
SCOTTISH STATUTORY INSTRUMENTS

2007 No. 1

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

PART 1

Introduction

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Products of Animal Origin (Third Country Imports) (Scotland) Regulations 2007 and shall come into force on 1st February 2007.

(2) These Regulations extend to Scotland only.

Interpretation

2.—(1) In these Regulations—

“the Agency” means the Food Standards Agency;

“Article 9 product” means a product from a third country which is first brought into the relevant territories at one border inspection post but is intended for import via another, as described (in relation to consignments) in Article 9(1) of Directive [97/78/EC](#), whether or not the product is transhipped or unloaded at the first border inspection post;

“authorised officer” means a person who is authorised by the Scottish Ministers, a local authority or the Agency, either generally or specially, to act in matters arising under these Regulations, whether or not that person is an officer of the Scottish Ministers or of a local authority or the Agency;

“border inspection post” means—

- (a) a border inspection post which is included in the list contained in the Annex to Decision [2001/881/EC](#); or
- (b) a border inspection post in the Republic of Iceland or the Kingdom of Norway which is included in the list contained in the Annex to Decision No. 86/02/COL of the EFTA Surveillance Authority⁽¹⁾;

“border inspection post of destination” means the border inspection post via which an Article 9 product is intended for import;

“border inspection post of introduction” means the border inspection post at which an Article 9 product is first brought into the relevant territories;

“carrier who has charge for the time being” of a product, consignment or part consignment includes the driver of any vehicle, the pilot of any aircraft and the master of any vessel (but not the driver of any train) transporting the same;

“the Commissioners” means the Commissioners for Her Majesty’s Revenue and Customs;

(1) O.J. No. L 69, 13.3.2003, p.31.

“common veterinary entry document” means a document in the form set out in Annex III to Regulation (EC) No. 136/2004 (laying down procedures for veterinary checks at Community border inspection posts on products imported from third countries)(2);

“Community establishment of origin” means the premises located in a member State at which a returned product attained the form in which it was originally exported from the relevant territories;

“consignment” means a quantity of products of the same type covered by the same veterinary certificate or veterinary document, or other document provided for by veterinary legislation, conveyed by the same means of transport and coming from the same third country or part of a third country;

“the Customs Code” means Council Regulation (EEC) No. 2913/92 (establishing the Community Customs Code)(3);

“the customs territory of the Community” has the same meaning as in Article 3 of the Customs Code;

“customs warehouse” means a warehouse which fulfils the conditions of Articles 98 to 113 of the Customs Code, in which goods are stored subject to the customs warehousing procedure referred to in those Articles;

“Decision 2001/881/EC” means Commission Decision 2001/881/EC (drawing up a list of border inspection posts agreed for veterinary checks on animals and animal products from third countries and updating the detailed rules concerning the checks to be carried out by the experts of the Commission)(4);

“destination establishment”, in relation to a product, means the establishment identified in the “delivery address” entry in Part 1 of the common veterinary entry document;

“Directive 97/78/EC” means Council Directive 97/78/EC (laying down the principles governing the organisation of veterinary checks on products entering the Community from third countries)(5);

“documentary check” means the examination of the veterinary certificates or veterinary documents or other documents accompanying a consignment, carried out in accordance with Article 4(3) of Directive 97/78/EC and Annex I to Regulation (EC) No. 136/2004;

“fishery products” means all wild or farmed seawater and freshwater animals, whether or not live, and all edible forms, parts and products of such animals, including—

- (a) aquaculture animals and aquaculture products as defined in Article 2 of Council Directive 91/67/EEC (concerning the animal health conditions governing the placing on the market of aquaculture animals and products)(6);
- (b) filter feeding lamellibranch molluscs; and
- (c) echinoderms, tunicates and marine gastropods intended for human consumption, but excludes aquatic mammals, reptiles and frogs, and parts of those animals;

“free warehouse” and “free zone” have the same meanings as in Title IV, Chapter 3, Section 1 of the Customs Code;

“identity check” means a check by visual inspection to ensure that the veterinary certificates or veterinary documents or other documents accompanying a consignment tally with the products

(2) O.J. No. L 136, 22.01.2004, p.11.

(3) O.J. No. L 302, 19.10.92, p.1.

(4) O.J. No. L 326, 11.12.2001, p.44.

(5) O.J. No. L 24, 30.1.98, p.9.

(6) O.J. No. L 46, 19.2.91, p.1.

comprised in the consignment, carried out in accordance with Article 4(4)(a) of Directive [97/78/EC](#);

“import”, as a verb, means release for free circulation within the meaning of Article 79 of the Customs Code;

“import conditions” in relation to a product, means–

- (a) the conditions laid down for the import of that product in any Directive, Decision or Regulation listed in Schedule 1, including–
 - (i) specific requirements laid down for the import of that product into a particular member State or a particular area of a member State; and
 - (ii) conditions laid down for the import of that product for specific purposes;
- (b) the conditions laid down for the import of that product in any Decision listed in Schedule 2;
- (c) the conditions as to the country of origin of the product as laid down in any list of the third countries or parts of third countries from which imports of specified products are permitted and drawn up under paragraph 1 of Article 11 of Regulation [\(EC\) No. 854/2004](#); and
- (d) the conditions as to the establishment of origin of the product as laid down in any list of establishments from which imports of specified products are permitted and drawn up under paragraph 1 of Article 12 of Regulation [\(EC\) No. 854/2004](#) (laying down specific rules for the organisation of official controls on products of animal origin intended for human consumption)(7);

“justice of the peace” means a full justice as defined by section 9(12) of the District Courts (Scotland) Act 1975(8);

“local authority” means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994(9);

“non conforming product” means a product which does not comply with the import conditions;

“official fish inspector” means an environmental health officer appointed as an official fish inspector by a local authority under regulation 6(2)(b);

“official veterinary surgeon” means a veterinary surgeon who is appointed by the Scottish Ministers under regulation 6(1)(a) or by a local authority under regulation 6(2)(a);

“operator” means–

- (a) in relation to a border inspection post, the person who provides premises and other facilities for the carrying out of veterinary checks at that border inspection post; and
- (b) in relation to a Community establishment of origin or a destination establishment, the person who occupies the same for the purposes of that person’s business;

“owner”, in relation to a product, consignment or part consignment, means the person in whom the property in the product, consignment or part is for the time being vested;

“part consignment” means a consignment which has been split up into parts in accordance with Article 5 of Regulation [\(EC\) No. 136/2004](#);

“person appearing to have charge”, in relation to a product, consignment, or part consignment, means any person, including a carrier, who appears to have possession, custody or control of the product, consignment or part consignment;

(7) O.J. No. L 139, 30.04.2004, p.206.

(8) 1975 c. 20. The definition of “full justice” was inserted by section 8 of the [Bail, Judicial Appointments etc. \(Scotland\) Act 2000 \(asp 9\)](#), section 8.

(9) 1994 c. 39.

“person responsible for”, in relation to a product, consignment, or part consignment, is construed in accordance with regulation 3;

“physical check” means a check on a product (which may include checks on packaging and temperature and also sampling and laboratory testing) carried out in accordance with Article 4(4)(b) of, and Annex III to, Directive 97/78/EC and, in the case of laboratory testing, Annex II to Regulation (EC) No. 136/2004;

“premises” includes any construction, installation, container or means of transport;

“product” means—

- (a) any product of animal origin listed in the Annex to Commission Decision 2002/349/EC (laying down the list of products to be examined at border inspection posts under Council Directive 97/78/EC)(10);
- (b) any grass, clover, lucerne or sainfoin which has been dried either naturally or artificially, and any product which is obtained by so drying any grass, clover, lucerne or sainfoin; and
- (c) any green cereal which has been dried either naturally or artificially, and any product (other than grain) which is obtained by drying any green cereal,

but does not include composite food products as specified in Article 3 of Commission Decision 2002/349/EC;

“Regulation (EC) No. 1774/2002” means Regulation (EC) No. 1774/2002 of the European Parliament and of the Council (laying down health rules concerning animal by-products not intended for human consumption)(11);

“Regulation (EC) No. 136/2004” means Commission Regulation (EC) No. 136/2004 (laying down procedures for veterinary checks at Community border inspection posts on products imported from third countries)(12);

“the regulatory functions” means the functions assigned by these Regulations to authorised officers, official veterinary surgeons, official fish inspectors and assistants appointed under regulation 6;

“relevant document” means any required document and any commercial or other certificate or document relating to a product, including the manifest of any sea-going vessel or aircraft;

“the relevant territories” means an area comprising the territories of the member States, as listed in Annex I to Directive 97/78/EC, the Republic of Iceland, the Kingdom of Norway (except Svalbard), the Principality of Andorra, the Faroe Islands and the Republic of San Marino;

“required document” means any original veterinary certificate, original veterinary document or other original document required in relation to a product by virtue of any Directive, Decision or Regulation listed in Schedule 1;

“returned product” means a product originally exported from the customs territory of the Community which is returned there because it has been refused by a third country;

“ships' store” means closed premises referred to in Article 13(1)(c), or a specially approved warehouse referred to in Article 13(2)(a), of Directive 97/78/EC;

“third country” means a country not comprised in the relevant territories;

(10) O.J. No. L 121, 8.5.2002, p.6, as read with Commission Regulations (EC) No. 136/2004 (O.J. No. L 21, 28.1.2004, p.11) and (EC) No. 745/2004 (O.J. No. L 122, 26.4.2004, p.1).

(11) O.J. No. L 273, 10.10.2002, p.1 as read with Commission Regulations (EC) No. 811/2003, 812/2003 and 813/2003 (O.J. No. L 117, 13.5.2003, p.14, p.19 and p.22), Commission Decisions 2003/320/EC, 2003/321/EC, 2003/326/EC and 2003/327/EC (O.J. No. L 117, 13.5.2003, p.24, p.30, p.42 and p.44) and Commission Regulation (EC) No. 780/2004 (O.J. No. L 123, 27.4.2004, p. 64).

(12) O.J. No. L 21, 28.1.2004, p.11.

“transhipped product” means an Article 9 product which is transhipped or unloaded in the way described (in relation to consignments) in Article 9(1) of Directive 97/78/EC at its border post of introduction;

“transit” means transit from one third country to another, passing through one or more member States, under the external transit procedure referred to in Articles 91 to 97 of the Customs Code;

“transit product” means a product originating in a third country which, according to the information forwarded in advance referred to in Article 3(3) of Directive 97/78/EC, will undergo transit; and

“veterinary check” means any check provided for in Directive 97/78/EC including a documentary check, an identity check or a physical check.

(2) Products brought into Scotland from the Republic of Iceland, other than fishery products, are regarded for the purposes of these Regulations as products brought in from a third country.

(3) Subject to paragraph (4), for the purposes of these Regulations, a person brings a product into a territory or area if—

- (a) that person brings it into that territory or area as its owner;
- (b) that person brings it into that territory or area as a carrier; or
- (c) a carrier brings it into that territory or area on that person’s instructions.

(4) A product on board a means of transport operating internationally which is intended for consumption by the crew or passengers of that means of transport is not brought into a territory or area if—

- (a) the product is not unloaded; or
- (b) it is transferred directly from one means of transport operating internationally to another at the same port or airport and under supervision, within the meaning of Article 4(13) of the Customs Code, by the Commissioners.

(5) Any reference in these Regulations to a Community instrument is a reference to that instrument as amended from time to time.

Person responsible for a consignment

3.—(1) In these Regulations, a reference to “person responsible for”, in relation to a product, consignment or part consignment is construed in accordance with the following paragraphs.

(2) Until—

- (a) the product, consignment or part consignment first arrives at a border inspection post in Scotland; or
- (b) in the case of an Article 9 product, or a consignment or part consignment of Article 9 products, it arrives at a border inspection post of destination in Scotland,

the person responsible for the product, consignment or part consignment is the person specified in paragraph (3).

(3) The person referred to in paragraph (2) is—

- (a) the person referred to in Article 38(1) of the Customs Code who brings the product, consignment or part consignment into the customs territory of the Community;
- (b) a person referred to in Article 38(2) of the Customs Code who assumes responsibility for the carriage of the product, consignment or part consignment after it has been brought into the customs territory of the Community; or
- (c) a person in whose name the persons referred to in sub-paragraph (a) or (b) acted.

(4) From the time—

- (a) the product, consignment or part consignment first arrives at a border inspection post in Scotland until it leaves that border inspection post; or
- (b) in the case of an Article 9 product, or a consignment or part consignment of Article 9 products, it arrives at a border inspection post of destination in Scotland until it leaves that border inspection post of destination,

the person responsible for the product, consignment or part consignment is the person specified in paragraph (5).

(5) The person referred to in paragraph (4) is—

- (a) the person in whose name the persons referred to in paragraph (3)(a) or (b) acted;
- (b) if the product, consignment or part consignment is in temporary storage, as referred to in Article 50 of the Customs Code, the person referred to in Article 51(2) of the Customs Code who holds it in temporary storage; or
- (c) if—
 - (i) a person referred to in sub-paragraph (a) or (b), has appointed a representative in that person's dealings with the customs authorities, within the meaning of Article 5 of the Customs Code, and
 - (ii) the representative is given or assumes responsibility for ensuring that the product, consignment or part consignment undergoes veterinary checks,
 that representative.

(6) After—

- (a) the product, consignment or part consignment leaves a border inspection post referred to in paragraph (4)(a); or
- (b) in the case of an Article 9 product, or a consignment or part consignment of Article 9 products, it leaves the border inspection post of destination,

the person responsible for the product, consignment or part consignment is the person specified in paragraph (7).

(7) The person referred to in paragraph (6) is—

- (a) the person who made a customs declaration, within the meaning of Article 64 of the Customs Code, covering the product, consignment or part consignment; or
- (b) if no such customs declaration has been made, the person capable of making it.

Exemption for authorised products and personal imports

4.—(1) Parts 3 to 9 do not apply to products brought into Scotland from a third country with the previous authorisation of the Scottish Ministers as trade samples, for exhibition, or for particular studies or analyses.

(2) The Scottish Ministers' authorisation—

- (a) must be in writing;
- (b) must in the case of products brought in—
 - (i) as trade samples or for exhibition, be made subject to a condition that they must not be marketed; and
 - (ii) for particular studies or analyses, be made subject to a condition that they must not be supplied for human consumption;
- (c) may be made subject to such other conditions (if any) as they consider necessary for the protection of public or animal health; and

- (d) may be amended, suspended or revoked in writing at any time.
- (3) No person may—
 - (a) use a product to which the exemption in paragraph (1) applies for any purpose for which it has not been authorised, or contravene any condition referred to in paragraph (2)(b); or
 - (b) contravene any other condition of the Scottish Ministers' authorisation in relation to such a product.
- (4) In the case of products brought in for exhibition or studies and any quantities of products brought in for analyses that remain following those analyses, the person who brought them in must as soon as possible when the exhibition, studies or analyses have finished, and in accordance with any conditions specified in the Scottish Ministers' authorisation—
 - (a) redispach them to a third country; or
 - (b) dispose of them in accordance with Regulation (EC) No. 1774/2002 and the Animal By-Products (Scotland) Regulations 2003(13).
- (5) Where an authorised officer considers that there has been a breach of paragraph (3)(a) or (4) in relation to a product, the officer must by notice in writing served on the person appearing to have charge of that product, take charge of it and either—
 - (a) redispach it to a destination, agreed with the person who brought it in, located in a third country within a period of sixty days commencing with the day following the service of the notice; or
 - (b) dispose of it as if it were Category 1 material under Regulation (EC) No. 1774/2002 in the facilities provided for that purpose nearest to the place at which the authorised officer takes charge of it.
- (6) Where an authorised officer considers that there has been a breach of paragraph (3)(b) in relation to a product, the officer may by notice in writing served on the person appearing to have charge of that product, take charge of it and take either of the steps specified in paragraph (5)(a) and (b).
- (7) Part 3, with the exception of regulation 25, and Parts 4 to 9 do not apply to—
 - (a) powdered infant milk, infant food, or special foods required for medical reasons containing meat, meat products, milk or milk products from a third country if—
 - (i) they form part of a traveller's personal luggage and are intended for the traveller's personal consumption or use;
 - (ii) they do not exceed in quantity that which could reasonably be consumed by an individual;
 - (iii) they do not require refrigeration before opening;
 - (iv) they are packaged proprietary brand products for direct sale to the final consumer; and
 - (v) their packaging is unbroken, unless they are in current use;
 - (b) meat, meat products, milk or milk products from the Faroe Islands, Greenland, the Republic of Iceland, Liechtenstein, or Switzerland if—
 - (i) they form part of a traveller's personal luggage, or are sent by post or carrier (otherwise than by way of trade or as a trade sample) and are addressed to a private individual in Scotland;
 - (ii) they are intended for the personal consumption of the traveller or the addressee, as the case may be; and

- (iii) their combined total weight in any traveller's personal luggage or in any consignment sent by post or carrier to a private individual does not exceed 5 kilograms; or
 - (c) products in the personal luggage of a traveller if they are intended for the traveller's personal consumption or which are sent by post or carrier (otherwise than by way of trade or as a trade sample) and addressed to a private individual in Scotland, if they are intended for that individual's personal consumption, and if they–
 - (i) are not meat, meat products, milk or milk products;
 - (ii) do not exceed one kilogram in weight;
 - (iii) come from a third country or part of a third country from which their importation is permitted in accordance with a list drawn up by an instrument in Schedule 1; and
 - (iv) do not come from a third country or part of a third country from which their importation is prohibited by any instrument in Schedule 1.
- (8) In this regulation “meat”, “meat products”, “milk” and “milk products” mean products of those types listed in sections 01 – 04 under the heading I.2, Title I in the Annex to Commission Decision [2002/349/EC](#).