
WELSH STATUTORY INSTRUMENTS

2007 No. 376

**The Products of Animal Origin (Third
Country Imports) (Wales) Regulations 2007**

PART 2

Enforcement

Enforcement authorities and exchange of information

5.—(1) These Regulations must be enforced—

- (a) by the National Assembly at a border inspection post solely designated and approved for veterinary checks on products referred to in Regulation (EC) No. 1774/2002;
- (b) by the Agency at—
 - (i) any cutting plant, game-handling establishment or slaughterhouse; and
 - (ii) premises at which the Agency enforces the Food Hygiene (Wales) Regulations 2006⁽¹⁾ by virtue of regulation 5(2)(b) of those Regulations;
- (c) subject to paragraph (2), by each local authority within its area, including at any border inspection post in that area, except at a border inspection post referred to in sub-paragraph (a) and at premises referred to in sub-paragraph (b).

(2) At points of entry, regulation 16 must be enforced by the Commissioners and not the local authority.

(3) In cases where an officer of a local authority, when exercising any statutory function, discovers at a point of entry a consignment or product that he or she considers may have been brought in breach of regulation 16, he or she must notify an officer of Revenue and Customs and detain the consignment or product until an officer of Revenue and Customs takes charge of it.

(4) In cases where an officer of a local authority who is not an authorised officer for the purposes of these Regulations, when exercising any statutory function, discovers at any place other than a point of entry or a border inspection post, a consignment or product —

- (a) in relation to which he or she considers these Regulations may not have been complied with; or
- (b) that he or she considers is from a third country and may present a risk to animal or public health,

he or she must notify an authorised officer and detain the consignment or product until an authorised officer takes charge of it.

(5) If the National Assembly considers that a local authority is failing or has failed to enforce these Regulations generally, or in any class of cases, or in an individual case, it may empower an authorised officer or the Agency to enforce them in place of that local authority.

(6) The National Assembly or the Agency may recover from the local authority concerned any expenses reasonably incurred by it under paragraph (5).

(7) The National Assembly, the Commissioners, any local authority and the Agency may exchange information for the purposes of these Regulations, and may divulge information to the enforcement authorities in England, Scotland and Northern Ireland for the purposes of these Regulations or the equivalent Regulations in those jurisdictions.

(8) Paragraph (7) is without prejudice to any other power of the National Assembly, the Commissioners, any local authority and the Agency to disclose information.

(9) No person, including a servant of the Crown, may disclose any information received from the Commissioners under paragraph (7) if—

- (a) the information relates to a person whose identity—
 - (i) is specified in the disclosure; or
 - (ii) can be deduced from the disclosure;
- (b) the disclosure is for a purpose other than the purposes specified in paragraph (7); and
- (c) the Commissioners have not given their prior consent to the disclosure.

(10) In paragraph (1), the terms “cutting plant” (“*safle torri*”), “game-handling establishment” (“*sefydliad trin anifeiliaid hela*”) and “slaughterhouse” (“*lladd-dy*”) have the meaning that they bear in regulation 5(6) of the Food Hygiene (Wales) Regulations 2006.

(11) In this regulation, “point of entry” (“*pwynt mynediad*”) means any place where goods are subject to customs supervision under Articles 37 and 38 of the Customs Code, other than a border inspection post.

Appointment of official veterinary surgeons and official fish inspectors

6.—(1) The National Assembly must appoint—

- (a) such veterinary surgeons who have participated in a special training programme referred to in Article 27 of Directive [97/78/EC](#) to carry out the regulatory functions at any border inspection post solely designated and approved for veterinary checks on products referred to in Regulation (EC) No. [1774/2002](#); and
- (b) such appropriately trained assistants for each veterinary surgeon appointed under subparagraph (a),

as may be necessary for the proper performance of the regulatory functions.

(2) A local authority must appoint—

- (a) such veterinary surgeons who have participated in a special training programme referred to in Article 27 of Directive [97/78/EC](#) to carry out the regulatory functions at each border inspection post in its area, other than a border inspection post referred to in paragraph (1)(a);
- (b) such environmental health officers to be official fish inspectors to carry out the regulatory functions in relation to fishery products at each border inspection post in its area, other than a border inspection post referred to in paragraph (1)(a); and
- (c) such appropriately trained assistants for each official veterinary surgeon appointed under paragraph (2)(a), and each official fish inspector appointed under paragraph (2)(b),

as may be necessary for the proper performance of the regulatory functions.

Exercise of enforcement powers

7.—(1) An official veterinary surgeon, an official fish inspector or an authorised officer may, at all reasonable hours and on producing, if so required, some duly authenticated document showing his or her authority, exercise the powers conferred by regulations 8 and 9 for the purpose of—

- (a) enforcing these Regulations;
- (b) enforcing any declaration made by the National Assembly or the Agency under regulation 61;
- (c) ascertaining whether these Regulations are being or have been complied with; or
- (d) verifying the identity, origin or destination of any product.

(2) In the case of an official veterinary surgeon, an official fish inspector or an authorised officer appointed or authorised by a local authority, the powers conferred by regulations 8 and 9 must be exercised—

- (a) within the area of that local authority, and
- (b) outside the area of that local authority for the purpose of ascertaining whether these Regulations are being or have been complied with within that area.

Powers of entry and inspection

8.—(1) An official veterinary surgeon, official fish inspector or authorised officer may—

- (a) enter any border inspection post or other land or premises and inspect the same and anything in or on it, but admission to any premises used only as a dwelling-house must not be demanded as of right unless 24 hours' written notice of the intended entry has been given to the occupier;
- (b) open any bundle, package, packing case, or item of personal luggage, or require any person in possession of or accompanying the same to open it;
- (c) inspect the contents of any bundle, package, packing case or item of personal luggage opened under sub-paragraph (b);
- (d) inspect any product, including its packaging, seals, marking, labelling and presentation, and any plant or equipment used for or in connection with any product;
- (e) take samples of any product for laboratory tests, for checking against any relevant document relating to the product or otherwise for checking compliance with the import conditions.

(2) Where an official veterinary surgeon, official fish inspector or authorised officer—

- (a) has carried out any of the activities listed in paragraph (1); and
- (b) is satisfied that further checks need to be carried out,

he or she may serve a notice in writing on the person appearing to have charge of the consignment, requiring that the consignment or part consignment be stored under the supervision of the official veterinary surgeon, official fish inspector or authorised officer, as the case may be, at such place and under such conditions as he or she may direct in the notice, until he or she serves a further notice in writing that the same may be removed.

(3) The costs of the storage referred to in paragraph (2) must be paid by the person responsible for the consignment.

(4) An official veterinary surgeon, official fish inspector or authorised officer entering any land or premises under paragraph 1(a) may take with him or her other persons acting under his or her instructions and, unless he or she is entering premises used only as a dwelling house—

- (a) a representative of the European Commission; and

- (b) a representative of the authorities of a third country, appointed and acting in accordance with the provisions of one of the equivalence decisions listed in Schedule 2.

Powers in relation to documents

- 9.—(1) An official veterinary surgeon, official fish inspector or authorised officer may—
- (a) require any person appearing to have charge of a product, any person responsible for a product and any corporate officer, employee, servant or agent of any such persons, to produce any relevant document in his or her possession or under his or her control relating to the product, and to supply such additional information in his or her possession or under his or her control relating to the product as the official veterinary surgeon, official fish inspector or authorised officer may reasonably request;
 - (b) examine any relevant document relating to a product and, where it is kept by means of a computer, have access to and inspect and check the operation of any computer and associated apparatus or material which is or has been used in connection with that relevant document;
 - (c) make and retain such copies as he or she may think fit of any relevant document relating to a product; and
 - (d) seize and retain any relevant document relating to a product which the official veterinary surgeon, official fish inspector or authorised officer has reason to believe may be required as evidence in proceedings under these Regulations, and, where any such relevant document is kept by means of a computer, require it to be produced in a form in which it may be taken away.

(2) In this regulation, “corporate officer” (“*swyddog corfforaethol*”), in relation to a body corporate, means a director, member of the committee of management, chief executive, manager, secretary or other similar officer of the body, or a person purporting to act in any such capacity.

Protection of officials acting in good faith

10.—(1) No authorised officer, official veterinary surgeon, official fish inspector, or assistant appointed under regulation 6 is personally liable in respect of any act done by him or her in the performance or purported performance of the regulatory functions within the scope of his or her employment, if he or she did that act in the honest and reasonable belief that his or her duty under these Regulations required or entitled him or her to do so.

(2) Paragraph (1) does not relieve the National Assembly, a local authority or the Agency from any liability in respect of acts of its officers.

Entry warrants

11.—(1) If a justice of the peace, on sworn information in writing, is satisfied that there is reasonable ground for entry into any land or premises by an official veterinary surgeon, official fish inspector or authorised officer under regulation 8 for any of the purposes specified in regulation 7 and either—

- (a) that entry has been refused, or a refusal is reasonably expected, and the official veterinary surgeon, official fish inspector or authorised officer has given notice of his or her intention to apply for an entry warrant to the occupier; or
- (b) a request for entry, or the giving of such a notice, would defeat the object of entry, or entry is urgently required, or the land or premises are unoccupied, or the occupier is temporarily absent, and it would defeat the object of entry to await his or her return,

the justice may by warrant signed by him or her, and valid for one month, authorise the official veterinary surgeon, official fish inspector or authorised officer to enter the land or premises, if need be by reasonable force.

(2) An official veterinary surgeon, official fish inspector or authorised officer leaving any unoccupied premises which he or she has entered by virtue of a warrant must leave them as effectively secured against unauthorised entry as he or she found them.

Local authority returns

12.—(1) For each border inspection post in its area, a local authority must submit to the National Assembly a return comprising—

- (a) the total number of consignments checked, categorised by groups of products and by country of origin;
- (b) a list of consignments of which samples were taken and the results of any test or analysis of each sample; and
- (c) a list of consignments required to be redispached or disposed of under regulation 21 by the official veterinary surgeon or official fish inspector, together with, in each case, their country of origin, establishment of origin (if known), a description of the product concerned and the reason for refusal.

(2) The National Assembly must determine how frequently the returns referred to in paragraph (1) are to be submitted and what period of time they are to cover.

Suspension of border inspection posts and inspection centres

13.—(1) This regulation applies if the National Assembly is satisfied that—

- (a) the continued operation of a border inspection post presents a serious risk to public or animal health; or
- (b) at a border inspection post, there has been a serious breach of the requirements for the approval of border inspection posts laid down in Annex II to Directive [97/78/EC](#) or in Commission Decision [2001/812/EC](#) (laying down requirements for the approval of border inspection posts responsible for veterinary checks on products brought into the Community from third countries)(2).

(2) For the purposes of this regulation and any notice served under it, “approval” (“cymeradwyaeth”), in relation to a border inspection post or an inspection centre, means the approval of the border inspection post or inspection centre, as the case may be, in accordance with Article 6(2) or 6(4) of Directive [97/78/EC](#).

(3) Where this regulation applies, the National Assembly must suspend the border inspection post’s approval either in full or in part in accordance with paragraph (4), (5) or (6).

(4) The National Assembly may suspend the border inspection post’s approval in full by service—

- (a) on the operator of the border inspection post; or
- (b) where the border inspection post consists of more than one inspection centre, on the operator of each inspection centre (if they are different),

of a written notice stating that the approval of the premises as a border inspection post is suspended.

(5) If the National Assembly is satisfied that the serious risk to public or animal health referred to in paragraph (1)(a) or the serious breach of the requirements referred to in paragraph (1)(b) arises only in connection with one or more (but not all) of the categories of products for which the border inspection post is approved (as specified in the Annex to Decision [2001/881/EC](#)), it may suspend

(2) OJ No. L306, 23.11.2001, p. 28.

the border inspection post's approval in relation to that category or those categories of products by service of a written notice—

- (a) on the operator of the border inspection post; or
- (b) where the category of products concerned is, or the categories of products are, handled by different inspection centres within the border inspection post, on the operator of each of those inspection centres (if they are different),

stating that the approval of the premises as a border inspection post is suspended for that category, or those categories, of products.

(6) If the National Assembly is satisfied that the serious risk to public or animal health referred to in paragraph (1)(a) or the serious breach of the requirements referred to in paragraph (1)(b) arises only in connection with one inspection centre within the border inspection post, it may suspend the approval of the inspection centre by service of a written notice on the operator of the inspection centre stating that the approval of the premises as an inspection centre is suspended.

(7) Upon service of a notice under—

- (a) paragraph (4), the premises will cease to be a border inspection post or an inspection centre within a border inspection post (as the case may be) until they are again so approved in accordance with Article 6(2)(a) of Directive [97/78/EC](#);
- (b) paragraph (5), the premises will cease to be a border inspection post or an inspection centre within a border inspection post (as the case may be) approved for that category, or those categories, of products until they are again so approved in accordance with Article 6(2) (a) of Directive [97/78/EC](#); and
- (c) paragraph (6), the premises will cease to be approved as an inspection centre within a border inspection post, until they are again so approved in accordance with Article 6(2) (a) of Directive [97/78/EC](#).

(8) The provisions of paragraph (7) apply in the case of a suspension effected under this regulation notwithstanding that the Annex to Decision [2001/881/EC](#) may not have been updated to reflect that suspension.

(9) In this regulation, “inspection centre” (“*canolfan arolygu*”) means a facility forming part of a border inspection post that is listed along with the name of the border inspection post itself in the Annex to Decision [2001/881/EC](#).

Regulatory functions of official fish inspectors

14. In Parts 3 to 8, and Part 12, where a fishery product is concerned, the expression “official veterinary surgeon” must be construed as a reference to an official fish inspector.