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SCOTTISH STATUTORY INSTRUMENTS

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**2019 No. 412**

**The Official Controls (Agriculture  
etc.) (Scotland) Regulations 2019**

**PART 5 S**

Consequential amendments

**Amendment to the Trade in Animals and Related Products (Scotland) Regulations 2012 S**

**24.**—(1) The Trade in Animals and Related Products (Scotland) Regulations 2012<sup>M1</sup> are amended as follows.

(2) In regulation 2—

(a) in paragraph (1)—

(i) omit the definition of “border inspection post”;

(ii) omit the definition of “Council Directive [91/496/EEC](#)”;

(iii) omit the definition of “Council Directive [97/78/EC](#)”;

(iv) after the definition of “Commission Decision [2007/275/EC](#)” insert—

““Commission Delegated Regulation (EU) 2019/1666” means Commission Delegated Regulation (EU) 2019/1666 supplementing Regulation (EU) 2017/625 as regards conditions for monitoring the transport and arrival of consignments of certain goods from the border control post of arrival to the establishment at the place of destination in the Union<sup>M2</sup>;

““Commission Regulation (EU) 142/2011” means Commission Regulation (EU) 142/2011 on the requirements for the entry of consignments of animal by-products and derived products originating from, and returning to, the union following refusal of entry by a third country<sup>M3</sup>”;

(v) before the definition of “Commission Implementing Regulation (EU) 2018/659” insert—

““Council Regulation (EC) 1/2005” means Council Regulation (EC) 1/2005 on the protection of animals during transport and related operations<sup>M4</sup>”;

(vi) for the definition of “genetic material” substitute—

““genetic material” means any germinal product that includes semen, oocytes and embryos intended for artificial reproduction and hatching eggs”;

(vii) before the definition of “local authority” insert—

““health certificate” includes the equivalent of a health certificate in electronic form;

““importer” means the natural or legal person who presents animals or products for importation from outside the United Kingdom;

“intensified official controls” are those controls carried out in accordance with Article 65(4);”;

(viii) before the definition of “official veterinarian” insert—

““official controls” means activities performed in accordance with Article 2(1) of the EU Regulation;”;

(ix) before the definition of “product” insert—

““premises” includes any place, vehicle, trailer, container, stall, moveable structure, ship or aircraft;”;

(x) for the definition of “product”, substitute—

““product” means—

(a) any product of animal origin, germinal product, animal by-product, derived product and hay and straw subject to official controls at border control posts; and

(b) any composite product listed in Commission Decision 2007/275<sup>M5</sup> concerning lists of composite products to be subject to official controls at border control posts;”;

(xi) for the definition of “Regulation (EC) No 882/2004”, substitute—

““Regulation (EU) 2017/625” means Regulation (EU) 2017/625 of the European Parliament and of the Council on official controls and other official activities performed to ensure the application of feed and food law, rules on animal health and welfare, plant health and plant protection products<sup>M6</sup> and the Implementing Regulations and Delegated Regulations made under it;”;

(b) after paragraph (2) insert—

“(3) In these Regulations, any reference to—

(a) “the EU Regulation” is a reference to Regulation (EU) 2017/625 of the European Parliament and of the Council on official controls and other official activities performed to ensure the application of feed and food law, rules on animal health and welfare, plant health and plant protection products<sup>M7</sup>, and where the context requires it includes a reference to measures in implementing and delegated regulations made under the EU Regulation;

(b) “border inspection post” is to be read as a reference to a “border control post” as defined in regulation 9; and

(c) “CVED” is to be read as a reference to “CHED” as defined in regulation 8.”.

(3) In regulation 3(2), for the definition of “pet animal” substitute—

““pet animal” has the same meaning as in Article 4(11) of Regulation (EU) 2016/429 on transmissible animal diseases and amending and repealing certain acts in the area of animal health<sup>M8</sup>.”.

(4) In regulation 4, before “Iceland” insert “ the Faroe Islands, Greenland, ”.

(5) In regulation 5—

(a) for the heading substitute— “ Movement of animals or genetic material to or from member States ”;

(b) for paragraph (1) substitute—

“(1) Subject to paragraphs (4) and (5), no animal or genetic material may be brought from a member State unless—

- (a) it is accompanied by an original health certificate;
  - (b) paragraph (3) has been complied with; and
  - (c) it complies with any additional requirements specified in Part 1 of Schedule 2.
- (1A) No animal product may be sent to or brought from a member State unless it is accompanied by a relevant commercial document.”;
- (c) in paragraph (3)(a)—
    - (i) for “another” substitute “ a ”, and
    - (ii) for “24 hours in advance of the intended”, substitute “ one working day before the expected ”;
  - (d) In paragraph (3)(b), for “24 hours in advance of the intended”, substitute “ one working day before the expected ”.
- (6) In regulation 6(1), for the words “or genetic material to another” substitute “ , animal product or genetic material to a ”.
- (7) In regulation 7 in paragraph (a), for the words “and includes” to “Scotland”, substitute “ subject to official controls at border control posts; and ”.
- (8) For regulation 8, substitute—

#### **“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) <sup>M9</sup>.

(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 <sup>M10</sup>; and
- (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 <sup>M11</sup>.

(4) Where a CHED is required, the operator responsible for the consignment must comply with the provisions of Article 56 of the EU Regulation.”.

(9) For regulation 9, substitute—

#### **“Border 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 EU 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 EU 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.

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

(10) In regulation 10(2), for the words from “any product” to “Decision [2007/275/EC](#)” substitute “fishery products, aquatic invertebrates, live bivalve molluscs, live enchinoderms, live tunicates and live marine gastropods intended for human consumption ”.

(11) Regulation 12 is amended as follows—

(a) for paragraph (1), substitute—

“(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.”;

(b) omit paragraph (2);

(c) for paragraph (4), substitute—

“(4) In the case of a transhipment 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 —

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

(12) For regulation 13, substitute—

### “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 documentation specified for that consignment in the relevant legislation listed in schedule 1, to be presented at the border control post inspection facilities to enable official controls in accordance with—

- (a) Chapter 5 of the EU 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—

- (a) the consignment complies with the requirements relating to it in the relevant instrument listed in schedule 1;
- (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 the lists drawn up in accordance with legislation of the European Union 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 legislation of the European Union;
- (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 legislation of the European Union relating to importation.

(5) If there are no requirements in legislation of the European Union 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.”.

(13) For regulation 14, substitute—

**“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).

(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.”.

(14) For regulation 15, substitute—

**“Supervision and monitoring consignments**

**15.** Where a consignment is required to be taken under supervision from a border control post to a specific destination in the United Kingdom or a member State—

(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.”.

(15) In regulation 16—

(a) for paragraph (3), substitute—

“(3) Products that arrive at a border control post for an ultimate destination outside the United Kingdom and which are subject to animal health check requirements in the relevant legislation listed in schedule 1, may be taken directly from the border control post to the destination outside the United Kingdom 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.”;

(b) after paragraph (3), insert—

“(3A) Product that are not subject to import check requirements, and which arrive at a border control post for an ultimate destination outside the United Kingdom, 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.”.

(16) In regulation 17, for paragraphs (b) and (c), substitute—

“(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.”.

(17) For regulation 18, substitute—

**“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 EU 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—

(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 EU 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 EU Regulation from the same border control post to a destination outside the European Union 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.”.

(18) For regulation 19, substitute—

**“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 EU Regulation at that person's expense.”.

(19) For regulation 20, substitute—

**“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.

(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.”.

(20) For regulation 21, substitute —

**“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 EU 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;
- (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 EU 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 EU 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.”.

(21) In regulation 23—

- (a) In the heading, after “of” insert “ animals and ”;
- (b) for paragraph (1), substitute—

“(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) originating from, and returning to, the European Union 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 the Union 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.”.

(22) For regulation 25, substitute—

**“Special measures**

**25.—**(1) Where the Scottish Ministers or Food Standards Scotland—

- (a) have reasonable grounds for suspecting the existence of a disease, zoonosis, phenomenon or circumstance in a country outside the United Kingdom, such that animals or products originating from the whole or part of the country concerned are liable to pose risk to human or animal health; or
- (b) are of the opinion that there is serious non-compliance with official control rules under the EU Regulation in relation to imports from the European Union, or equivalent official controls in countries other than a member State,

the Scottish Ministers or Food Standards Scotland may publish a written declaration of the special measures necessary in Scotland in order to contain the risk to human or animal health or the risk of non-compliant animals or products entering into Scotland.

(2) The special measures that the Scottish Ministers or Food Standards Scotland may require include—

- (a) suspension of entry into Scotland of any animal or product originating in or dispatched from the whole or part of the country concerned;
- (b) imposition of conditions requiring that any animals or products—

- (i) prior to dispatch, or on arrival, are made the subject of specific treatment or controls;
  - (ii) be accompanied by an official certificate, an official attestation, or any other evidence (in any format that may be specified) that any import from the European Union complies with established official control rules under the EU Regulation or equivalent rules in other countries;
  - (c) such other measures as the Scottish Ministers or Food Standards Scotland consider necessary to contain the risk.
- (3) The declaration must be published in such manner as the Scottish Ministers or Food Standards Scotland (as the case may be) think fit and may be amended or revoked by further declaration at any time.
- (4) No person may import anything in breach of such a declaration.”.
- (23) In regulation 27—
- (a) in paragraphs (1), (2), and (3) for “border inspection post” substitute “ border control post ” in each place where it occurs;
  - (b) for paragraph (6), substitute—
 

“(6) Where a customs officer exercising a statutory function at any place under customs supervision discovers any animal or product suspected of being non-compliant, that officer must detain it and notify such detention to an authorised officer of the relevant enforcement authority.”.
- (24) For regulation 28, substitute—

**“Powers of entry**

- 28.—**(1) An authorised officer of the Scottish Ministers or an enforcement agency may enter any premises during normal working hours without prior notice at a reasonable hour (except any premises used wholly or mainly as a private dwelling) if the officer believes that it is necessary to enter for the purpose of enforcing these Regulations.
- (2) An authorised officer must, if requested to do so, produce a duly authenticated authorisation document.
- (3) A justice of the peace, sheriff or summary sheriff may sign a warrant to permit an enforcement officer to enter any premises, including dwelling-houses, if necessary by reasonable force, if the justice, sheriff or summary sheriff on sworn information in writing is satisfied—
- (a) that there are reasonable grounds to enter those premises for the purpose of enforcing these Regulations; and
  - (b) that one or more of the conditions in paragraph (4) are met.
- (4) The conditions are—
- (a) that entry to the premises has been, or is likely to be, refused, and notice of the intention to apply for a warrant has been given to the occupier;
  - (b) that asking for admission to the premises, or giving such a notice, would defeat the object of the entry;
  - (c) that entry is required urgently;
  - (d) that the premises are unoccupied or the occupier is temporarily absent.
- (5) A warrant is valid for 30 days from the date of signature.

- (6) An authorised officer entering any premises which are unoccupied or from which the occupier is temporarily absent must leave them as effectively secured against unauthorised entry as they were before entry.
- (7) An authorised officer may—
- (a) be accompanied by such other persons (up to a maximum of three) as the officer considers necessary;
  - (b) bring onto the premises such equipment as the officer considers necessary.”.
- (25) In regulation 29—
- (a) in paragraph (f), after “inspect the contents;” omit “and”;
  - (b) after paragraph (g) insert—
    - “(h) require the slaughter of any imported animal which is non-compliant with import or animal welfare requirements in these Regulations or the EU Regulation, or suspected by the Scottish Ministers of posing a risk to animal or human health; and
    - (i) require the quarantine of any imported animal that is suspected by the Scottish Ministers of posing a risk to animal or human health;”.
- (26) For regulation 30, substitute—

**“Importation of animals and products constituting a risk to animal or public health**

**30.**—(1) If imported animals or products are suspected by the Scottish Ministers of constituting a serious risk to human or animal health or animal welfare, or, in the case of suspected non-compliance, the animals or products come from a region contaminated by an epizootic disease, an authorised officer of the Scottish Ministers may require—

- (a) an investigation in order to confirm or eliminate that suspicion;
  - (b) an investigation into the extent of any suspected non-compliance and to establish the import operator's responsibilities;
  - (c) intensified official controls on consignments of animals or products from a particular region until such imports are no longer regarded by the officer of constituting such health risk;
  - (d) the official detention of animals or products;
  - (e) appropriate measures to ensure that the person responsible for the animals or products remedies the non-compliance and prevents further occurrences of such non-compliance.
- (2) In a case within paragraph 1(a), the importer must assist the officer in establishing the region of origin.

(3) Where the Scottish Ministers are satisfied that imported animals or products constitute a risk to animal or public health, an authorised officer of the Scottish Ministers may, following written notice, take any reasonable action to ensure compliance with any rules laid down in accordance with Article 1(2) of the EU Regulation, including—

- (a) taking samples for testing and order or performed veterinary treatments on animals;
- (b) ordering the unloading of animals and their transfer via another means of transport to a specified holding for a specified quarantine period (whether or not involving the postponement of the slaughter of animals);
- (c) the slaughter or killing of animals provided that this is the most appropriate measure to safeguard human health as well as animal health and welfare;

- (d) restricting or prohibiting the placing on the market, the movement or the export of the animal or product, or requiring its return to the country of dispatch;
  - (e) ordering the importer to increase the frequency and thoroughness of systematic checks and controls before importing further animals or products from the region;
  - (f) ordering the isolation or closure, for an appropriate period of time, of all or part of a business operation (including any related internet and on-line sales of products that may constitute a risk to animal or human health) affected by the importation of an animal or product that constitutes a risk to animal or human health;
  - (g) the recall, withdrawal, removal or destruction of products;
  - (h) the treatment of products for human consumption;
  - (i) the alteration of labels or corrective information to be provided to consumers;
  - (j) the temporary suspension or withdrawal of the registration or approval of an affected establishment, plant, holding or means of transport concerned or of an authorisation of a transporter;
  - (k) the use of products for purposes other than those for which they were originally intended.
- (4) An authorised officer of the Scottish Ministers must provide an affected business operator, or its representative, with—
- (a) written notification of the decision concerning the action or measure to be taken in accordance with this regulation, together with the reasons for that decision; and
  - (b) information on any right of review against such decision in accordance with regulation 30A.
- (5) All expenditure incurred as a result of actions taken by or on behalf of the Scottish Ministers under this regulation is to be borne by the responsible operators.
- (6) In the case of the issue of false or misleading official certificates in Scotland, or where there is evidence of abuse of official certificates, an authorised officer of the Scottish Ministers may take appropriate measures, including—
- (a) the temporary suspension of the certifying officer from certifying any certificates related to any relevant trade;
  - (b) the withdrawal of the authorisation of a person to sign official certificates; and
  - (c) any other measure believe by the officer to be necessary to prevent a reoccurrence of any non-compliance or abuse.”.
- (27) After regulation 30, insert—

**“Review of decisions by an appointed person**

**30A.**—(1) Any person aggrieved by a decision made under these Regulations, other than decisions referred to in regulations 18 or 21, may request a review of that decision by a person appointed by the Scottish Ministers (“the appointed person”).

(2) Within 21 days of the appointment of the appointed person, written representations may be made by the aggrieved person to the appointed person.

(3) The appointed person must consider any written representations made when reviewing the disputed decision and must report in writing to the Scottish Ministers 21 days from the expiry of the period in (2) with a recommended course of action resulting from the review.

(4) The Scottish Ministers must consider the report of the appointed person and promptly notify the owner of the outcome of the review and provide a copy of the report of the appointed person.

(5) A review, or right of review, does not affect the obligation on the designated authority to take prompt action to eliminate or contain the risks to human or animal health.”.

(28) In regulation 33—

(a) after the words “these Regulations” in each place where they occur insert “ or the EU Regulation ”;

(b) in the second row of the table —

(i) in the first column, for “regulation 5(1)(b)” substitute “ regulation 5(1) and (1A) ”, and

(ii) in the second column, for the description of the offence substitute “ Movements without correct accompanying document ”.

(29) For regulation 36, substitute—

#### “Penalties

**36.** A person who is guilty of any offence under these Regulations is liable—

(a) on summary conviction to a fine not exceeding level 5 on the standard scale or to imprisonment for a term not exceeding three months or to both; or

(b) on conviction on indictment, to imprisonment for a term not exceeding 2 years, to a fine, or to both.”.

(30) In schedule 1—

(a) omit the rows relating to—

(i) Council Directive [96/23/EC](#) on measures to monitor certain substances and residues thereof in live animals and animal products and repealing Directives [85/358/EEC](#) and [86/469/EEC](#) and Decisions [89/187/EEC](#) and [91/664/EEC](#);

(ii) Commission Regulation (EC) No [136/2004](#) laying down procedures for veterinary checks at Community border inspection posts on products imported from third countries;

(iii) Regulation (EC) No [854/2004](#) of the European Parliament and the Council laying down specific hygiene rules for the organisation of official controls on products of animal origin intended for human consumption;

(iv) 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;

(v) Regulation (EC) No [767/2009](#) of the European Parliament and of the Council of 13 July 2009 on the placing on the market and use of feed;

(b) after the item ‘Regulation (EU) 2016/1012’—

(i) in the first column, insert—

“Regulation (EU) 2017/625 of the European Parliament and of the Council on official controls and other official activities performed to ensure the application of feed and food law, rules on animal health and welfare, plant health and plant protection products <sup>M12</sup> and the Implementing Regulations and Delegated Regulations made under it”; and

(ii) in the second column, insert—

“Official controls and other official activities”.

(31) In schedule 2—

- (a) in the title to Part 1, for “between” substitute “ with ”;
- (b) in paragraph 2—
  - (i) omit sub-paragraph (1);
  - (ii) for sub-paragraph (2) substitute—
    - “(2) No person may transport cattle, pigs, sheep or goats to a member State unless authorised by the Scottish Ministers in accordance with Article 11 of Council Regulation 1/2005.”;
- (c) in paragraphs 3 and 4(4), for “between” substitute “ with ”;
- (d) in paragraph 6, for “another member State, or brought into Scotland from another”, substitute “ a member State, or brought into Scotland from a ”;
- (e) in paragraph 8(1), after the words “authority for”, insert “ the import of certain birds and quarantine conditions for the purposes of ”;
- (f) for paragraph 10, substitute—

**“Ship supply**

**10.—(1)** A product that does not comply with import requirements and is sent from a border control post to a ship must be accompanied by the relevant health certificate relating to that product, and the master of the vessel must confirm delivery of the product by signing a certificate which must accompany the consignment to its place of destination.

(2) Within 15 days upon completion of delivery of products by ship, the operator responsible for the delivery, or the representative of the master of the vessel must return the counter-signed official certificate (or send via electronic means and systems) to the competent authorities of the border control post of —

- (a) entry; or
- (b) the approved Customs warehouse.”;
- (g) omit paragraph 11.
- (32) In schedule 3—
  - (a) for paragraph 1, substitute—

**“Case 1: Personal imports and small consignments**

**1.—(1)** Products referred to in Articles 7 and 10 of Commission Delegated Regulation made in accordance with Article 48(d) and (e) of the EU Regulation.”;

- (b) for paragraph 3, substitute—

**“Case 3: Research and diagnostic samples**

**3.—(1)** Subject to sub-paragraph (2), research and diagnostic samples as defined in point (38) of Annex 1 to Regulation (EU) No 142/2011<sup>M13</sup> are exempt from veterinary checks at the border control post provided that they have been authorised in advance by the Scottish Ministers and the consignment is sent directly from the point of entry to the authorised user.

- (2) Where research and diagnostic samples are in transit to a member State—
  - (a) the importer (or a representative) must present the samples at a border control post of entry; and

- (b) the competent authority of the post must inform the competent authority of the member State of destination of the arrival of the samples, through the Integrated Management System for Official Controls.”;
- (c) in paragraph 4, in the heading and in the paragraph for “another member State” substitute “ a member State ”;
- (d) paragraph 5(1) omit “Annex II to”;
- (e) after paragraph 6, insert—

#### “Case 7: Invertebrate animals intended for scientific purposes

7.—(1) Invertebrate animals intended for scientific purposes such as research, educational activities or research related to product development activities are exempt from official controls at border control posts (other than controls carried out in accordance with Article 15(2) of Regulation (EU) No 1143/2014 <sup>M14</sup>provided that—

- (a) they comply with all requisite animal health requirements;
- (b) they have been authorised by the Scottish Ministers; and
- (c) when the activities relating to the scientific purposes have been carried out, they and any products derived from them (with the exception of any portions used for the scientific purposes) are disposed of or re-dispatched to the third country of origin.

(2) Paragraph (1) does not apply to honey bees (*Apis mellifera*), bumble bees (*Bombus* species), molluscs belonging to the phylum Mollusc or crustaceans belonging to the subphylum Crustacea.”.

#### Commencement Information

**I1** Reg. 24 in force at 14.12.2019, see [reg. 1\(1\)](#)

#### Marginal Citations

- M1** [S.S.I. 2012/177](#), as last amended by [S.S.I. 2019/71](#).
- M2** OJ No L 255, 4.10.2019, p. 1.
- M3** OJ No L 54, 26.2.2011, p. 1, as last amended by OJ No L 185, 11.7.2019, p. 26.
- M4** OJ No. L 3, 5.1.2005, p. 1.
- M5** OJ No L 76, 16.3.2007, p. 12.
- M6** OJ No L 95, 7.04.2017, p. 1.
- M7** OJ No L 95, 7.4.2017, p. 1.
- M8** OJ No L 84, 31.3.2016, p.1.
- M9** OJ No L 261, 14.10.2019, p. 37.
- M10** OJ No L 165, 21.6.2019, p. 8.
- M11** OJ No L 250, 30.7.2019, p. 6.
- M12** OJ No L 95, 7.04.2017, p. 1.
- M13** OJ No L 54, 26.2.2011, p. 1, as last amended by OJ No L 185, 11.7.2019, p. 26.
- M14** OJ No L 317, 4.11.2014, p. 35.

**Changes to legislation:**

There are currently no known outstanding effects for the The Official Controls (Agriculture etc.) (Scotland) Regulations 2019, Section 24.