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STATUTORY INSTRUMENTS

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**1997 No. 1729**

**The Animals and Animal Products (Examination for Residues and Maximum Residue Limits) Regulations 1997**

**PART III**

**SAMPLING AND ANALYSIS**

**Procurement of samples**

**13.** An authorised officer may—

- (a) take a sample of any article or substance which is found by him on or in any premises which he is authorised to enter and which he has reason to believe may be required as evidence in proceedings under any of the provisions of these Regulations; and
- (b) take a sample from any animal, whether or not intended for human consumption, which is found by him on or in any such premises.

**Primary analysis of official samples**

**14.—**(1) An official sample shall be submitted for analysis at an approved laboratory and dealt with in accordance with paragraph (2) or (3) below.

(2) Except where the official sample is of a kind described in paragraph (3) below, part of that sample shall be subjected to a primary analysis, the remainder being retained for any reference analysis.

(3) Where the official sample contains the remains of any solid implant or injection site, the analyst shall prepare an extract of such implant or injection site and subject part of that extract to a primary analysis, the remainder of the extract being retained for any reference analysis.

**Results of primary analysis**

**15.—**(1) Where the primary analysis shows that an official sample, or in the case of such a sample containing the remains of a solid implant or injection site, such remains of solid implant or injection site, contains—

- (a) an unauthorised substance;
- (b) a substance which an analyst reasonably suspects may be an unauthorised substance;
- (c) in the case of a sample taken from an animal or batch of animals, its excrement or body fluids or from its tissues, an authorised substance at a concentration which is notified to the analyst by an authorised officer as one which causes him reasonably to suspect that an animal product derived from that animal or batch of animals may contain an authorised substance at a concentration exceeding the relevant maximum residue limit; or
- (d) in the case of a sample taken from any animal product, an authorised substance at a concentration exceeding the relevant maximum residue limit,

the analyst shall give a primary analysis certificate to an authorised officer who shall then give this to the relevant person.

(2) Where the primary analysis does not show anything requiring a primary analysis certificate to be given under paragraph (1) above, the analyst shall notify an authorised officer of that fact and the authorised officer shall then notify the relevant person.

(3) For the purposes of this regulation and regulations 16 and 17 “relevant person” means the owner of the animal, batch of animals, animal product or other article or substance from which the sample was taken or the owner of the premises where the sample was taken.

### **Reference analysis**

**16.**—(1) The finding specified in the primary analysis certificate shall be referred by an authorised officer to an approved laboratory for a reference analysis together with the remainder of the official sample retained by the analyst in accordance with regulation 14(2) or 14(3), as appropriate, if—

- (a) the finding shows that the official sample, whether or not an extract of any solid implant or injection site, contains a substance which is specified under the heading ‘Group A’ in Annex 1 to Council Directive 96/23; or
- (b) an authorised officer in any event so decides.

(2) The analyst shall give a reference analysis certificate to an authorised officer who shall then give this to the relevant person.

(3) The relevant person may, on the basis of a contradictory analysis and by notice in writing served on an authorised officer, challenge the finding specified in a primary analysis certificate in relation to an official sample at any time before that sample, or part thereof, is referred for a reference analysis.

(4) Where, in accordance with paragraph (3) above, the relevant person challenges the finding specified in a primary analysis certificate he shall be liable for the costs of any reference analysis which confirms the finding specified in that certificate.

### **Notification to analyst**

**17.**—(1) An authorised officer who submits to an approved laboratory a sample for primary analysis shall inform the analyst of that approved laboratory of the name and address of the relevant person.

(2) An authorised officer who refers to an approved laboratory a finding specified in a primary analysis shall inform the analyst of that approved laboratory of the name and address of the relevant person.

### **Methods of analysis**

**18.** The analysis of an official sample shall be carried out—

- (a) in relation to a primary analysis, in accordance with methods authorised by Commission Decision [93/256/EEC\(1\)](#), and
- (b) in relation to a reference analysis, in accordance with methods authorised by Commission Decision [93/257/EEC\(2\)](#).

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(1) OJNo. L118, 14.5.93, p.64.  
(2) OJ No. L118, 14.5.93, p.75.

### **Certificates of analysis**

- 19.**—(1) Any certificate given by an analyst under these Regulations—
- (a) shall be signed by the analyst; and
  - (b) shall specify the name of the authorised officer who submitted the sample for analysis and the name and address of the enforcement authority of which he is an officer.
- (2) In any proceedings under these Regulations, the production by one of the parties—
- (a) of a document purporting to be a certificate given by an analyst under paragraph (1) above; or
  - (b) of a document supplied to him by the other party as being a copy of such a certificate,
- shall be sufficient evidence of the facts stated in it unless, in a case falling within sub-paragraph (a) above, the other party requires the analyst to be called as a witness.

### **Inspection of an animal or batch of animals**

**20.** An authorised officer may, by notice in writing reasonably given to the owner of an animal or batch of animals, require him to detain the animal or batch of animals at the place where it then is, or to remove it to such other place as is specified in the notice and detain it there, to enable the animal or batch of animals to be inspected by an authorised officer for the purpose of ascertaining whether there is present in it an unauthorised substance or a residue of an authorised substance which an authorised officer reasonably suspects may result in any animal product derived from that animal or batch of animals containing an authorised substance at a concentration exceeding the relevant maximum residue limit or whether or not any withdrawal period has expired.

### **Examination of an animal or batch of animals**

**21.**—(1) If it appears to an authorised officer, as a result of an inspection carried out for the purposes referred to in regulation 20, that any animal or batch of animals may contain an unauthorised substance or a residue of an authorised substance which he reasonably suspects may result in any animal product derived from that animal or batch of animals containing an authorised substance at a concentration exceeding the relevant maximum residue limit or that the withdrawal period in relation to any animal has not expired, an authorised officer shall have the powers specified in paragraph (2) below in relation to such an animal or batch of animals.

- (2) An authorised officer may—
- (a) give notice in writing to the owner of the animal or batch of animals that, until the notice is withdrawn by a further notice in writing—
    - (i) no commercial operations are to be carried out with respect to the animal or batch of animals;
    - (ii) the animal or batch of animals is not to be moved from the place where it then is or is not to be so moved except to a place specified in the notice; and
    - (iii) no animal, other than one within sub-paragraph (ii) above, shall be moved from the farm of origin except as specified in the notice;
  - (b) subject the animal or batch of animals to such examinations for the presence of substances or residues as the authorised officer may reasonably consider to be necessary;
  - (c) paint, stamp, clip, tag or otherwise mark, or cause to be marked, the animal or batch of animals in order to identify it for the purposes of these Regulations.

### **Notice on completion of examination**

22.—(1) On completion of an examination specified in regulation 21(2)(b), an authorised officer shall give notice in writing to the owner of the animal or batch of animals in accordance with the following paragraphs of this regulation.

(2) Where such an examination shows that an animal or batch of animals does not contain any unauthorised substance or the residue of any authorised substance at a concentration likely to result in any animal product derived from that animal or batch of animals having a concentration of the substance exceeding the relevant maximum residue limit or where an authorised officer considers that such an examination is unnecessary the notice shall so declare and shall withdraw any notice served on the owner of the animal or batch of animals under regulation 21(2)(a) in so far as it relates to that animal or batch of animals.

(3) Where the examination shows that an animal or batch of animals contains a prohibited substance, an unlicensed substance or an Annex IV substance the notice shall so declare, shall specify the result of the examination and shall require the owner of the animal or batch of animals to slaughter the animal or batch of animals, or to cause it to be slaughtered, within such a period and in accordance with such requirements as may be specified in the notice.

(4) Where the examination shows that an animal or batch of animals contains a concentration of an authorised substance which an authorised officer reasonably suspects may result in any animal product derived from that animal or batch of animals having a concentration of that substance exceeding the relevant maximum residue limit, the notice shall so declare, shall specify the result of the examination and shall, subject to regulation 12, prohibit the slaughter of that animal or batch of animals for human consumption.

(5) A notice given in accordance with paragraph (4) above prohibiting the slaughter of any animal or batch of animals may at any time be withdrawn by a further notice in writing given by an authorised officer to the owner of the animal or batch of animals and a notice given in accordance with paragraph (4) above shall be so withdrawn as soon as an authorised officer is satisfied that the animal or batch of animals does not contain a concentration of an authorised substance which may result in any animal product derived from the animal or batch of animals having a concentration of that substance exceeding the relevant maximum residue limit.

(6) If any person on whom a notice has been served under paragraph (3) above fails to comply with the requirements of the notice relating to the slaughter of an animal or batch of animals, an authorised officer may, without prejudice to any proceedings arising out of such default, slaughter, or cause to be slaughtered, that animal or batch of animals.

(7) The enforcement authority may make a charge of an amount equal to the amount of expenses reasonably incurred by the authorised officer in the exercise of the powers conferred on him under—

- (a) regulation 21(2), if paragraph (3) or (4) above applies; or
- (b) paragraph (6) above.

(8) The charge referred to in paragraph (7) above shall be payable by the person in default and shall be recoverable by the enforcement authority which shall be the appropriate Minister determined according to where exercise of the powers in regulation 21(2) or paragraph (6) above, as appropriate, takes place.