A inserted (29.12.2020) by [The Animals, Food and Feed \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2020 \(S.S.I. 2020/455\)](#), regs. 1(2), **3(2)**

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