
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](#).

PART 2

Enforcement

Enforcement authorities and exchange of information

- 5.—(1) These Regulations must be enforced—
- (a) by the Scottish Ministers 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 (Scotland) Regulations 2006⁽¹⁴⁾ by virtue of regulation 5(4) 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 the officer considers may have been brought in breach of regulation 16, the officer 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 the officer considers these Regulations may not have been complied with; or

⁽¹⁴⁾ S.S.I. 2006/3.

- (b) that the officer considers is from a third country and may present a risk to animal or public health,

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

(5) If the Scottish Ministers consider 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, they may empower an authorised officer or the Agency to enforce them in place of that local authority.

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

(7) The Scottish Ministers, 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 Wales, England 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 Scottish Ministers, 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”, “game-handling establishment” and “slaughterhouse” have the meaning that they bear in regulation 5(6) of the Food Hygiene (Scotland) Regulations 2006.

(11) In this regulation, “point of entry” 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 Scottish Ministers 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 sub paragraph (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 that person's 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 Scottish Ministers 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,

the official veterinary surgeon, official fish inspector or authorised officer (as the case may be) 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 may be directed in the notice, until the official veterinary surgeon, official fish inspector or authorised officer (as the case may be) 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 be accompanied by other persons acting under the instructions of the official veterinary surgeon, official fish inspector or authorised officer, as the case may be, and, unless the official veterinary surgeon, official fish inspector or authorised officer is entering premises used only as a dwelling house, by—

- (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 the possession or under the control of that person relating to the product, and to supply such additional information in the possession or under the control of that person 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 the official veterinary surgeon, official fish inspector or authorised officer (as the case may be) 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”, 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 that person in the performance or purported performance of the regulatory functions within the scope of that person’s employment, if the person did that act in the honest and reasonable belief that that person’s duty under these Regulations required or entitled the person to do so.

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

Entry warrants

11.—(1) If a sheriff or 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 their 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 the occupier's return,

the sheriff or justice may by signed warrant, 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 that person has entered by virtue of a warrant must leave them as effectively secured against unauthorised entry as they were found.

Local authority returns

12.—(1) For each border inspection post in its area, a local authority must submit to the Scottish Ministers 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 Scottish Ministers 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 Scottish Ministers are 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)(**15**).

(2) For the purposes of this regulation and any notice served under it, “approval”, 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 Scottish Ministers must suspend the border inspection post's approval either in full or in part in accordance with paragraph (4), (5) or (6).

(4) The Scottish Ministers may suspend the border inspection post's approval in full by service—

- (a) on the operator of the border inspection post; or

(15) O.J. No. L 306, 23.11.2001, p.28.

(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 Scottish Ministers are 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](#)), they may suspend 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 Scottish Ministers are 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, they 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 shall 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 shall 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 shall 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” 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” shall be construed as a reference to an official fish inspector.

PART 3

Provisions Applicable to Products in General

Prohibition of non-conforming products

15. No person may bring a non-conforming product into Scotland from a third country, or a non-conforming product originating in a third country into Scotland from elsewhere in the relevant territories unless—

- (a) it is a transit product;
- (b) its destination establishment is a warehouse in a free zone, a free warehouse or a customs warehouse approved under Article 12(4)(b) of Directive [97/78/EC](#), or a ships' store complying with Article 13 of Directive [97/78/EC](#), located (in each case) outside the United Kingdom; or
- (c) its destination establishment is a cross-border means of sea transport and it is intended to be delivered directly on board that means of sea transport for the purposes of consumption there by staff and passengers.

Prohibition of introduction of products except at border inspection posts

16.—(1) No product may be brought into Scotland from a third country except at a border inspection post designated and approved for veterinary checks on that product.

(2) No Article 9 product, the border inspection post of introduction of which is outside the United Kingdom, and the border inspection post of destination of which is in Scotland, may be brought into Scotland except at a border inspection post designated and approved for veterinary checks on that product.

(3) For the purposes of the application of the Customs and Excise Management Act 1979(**16**) to products introduced in contravention of this regulation, the time of their introduction is the time of importation in accordance with section 5 of that Act.

Advance notice of introduction or presentation

17.—(1) No person may—

- (a) bring a product or consignment into Scotland from a third country; or
- (b) bring into Scotland an Article 9 product or consignment of Article 9 products whose border inspection post of destination is in Scotland,

unless notice of its introduction has been given to the official veterinary surgeon at a border inspection post designated and approved for veterinary checks on that product or consignment and a copy of it has been sent to the office of the Commissioners responsible for the area in which that border inspection post is situated.

(2) Where the border inspection post of introduction and the border inspection post of destination of an Article 9 product or consignment of Article 9 products are both in Scotland, no person may present the product or consignment to a border inspection post unless notice of its presentation has been given to the official veterinary surgeon at a border inspection post of destination designated and approved for veterinary checks on that product or consignment and a copy of it has been sent to the office of the Commissioners responsible for the area in which that border inspection post is situated.

(3) The notice referred to in paragraphs (1) and (2)—

- (a) must be in the form set out as Part 1 of the common veterinary entry document;

(16) [1979 c. 2](#), as amended by S.I.[1992/3095](#).

- (b) may be supplied in electronic form;
- (c) must be in English and also in an official language of the country of destination in the relevant territories referred to in the notice, if other than the United Kingdom;
- (d) must arrive at the border inspection post before the product or consignment is unloaded from the means of transport that brought it to Scotland; and
- (e) in the case of a notice given to a border inspection post of destination, must specify what checks have been carried out at the border inspection post of introduction.

Presentation of products at border inspection posts

18.—(1) Any person responsible for a product which is brought into Scotland from a third country, or for an Article 9 product whose border inspection post of destination is in Scotland which is brought into Scotland, must present the product and the required documents, or ensure that the same are presented, without delay to the official veterinary surgeon at the inspection facility of the border inspection post to which notice of the product's introduction or presentation was given under regulation 17.

(2) Where the border inspection post of introduction of an Article 9 product is in the United Kingdom and its border inspection post of destination is in Scotland, any person responsible for the product after its removal from the border inspection post of introduction must present the product and the required documents, or ensure that the same are presented, without delay to the official veterinary surgeon at the inspection facility of the border inspection post of destination to which notice of the product's presentation was given under regulation 17.

(3) A person who presents a product, other than a transit product or a product to which Part 8 applies, under paragraph (1) or (2) must present the required documents relating to that product drawn up in English.

(4) A person who, under paragraph (1) or (2), presents a transit product or a product to which Part 8 applies accompanied by a required document in a language other than English, must present at the same time a translation of the required document into English, authenticated as accurate by an appropriately qualified expert.

Veterinary checks and official controls

19.—(1) Subject, in the case of transhipped products, to regulation 38, any person required by virtue of regulation 18 to present a product and its required documents, or to ensure that the same are presented, to an official veterinary surgeon must permit the official veterinary surgeon, or an assistant appointed under regulation 6(1)(b) or 6(2)(c), to carry out on the product or the required documents, as the case may be—

- (a) a documentary check;
- (b) an identity check;
- (c) subject to regulations 41, 46 and 52, a physical check, and
- (d) the official controls referred to in Article 14(1) of 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⁽¹⁷⁾,

and must render the official veterinary surgeon or assistant such assistance as the official veterinary surgeon or assistant may reasonably request to enable them to carry out any of the said checks and controls.

(17) O.J. No. L 165, 30.4.2004, p.1.

(2) Where a product is presented to an official veterinary surgeon under regulation 18, no person may remove it or cause it to be removed from the border inspection post at which it was presented until the official veterinary surgeon has authorised its removal by issuing Part 2 of the common veterinary entry document for the product or for the consignment or part consignment which includes the product.

(3) Where a sample of a product is taken in the course of a physical check, pending removal of the product under paragraph (2) the person responsible for the consignment which includes the product must store it under the supervision of the official veterinary surgeon at such a place and under such conditions as the official veterinary surgeon may direct and must pay the costs of such storage.

(4) Where a product has been placed under official detention under Article 18 or 19 of Regulation (EC) No. 882/2004, no person may remove it from its place of detention.

(5) Where a product has been placed under official detention under Article 19 of Regulation (EC) No. 882/2004 and the official veterinary surgeon—

- (a) has served a notice on the person responsible for the product under Article 19(1) of that Regulation; or
- (b) considers that product to be injurious to human or animal health under Article 19(2) of that Regulation,

the person responsible for the product must comply with the notice if sub-paragraph (a) applies, or cooperate with the official veterinary surgeon in the destruction or redispach of the product if sub-paragraph (b) applies.

(6) Any person who is aggrieved by a decision on a consignment made under Article 19 of Regulation (EC) No. 882/2004 may, within 28 days of the date when that person is notified of the decision, appeal to the sheriff by way of summary application.

(7) Pending the determination of an appeal under paragraph (6), the person responsible for the product concerned must ensure that it is stored under the supervision of the official veterinary surgeon at such a place and under such conditions as the official veterinary surgeon may direct by notice.

Common veterinary entry document to accompany consignment

20.—(1) The person responsible for a consignment or part consignment in respect of which Part 2 of the common veterinary entry document has been issued, and any carrier who has charge of it for the time being, must ensure that the common veterinary entry document accompanies the consignment or part consignment—

- (a) in the case of a consignment or part consignment intended for import, and subject to regulation 37(3), until the consignment or part consignment first reaches, after import, premises where products are stored, processed, handled, bought or sold; and
- (b) in all other cases until the consignment or part consignment is no longer subject to supervision by the customs authorities, within the meaning of Article 4(13) of the Customs Code.

(2) The person who occupies for the purposes of that person's business the premises referred to in paragraph (1)(a) must take possession of the common veterinary entry document referred to in paragraph (1) and retain the same at the premises for a period of one year commencing with the day following its arrival there.

Products which fail veterinary checks

21.—(1) This regulation is subject to regulation 22.

(2) Where, following a veterinary check at a border inspection post, the official veterinary surgeon there decides that—

- (a) a product, other than an excepted product, is a non-conforming product; or
- (b) there is some other irregularity in relation to a product,

the official veterinary surgeon must comply with paragraph (3).

(3) The official veterinary surgeon must serve a notice in writing on the person responsible for the product requiring that person either—

- (a) to redispach the product by the mode of transport by which it was brought into Scotland from the border inspection post to a destination, agreed with the official veterinary surgeon, located in a third country within a period of sixty days commencing with the day following the service of the notice; or
- (b) to dispose of the product in accordance with Regulation (EC) No. 1774/2002 in the facilities provided for that purpose nearest to the border inspection post.

(4) Subject to paragraph (6), where, following a veterinary check on a product, other than an excepted product, located away from a border inspection post, an authorised officer decides that the product is a non-conforming product, the authorised officer must comply with paragraph (5).

(5) The authorised officer must serve a notice in writing on the person appearing to have charge of the product, requiring that person either—

- (a) to redispach the product by the mode of transport by which it was introduced into Scotland from the border inspection post referred to in the notice to a destination, agreed with the authorised officer, located in a third country within a period of sixty days commencing with the day following the service of the notice; or
- (b) to dispose of the product in accordance with Regulation (EC) No. 1774/2002 in the facilities provided for that purpose nearest to the location of the product.

(6) The product must be disposed of in accordance with paragraph (3)(b) or (5)(b) where—

- (a) its redispach is precluded on animal or public health grounds by—
 - (i) the results of a veterinary check, or
 - (ii) any animal or public health requirement laid down in a Community instrument in force on the date on which these Regulations are made,or is otherwise impossible;
- (b) the sixty-day period referred to in paragraph (3)(a) or (5)(a) has elapsed; or
- (c) the person responsible for the product or, if paragraph (4) applies, the owner of the product, agrees immediately to its disposal.

(7) The person responsible for, or, if paragraph (4) applies, the owner of, a product in respect of which a notice has been served under paragraph (3) or (5) must ensure that the product is stored until redispach or disposal under the supervision of the official veterinary surgeon or the authorised officer at such a place and under such conditions as may be directed in the notice.

(8) Any person who is aggrieved by a decision referred to in paragraph (2) or (4) may, within 28 days of the date when that person is notified of the decision, appeal to the sheriff by way of summary application.

(9) Pending the determination of an appeal under paragraph (8), paragraph (7) applies to the storage of the product concerned.

(10) In this regulation—

- (a) “excepted product” means a transit product which fulfils the requirements of Part 7 or a product whose destination establishment is referred to in regulation 15(b) or 15(c);

- (b) “other irregularity”, in relation to a product, means—
- (i) its introduction into Scotland from a third country, or its presentation to a border inspection post of destination in Scotland, without notice given under regulation 17;
 - (ii) any false or misleading information contained in a notice given under regulation 17;
 - (iii) any false or misleading information given under regulation 45 or 51;
 - (iv) any error, omission or false or misleading information in a required document, and any discrepancy between a required document and—
 - (aa) the notice of the product’s introduction or presentation given under regulation 17;
 - (bb) the product itself; or
 - (cc) the seals, stamps, marks or labels on the product, on the consignment which includes the product or on the container holding the product or the consignment;
 - (v) any defect in the product rendering it unfit for the purpose for which, according to the required documents, it is intended;
 - (vi) any defect in the seals, stamps, marks or labels referred to in paragraph (10)(b)(iv) (cc), including, in the case of a packaged product, any contravention of the labelling requirements laid down for that product in any Directive, Decision or Regulation listed in Schedule 1;
 - (vii) in the case of a product intended for import, any indication in the required documents that the product does not comply with the import conditions; and
 - (viii) in the case of a non-conforming product which is a transit product, or a product whose destination establishment is referred to in regulation 15(b) or 15(c), any contravention of the requirements laid down for that non-conforming product in any Directive, Decision or Regulation listed in Schedule 1.

Treatment as animal by-products

22.—(1) If the official veterinary surgeon or authorised officer is of the opinion that a product to which regulation 21 applies presents no risk to animal or public health, the official veterinary surgeon or authorised officer may authorise that the product be used in accordance with regulation 26 of the Animal By-Products (Scotland) Regulations 2003⁽¹⁸⁾ notwithstanding paragraphs (2), (3) and (4) of regulation 21.

(2) The authorisation must be in writing, may be made subject to conditions, and may be amended, suspended or revoked by notice in writing at any time.

(3) The authorisation may specify which of the uses in regulation 26 of the Animal By-Products (Scotland) Regulations 2003 is permitted.

Products containing unauthorised substances and excess residues

23.—(1) In this regulation—

- (a) “maximum residue limit” means a maximum residue limit listed in Annex I or Annex III to Council Regulation (EEC) No. 2377/90 (laying down a Community procedure for the establishment of maximum residue limits of veterinary medicinal products in foodstuffs of animal origin)⁽¹⁹⁾;

⁽¹⁸⁾ S.S.I. 2003/411.

⁽¹⁹⁾ O.J. No. L 224, 18.8.90, p.1.

- (b) “unauthorised substance” has the same meaning as “unauthorised substance or product” in 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)(20); and
- (c) “establishment of origin in a third country”, means the establishment of origin in the third country of origin of the consignment, as set out in box 10 of the common veterinary entry document.

(2) This regulation applies where a veterinary check on a consignment from a particular establishment of origin in a third country reveals the presence of an unauthorised substance, or reveals that a maximum residue limit has been exceeded, but no Community measures have yet been adopted in response to this.

(3) In the circumstances described in paragraph (2), paragraphs (4), (5), (6) and (7) apply to those of the next ten consignments brought into the United Kingdom from that establishment which are brought into Scotland.

(4) The official veterinary surgeon at the border inspection post at which any such consignment is brought in must, by notice in writing served on the person responsible for the consignment, take charge of it and check for unauthorised substances or their residues in the consignment by taking and analysing a representative sample of the products comprised in it.

(5) Upon service of a notice under paragraph (4), the person responsible for the consignment must lodge with the official veterinary surgeon a deposit or guarantee sufficient to assure payment of all charges payable in accordance with Part 9 for veterinary checks carried out on the consignment, including the taking of samples, and any laboratory test or analysis carried out on any sample taken.

(6) If any veterinary check carried out on the consignment reveals the presence of unauthorised substances or their residues or reveals that a maximum residue limit has been exceeded, the official veterinary surgeon must—

- (a) redispach the consignment, or such part of it as the official veterinary surgeon considers affected by the presence of unauthorised substances or their residues or by excess residues, accompanied by the required documents, to its third country of origin; and
- (b) endorse on the required documents relating to the consignment a clear indication of the reasons for redispaching it.

(7) The cost of redispaching and transporting the consignment or part consignment to its third country of origin must be paid by the consignor whose name appears on the notice of the consignment’s introduction given under regulation 17.

Consignments and products illegally brought in

24.—(1) This regulation applies—

- (a) where a consignment or product is brought into Scotland from a third country but is not presented at a border inspection post in accordance with regulation 18;
- (b) where a consignment or product originating in a third country has been brought into Scotland from elsewhere in the relevant territories, but has not been presented at a border inspection post there;
- (c) where the border inspection post of destination of a consignment of Article 9 products is in Scotland but the consignment is not presented there in accordance with regulation 18(1); or
- (d) where a consignment introduced into Scotland is presented to the official veterinary surgeon at a border inspection post not designated and approved for veterinary checks on the products comprised within that consignment.

(2) In the circumstances described in paragraphs (1)(a), (b) and (c), an authorised officer must, by notice in writing served on the person appearing to have charge of the consignment or product, take charge of that consignment or product and either redispach it in accordance with paragraph (4) or dispose of it in accordance with paragraph (4).

(3) In the circumstances described in paragraph (1)(d), the official veterinary surgeon must, by notice in writing served on the person responsible for the consignment, take charge of that consignment and either redispach it in accordance with paragraph (5) or dispose of it in accordance with paragraph (4).

(4) Where the authorised officer or the official veterinary surgeon decides to dispose of the product or consignment, the authorised officer or the official veterinary surgeon (as the case may be) must 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 or official veterinary surgeon takes charge of it.

(5) Where the authorised officer or the official veterinary surgeon decides to redispach the product or consignment, the authorised officer or the official veterinary surgeon (as the case may be) must do so—

- (a) within a period of sixty days commencing with the day following the service of the notice;
- (b) to a third country destination agreed with—
 - (i) the owner of the product or consignment, in the circumstances described in paragraphs (1)(a), (b) or (c); or
 - (ii) the person responsible for the consignment, in the circumstances described in paragraph (1)(d); and
- (c) by the mode of transport by which the product or consignment was first brought into the relevant territories.

Products dangerous to animal or public health

25. If an official veterinary surgeon or an authorised officer considers that a consignment or product from a third country presents a risk to animal or public health the official veterinary surgeon or an authorised officer must, by notice in writing served on the person appearing to have charge of it, take charge of it and dispose of it in accordance with regulation 24(4).

Serious or repeated infringements

26.—(1) Where the Scottish Ministers or the Agency reasonably conclude, on the basis of the results of veterinary checks, that products from a particular third country, part of a third country or establishment in a third country are implicated in serious or repeated infringements of any requirement laid down in a Community instrument relating to animal or public health, this regulation applies to those of the next ten consignments brought into the United Kingdom from that third country, part of a third country or establishment, as the case may be, that are brought into Scotland.

(2) The official veterinary surgeon at the border inspection post at which any such consignment is brought in must, by written notice served on the person responsible for the consignment, take charge of it and carry out a physical check upon it, including the taking of samples and laboratory tests and analyses.

(3) Upon service of a notice under paragraph (2) the person responsible for the consignment must lodge with the official veterinary surgeon a deposit or guarantee sufficient to assure payment of all charges payable in accordance with Part 9 for veterinary checks carried out on the consignment, including the taking of samples, and any laboratory test or analysis carried out on any sample taken.

(4) If any veterinary check carried out on the consignment reveals an infringement of any requirement laid down in a Community instrument relating to animal or public health, the official veterinary surgeon must either redispach or dispose of the consignment in accordance with regulation 21(3).

Invalidation of veterinary documents

27. Where an official veterinary surgeon or an authorised officer serves a notice requiring redispach of a product under regulation 21(3)(a), or takes charge of a consignment under regulation 24(2), any person who has possession or control of the required documents relating to that product or consignment must immediately submit them to the official veterinary surgeon or authorised officer, as the case may be, for invalidation.

Costs in respect of products redispached or disposed of

28.—(1) The persons specified in paragraph (2) must pay on demand the costs of storing, transporting, redispaching and disposing of any product, consignment or part consignment redispached or disposed of—

- (a) under regulation 21, 24, 25 or 26; or
- (b) under the Customs and Excise Management Act 1979(21) in the enforcement of regulation 16.

(2) The persons referred to in paragraph (1) are—

- (a) the person responsible for the product, consignment or part consignment in question;
- (b) where a notice has been served on the person appearing to have charge of the product, consignment or part consignment, the owner of the product, consignment or part consignment; or
- (c) the person on whom a notification of seizure has been served under the Customs and Excise Management Act 1979.

(3) Any cost referred to in paragraph (1) which is paid by an official veterinary surgeon, an authorised officer, the Scottish Ministers, a local authority, the Agency or the Commissioners must be reimbursed on demand by, as the case may be, the person responsible for, or the owner of, the product, consignment or part consignment.

PART 4

The Disposal and Burial of Unused On-Board Catering Supplies and Other Material

Disposal of unused catering supplies

29.—(1) Part 3 does not apply in relation to products that are brought into Scotland from means of transport operating internationally and that had been intended for consumption by the crew or passengers on that means of transport.

(2) Any person who has in their possession or under their control a product referred to in paragraph (1) must comply with Article 4(2) and (3) of Regulation (EC) No. 1774/2002.

(3) Where items such as packaging materials, or disposable cutlery or plates—

- (a) have been in contact with a product referred to in paragraph (1); and
- (b) are unloaded from the means of transport for disposal,

(21) 1979 c. 2, as amended by S.I. 1992/3095.

the person referred to in paragraph (2) must ensure that those items are dealt with in the same way as the products themselves.

Approval of landfills

30.—(1) Any person disposing of material in accordance with regulation 29 by burial in a landfill may only do so in a landfill approved under this regulation.

(2) The Scottish Ministers may only approve a landfill for the purposes of disposal of material under regulation 29 if they are satisfied that—

- (a) the material will be buried without undue delay so as to prevent access to it by wild birds;
- (b) the operator has taken adequate steps to prevent access to the unrestored and current working area of the landfill by ungulates; and
- (c) the operator will comply with any conditions of the approval.

(3) The approval must be in writing, may be made subject to conditions, and may be amended or suspended by notice in writing in accordance with regulation 32.

(4) If the Scottish Ministers refuse to grant an approval, or grant an approval subject to a condition, they must by notice in writing served on the applicant—

- (a) give the reasons; and
- (b) explain the right of the applicant to make written representations to the Scottish Ministers and to appear before and be heard by an independent person appointed by the Scottish Ministers in accordance with regulation 33.

Operators of landfills

31.—(1) The operator of a landfill approved in accordance with regulation 30 must—

- (a) maintain and operate the premises in accordance with the requirements in regulation 30(2)(a) and (b) and any conditions of the approval;
- (b) ensure that any person employed by the operator, and any person permitted to enter the premises complies with those requirements and conditions;
- (c) comply with the record-keeping requirements contained in Article 9 of Regulation (EC) No. 1774/2002; and
- (d) keep equivalent records for material referred to in regulation 29(3).

(2) The records required to be kept under this regulation may be in written or electronic form and must be kept for at least two years.

Amendment, suspension and revocation of approvals

32.—(1) Where the Scottish Ministers are satisfied that any condition of the approval is no longer fulfilled, or that the requirements in regulation 30(2)(a) and (b) are not being complied with, or that it is necessary to do so for public or animal health reasons, they may, by notice in writing served on the operator, suspend the approval.

(2) Where the Scottish Ministers are satisfied that any condition of the approval should be amended for public or animal health reasons, they may, by notice in writing served on the operator, amend the approval.

(3) A suspension under paragraph (1) or an amendment under paragraph (2)—

- (a) has immediate effect if the Scottish Ministers are satisfied that it is necessary for it to do so for the protection of public or animal health; and
- (b) otherwise does not have effect for at least twenty-one days following service of the notice.

- (4) The notice in paragraph (1) or (2) must—
 - (a) give the reasons for the suspension or amendment; and
 - (b) explain the right of the operator of the premises to make written representations to the Scottish Ministers and to be heard by an independent person appointed by the Scottish Ministers in accordance with regulation 33.

(5) Where there is an appeal under regulation 33, an amendment or suspension does not have effect until the final determination by the Scottish Ministers in accordance with that regulation unless the Scottish Ministers consider it necessary for the protection of public or animal health for the amendment or suspension to take effect sooner.

- (6) Where the Scottish Ministers have suspended an approval, and—
 - (a) no appeal is brought in accordance with regulation 33; or
 - (b) the Scottish Ministers uphold the suspension following such an appeal,

the Scottish Ministers may by notice in writing revoke the approval provided that they are satisfied, taking into account all the circumstances of the case, that the premises will not be operated in accordance with the requirements of regulation 30(2)(a) or (b) or the conditions, if any, of the approval.

Appeals

33.—(1) A person on whom a notice is served under paragraph (4) of regulation 30 or paragraph (1) or (2) of regulation 32 may within twenty-one days beginning with the day on which the notice is served—

- (a) provide written representations to the Scottish Ministers; and
- (b) give notice in writing of the person's wish to appear before and be heard by an independent person appointed by the Scottish Ministers.

(2) Where an appellant gives notice of the appellant's wish to appear before and be heard by an independent person appointed for the purpose—

- (a) the Scottish Ministers must appoint an independent person to hear representations and specify a time limit within which representations to that independent person must be made;
- (b) the person so appointed must not, except with the consent of the appellant, be an officer or servant of the Scottish Ministers;
- (c) if the appellant so requests, the hearing must be in public;
- (d) the independent person must report to the Scottish Ministers; and
- (e) if the appellant so requests, the Scottish Ministers must provide the appellant with a copy of the independent person's report.

(3) The Scottish Ministers must give to the appellant written notification of their final determination and the reasons for it.

PART 5

Products Intended for Import

Retention of documents at border inspection posts

34. Where a documentary check has been carried out at a border inspection post on a product intended (whether directly or ultimately) for import, the person who presented the required

documents relating to that product under regulation 18(1) must surrender the same to the official veterinary surgeon at that border inspection post.

Evidence of certification of, and payment for, veterinary checks

35. Where Part 2 of the common veterinary entry document has been issued certifying that a consignment is fit for import, the person responsible for the consignment must ensure that the Commissioners have been supplied with evidence satisfactory to them that—

- (a) Part 2 of that document has been issued; and
- (b) payment of all charges payable in accordance with Part 9 of these Regulations for veterinary checks carried out on the consignment, including sampling, and for any test or analysis carried out on any samples taken—
 - (i) has been made; or
 - (ii) has been assured by a deposit or guarantee satisfactory to the person to whom, under regulation 54(2), the charges are payable.

Products not intended for the United Kingdom

36.—(1) Where—

- (a) notice of bringing in a product has been given under regulation 17; and
- (b) that notice specifies a member State other than the United Kingdom as the country of destination; and
- (c) the circumstances mentioned in paragraph (2) apply,

no person may, without reasonable excuse, prevent or delay the transport of that product to that Member State.

(2) The circumstances referred to in paragraph (1)(c) are that Part 2 of the common veterinary entry document has been issued in respect of that product, authorising its import—

- (a) into that member State or a particular area of it in accordance with specific requirements; or
- (b) for specific purposes in accordance with conditions,

and those requirements or conditions are laid down for products imported into that member State or particular area, or for products imported for those specific purposes, in any Directive, Decision or Regulation listed in Schedule 1.

Products transported under supervision

37.—(1) This regulation applies to products intended for import which are required by any Directive, Decision or Regulation listed in Schedule 1 to be transported under veterinary supervision from the border inspection post at which they are first brought into the relevant territories to their destination establishment.

(2) No person may remove a product to which this regulation applies from a border inspection post unless it is contained in a leak-proof container or a means of transport which has been sealed by an officer of Revenue and Customs or by the official veterinary surgeon at that border inspection post.

(3) The person responsible for a product to which this regulation applies and any carrier who has charge of it for the time being must ensure that the product is transported without delay to its destination establishment, and that the common veterinary entry document accompanies it until it reaches its destination establishment.

(4) Where Part 2 of the common veterinary entry document has authorised the import of a product to which this regulation applies for specific purposes as described in regulation 36(2)(b), the person

responsible for the product and any carrier who has charge of it for the time being must ensure that it remains under the supervision of the Commissioners in accordance with the T5 procedure provided for in Articles 471 to 495 of Commission Regulation (EEC) No. 2454/93 (laying down provisions for the implementation of Council Regulation (EEC) No. 2913/92 establishing the Community Customs Code)(22) until it reaches its destination establishment.

(5) The operator of a destination establishment must give immediate written notification to the veterinary officer who is responsible on behalf of the Scottish Ministers or the Agency for the destination establishment of the arrival there of any product to which this regulation applies.

(6) The operator of a destination establishment must ensure that a product to which this regulation applies undergoes at the destination establishment the treatment prescribed for it by the relevant Directive, Decision or Regulation listed in Schedule 1.

Transshipment of products intended for import

38.—(1) This regulation applies to transhipped products where the border inspection post of introduction is in Scotland.

(2) As soon as a product to which this regulation applies arrives at the border inspection post of introduction, the person responsible for the product must notify the official veterinary surgeon there in writing, or in computerised or other electronic form, of the exact location of the product, of the estimated time of its transshipment or unloading, and of its border inspection post of destination.

(3) Where, according to the notification given under paragraph (2), a product to which this regulation applies is to be transhipped—

- (a) from one aircraft to another, either directly or after being unloaded in a customs controlled area at the border inspection post of introduction for less than twelve hours; or
- (b) from one sea-going vessel to another, either directly or after being unloaded in a customs controlled area at the border inspection post of introduction for less than seven days,

the conditions set out in paragraph (4) apply.

(4) The conditions referred to in paragraph (3) are that—

- (a) where a person is required by regulation 18 to present the product and its required documents, to the official veterinary surgeon at the border inspection post of introduction, or to ensure that they are so presented; and
- (b) the official veterinary surgeon considers that the product presents a risk to animal or public health,

the person mentioned in sub-paragraph (a) must permit the official veterinary surgeon, or an assistant appointed under regulation 6(1)(b) or 6(2)(c), to carry out a documentary check on the required documents.

(5) Paragraph (6) applies where it is proposed—

- (a) to unload a product to which this regulation applies from an aircraft; and
- (b) to reload that product onto an aircraft within a period of not less than twelve hours and no greater than 48 hours from the time it was unloaded.

(6) The person responsible for the product must ensure that—

- (a) it is stored under the supervision of the official veterinary surgeon at the border inspection post of introduction in a customs controlled area there; and
- (b) it is then reloaded onto an aircraft for onward transport to its border inspection post of destination.

(22) O.J. No. L 253, 11.10.93, p.1.

- (7) Paragraph (8) applies where it is proposed—
- (a) to unload a product to which this regulation applies from a sea-going vessel; and
 - (b) to reload that product onto a sea-going vessel within a period of not less than seven days and no greater than twenty days from the time it was unloaded.
- (8) The person responsible for the product must ensure that—
- (a) it is stored under the supervision of the official veterinary surgeon at the border inspection post of introduction in a customs controlled area there; and
 - (b) it is then reloaded onto a sea-going vessel for onward transport to its border inspection post of destination.
- (9) Any person required by regulation 18 to present a product to which paragraphs (5) and (6) or paragraphs (7) and (8) apply and its required documents to the official veterinary surgeon at a border inspection post of introduction must permit the official veterinary surgeon there, or an assistant appointed under regulation 6(1)(b) or 6(2)(c), to carry out a documentary check on the required documents and, if the official veterinary surgeon considers that the product presents a risk to animal health or public health, an identity check of the product against the required documents and a physical check of the product.
- (10) Where it is proposed—
- (a) to unload a product to which this regulation applies from an aircraft and to store that product for more than 48 hours after unloading; or
 - (b) to unload a product to which this regulation applies from a sea-going vessel and to store that product for more than twenty days after unloading,

any person required by regulation 18 to present the product and its required documents to the official veterinary surgeon at the border inspection post of introduction, must permit the official veterinary surgeon there, or an assistant appointed under regulation 6(1)(b) or 6(2)(c), to carry out in all cases, an identity check of the product against the required documents and a physical check of the product.

PART 6

Transit Products

Border inspection posts of entry and exit

39. In this Part—

“border inspection post of entry” means the border inspection post at which a transit product enters the customs territory of the Community; and

“border inspection post of exit” means the border inspection post through which it is intended a transit product will leave the customs territory of the Community, as specified in the common veterinary entry document relating to that product.

Prior authorisation of transit

40. No person may bring a transit product into Scotland from a third country unless the official veterinary surgeon at the border inspection post of entry has previously authorised the transit of that product in writing.

Physical check of transit products

41. Any person required by regulation 18 to present a transit product, or ensure that it is presented, to the official veterinary surgeon at the border inspection post of entry need only permit the official veterinary surgeon, or an assistant appointed under regulation 6(1)(b) or 6(2)(c), to carry out a physical check on the transit product if the official veterinary surgeon considers that it may present a risk to animal or public health or reasonably suspects some other irregularity, as defined in regulation 21(10), in relation to the transit product.

Movement of transit products

42.—(1) No person may remove, or cause to be removed, a transit product from the border inspection post of entry unless the person responsible for the product has given a written undertaking to the official veterinary surgeon there to observe and perform the requirements of regulation 43.

(2) Where, at any time after removal from a border inspection post of entry, a transit product is transported through Scotland by road, rail, waterway or air—

- (a) the person responsible for the transit product and any carrier who has charge of it for the time being must ensure that it is conveyed in a vehicle or container sealed by the Commissioners or by the veterinary authorities responsible for the border inspection post of entry, accompanied by its required documents, any translations required under regulation 18(4) and its common veterinary entry document, to the border inspection post of exit under the supervision of the Commissioners in accordance with the external transit procedure referred to in Articles 91 to 97 of the Customs Code;
- (b) no person may—
 - (i) break the seals on the vehicle or container in which the transit product is conveyed;
 - (ii) unload the transit product;
 - (iii) split the consignment or part consignment which includes the transit product; or
 - (iv) subject the transit product to any form of handling; and
- (c) the person responsible for the transit product and any carrier who has charge of it for the time being must ensure that it leaves the customs territory of the Community at the border inspection post of exit not more than 30 days after removal from the border inspection post of entry (excluding the day of removal).

(3) No person may bring a transit product into a free zone, a free warehouse or a customs warehouse in Scotland.

Disposal of returned transit products

43.—(1) If a transit product is returned to Scotland after leaving the customs territory of the Community, the person responsible for the transit product must either—

- (a) redispach the transit product from the border inspection post to which it is returned to a third country by the mode of transport by which it was returned within sixty days of its return (excluding the day of return); or
 - (b) if the circumstances described in paragraph (2) apply, dispose of the product as if it were Category 1 material under Regulation (EC) No. 1774/2002 in the facilities provided for that purpose nearest to the border inspection post to which the product is returned.
- (2) The transit product must be disposed of in accordance with paragraph (1)(b) where—
- (a) redispach of the product is precluded on animal or public health grounds by the results of a physical check, or by any animal or public health requirement laid down in a Community

instrument in force on the date on which these Regulations are made, or is otherwise impossible;

- (b) the sixty day period referred to in paragraph (1)(a) has expired; or
- (c) the person responsible for the transit product agrees immediately to its disposal.

(3) Any person who has possession or control of the required documents or the common veterinary entry document relating to a transit product to which paragraph (1) applies must submit them for invalidation to the official veterinary surgeon at the border inspection post to which the product is returned.

(4) The person responsible for a transit product to which paragraph (1) applies must store it until redispach or destruction under the supervision of the official veterinary surgeon at the border inspection post to which the product is returned at such place and in such conditions as the official veterinary surgeon may direct.

(5) The person responsible for a transit product to which paragraph (1) applies must pay the costs of storing, transporting, redispaching and disposing of it.

PART 7

Products Intended for Warehouses, Ships' Stores or Cross-Border Means of Sea Transport

Application of Part 7

- 44.** This Part applies to products whose destination establishment is—
- (a) a warehouse in a free zone, a free warehouse or a customs warehouse, located in the customs territory of the Community;
 - (b) a ships' store complying with Article 13 of Directive [97/78/EC](#) located outside the United Kingdom; or
 - (c) a cross-border means of sea transport.

Additional information to be given in advance

45.—(1) No person may bring a product to which this Part applies into Scotland, or present such a product to a border inspection post of destination in Scotland, unless the official veterinary surgeon to whom notice of the product's introduction or presentation is given under regulation 17 has been informed—

- (a) whether the product is intended ultimately for import;
- (b) if not, whether it is a transit product, or a product whose destination establishment is a cross-border means of sea transport; and
- (c) in any event whether the product complies with the import conditions.

(2) The information in paragraph (1) must be given in writing and may be included in the notice of the product's introduction or presentation given under regulation 17.

Physical check of non-conforming products

46. Where the required documents indicate that a product to which this Part applies is a non conforming product, any person required by regulation 18 to present it, or ensure that it is presented, to the official veterinary surgeon at a border inspection post need only permit the official veterinary surgeon, or an assistant appointed under regulation 6(1)(b) or 6(2)(c), to carry out a physical check

on the product if the official veterinary surgeon considers that it may present a risk to animal health or public health.

Exclusion of non-conforming products from warehouses

47. No person may bring a non-conforming product into a warehouse in a free zone, a free warehouse or a customs warehouse in Scotland.

Direct movement to cross border means of sea transport

48. No person may move a product whose destination establishment is a cross-border means of sea transport from the border inspection post at which it was brought in other than directly and without delay to that cross-border means of sea transport.

Additional certificate to accompany products on board means of sea transport

49.—(1) The person responsible for a product or a consignment of products whose destination establishment is a cross-border means of sea transport, and any carrier who has charge of such a product or consignment for the time being, must ensure that the certificate referred to in Article 13(2) (a) of Directive [97/78/EC](#), which must be based on the model in the Annex to Commission Decision [2000/571/EC](#) (23), accompanies the product or consignment from the border inspection post from which it is dispatched until it is delivered on board the means of sea transport.

(2) On delivery of the product or consignment on board the means of sea transport, the master of that means of sea transport, or an official representative of the master, must confirm delivery of the product or consignment by countersigning the certificate referred to in paragraph (1) and returning it as soon as reasonably practicable to the official veterinary surgeon at the border inspection post from which the product or consignment was dispatched (as indicated in the certificate).

(3) The requirements of this regulation apply in addition to the requirements of regulation 20(1) (relating to the common veterinary entry document).

PART 8

Products Returned from Third Countries

Meaning of “export certificate”

50. In this Part, “export certificate”, in relation to a returned product, means a certificate—
- (a) issued by the authorities in the original country of export; and
 - (b) declaring that the returned product complies with the relevant animal or public health standards of the country of receipt to which the product was originally exported.

Additional documentation for returned products

51. Any person who presents under regulation 18 a returned product and its required documents to an official veterinary surgeon must present with the required documents—

- (a) the export certificate relating to the returned product or a copy authenticated as true by the authority which issued it;
- (b) a statement of the reasons why the returned product was refused by the third country;

- (c) a declaration by the person responsible for the returned product that, since the returned product was originally exported from the customs territory of the Community, the import conditions relating to storage and transport have been complied with in relation to the returned product; and either
- (d) in the case of a returned product not originally exported in a sealed container, a declaration by the person responsible for the returned product that it has not undergone any handling other than, in the case only of packaged products, loading and unloading of unopened packages; or
- (e) in the case of a returned product originally exported in a sealed container, a declaration by the carrier who brought it into Scotland that it has not been unloaded from the container in which it was exported, or otherwise handled.

Physical check of returned products

52. Any person required by regulation 18 to present a returned product, or ensure that it is presented, to the official veterinary surgeon at a border inspection post need only permit the official veterinary surgeon, or an assistant appointed under regulation 6(1)(b) or 6(2)(c), to carry out a physical check on the returned product if the official veterinary surgeon has reasonable grounds for believing—

- (a) that these Regulations have not been, or are not being, complied with in relation to the returned product;
- (b) that the returned product does not comply with the import conditions; or
- (c) that the identity or destination of the returned product does not correspond with the information given in any relevant document.

Movement of returned products

53.—(1) No person may remove, or cause to be removed, a returned product from a border inspection post—

- (a) without the written authorisation of the official veterinary surgeon there; and
- (b) unless it is contained in a leak-proof container or a means of transport which has been sealed by an officer of Revenue and Customs or by the official veterinary surgeon at that border inspection post.

(2) The person responsible for a returned product removed in accordance with paragraph (1), and any carrier who has charge of it for the time being, must ensure that—

- (a) it is conveyed directly to its Community establishment of origin in the sealed leak-proof container or means of transport referred to in paragraph (1)(b); and
- (b) its common veterinary entry document accompanies it until the returned product reaches its Community establishment of origin.

(3) No person may—

- (a) break the seals on the container or means of transport in which the returned product is conveyed;
- (b) unload the returned product;
- (c) split the consignment or part consignment which includes the returned product; or
- (d) subject the returned product to any form of handling,

until the product reaches its Community establishment of origin.

(4) The operator of the Community establishment of origin must give immediate written notification of the arrival there of the returned product to the veterinary officer who is responsible on behalf of the Scottish Ministers or the Agency for that establishment.

PART 9

Charges for Veterinary Checks

Payment of charges

54.—(1) A reasonable charge calculated in accordance with regulations 55 and 56 and Schedule 3 must be made for veterinary checks carried out on a consignment at a border inspection post.

(2) The charge must be made by and payable to the Scottish Ministers, a local authority or the Agency, whichever is responsible, under regulation 5, for enforcing these Regulations at the border inspection post where the veterinary checks are carried out.

Calculation of charges

55. The charge for veterinary checks must cover the costs listed in Part I of Schedule 3 and must be calculated in accordance with Part II, III, IV or V, as the case may be, of Schedule 3.

Conversion of charges to sterling

56. Charges expressed in euro in Schedule 3 must be converted to pounds sterling at the rate of conversion published in the “C” Series of the Official Journal of the European Communities in September of the calendar year preceding that in which the relevant veterinary check was carried out.

Liability for charges

57. The person responsible for a consignment must pay on demand the charge made for the veterinary checks carried out on the consignment.

Information relating to charges

58.—(1) The Scottish Ministers, a local authority or the Agency must, if so requested in writing, supply to any person who presents products under regulation 18, or to any organisation representing such persons, details of the calculations which they or it use to determine charges for veterinary checks and must take into account any representations made by such a person or organisation in determining such charges.

(2) If requested in writing so to do by the Scottish Ministers or the Agency, a local authority must provide the Scottish Ministers or the Agency, as the case may be, with such information as they or it may require relating to the calculation of charges for veterinary checks, and with copies of any written representations made by persons or organisations referred to in paragraph (1).

Appeals against charges paid to local authorities

59.—(1) Any person who has paid a charge for veterinary checks to a local authority, and any organisation representing such persons, may, within twenty-one days of the charge being made, appeal in writing on the ground that the amount of the charge is unreasonable—

- (a) to the Scottish Ministers, where the charge is for veterinary checks carried out otherwise than in relation to any function of the Agency; and

- (b) to the Agency, where the charge is for veterinary checks carried out in relation to any function of the Agency.
- (2) Where there is an appeal under paragraph (1), the Scottish Ministers or the Agency, as the case may be, must—
 - (a) consult with the local authority; and
 - (b) if satisfied that the amount of the charge is unreasonable, so inform the local authority.
- (3) When informed under paragraph (2)(b), the local authority must—
 - (a) recalculate the amount of the charge in accordance with any directions given by the Scottish Ministers or the Agency, as the case may be; and
 - (b) repay to the person who has paid the charge the difference between the original charge and the recalculated charge.

Appeals against charges paid to the Scottish Ministers or the Agency

60.—(1) Any person who has paid a charge for veterinary checks to the Scottish Ministers or the Agency, and any organisation representing such persons, may, within twenty-one days of the charge being made, give notice in writing of that person's wish to appeal to an independent person appointed by the Scottish Ministers, or, where the charge was paid to the Agency, to an independent person appointed by the Agency, on the ground that the amount of the charge is unreasonable.

(2) Where the charge was paid to the Agency, the functions of the Scottish Ministers in paragraphs (3) to (4) must be performed by the Agency.

(3) Where an appellant gives notice of that person's wish to appear before and be heard by an independent person appointed for the purpose—

- (a) the Scottish Ministers must appoint an independent person to hear representations and specify a time limit within which representations to that independent person must be made;
- (b) the person so appointed must not, except with the consent of the appellant, be an officer or servant of the Scottish Ministers;
- (c) if the appellant so requests, the hearing must be in public;
- (d) the independent person must report to the Scottish Ministers; and
- (e) if the appellant so requests, the Scottish Ministers must provide the appellant with a copy of the independent person's report.

(4) If the independent person is satisfied that the amount of the charge is unreasonable, the Scottish Ministers must recalculate the charge in accordance with any directions given by the independent person and repay to the person who has paid the charge the difference between the original charge and the recalculated charge.

PART 10

Emergency Declarations

Disease outbreaks in third countries

61.—(1) Where the Scottish Ministers or the Agency learn of, or have reasonable grounds to suspect, the presence in any third country of—

- (a) a disease referred to in Council Directive 82/894/EEC (on the notification of animal diseases within the Community)(24); or
- (b) a zoonosis or other disease, phenomenon or circumstance liable to present a serious threat to animal or public health,

or if any other serious animal health or public health reason so warrants, they or it may by declaration suspend, or impose conditions on, the bringing into Scotland of any product from the whole or any part of that third country.

(2) Such a declaration must—

- (a) be in writing;
- (b) be published in such a manner as the Scottish Ministers or the Agency, as the case may be, think fit; and
- (c) must specify the products and the third country or part of the third country concerned.

(3) A declaration which imposes conditions on bringing any product from a third country or part of a third country into Scotland must specify those conditions.

(4) Where a declaration is in force suspending the introduction of any product, no person may bring that product into Scotland if it originates in the third country or part of the third country specified in the declaration.

(5) Where a declaration is in force imposing conditions on the introduction of any product, no person may bring that product into Scotland if it originates in the third country or part of the third country specified in the declaration unless the product complies with the conditions specified in the declaration.

(6) A declaration may be modified, suspended or revoked by a further written declaration published, so far as is practicable, in the same manner and to the same extent as the original declaration.

PART 11

Offences and Penalties

Obstruction

62. No person may—

- (a) intentionally obstruct any person in the exercise of a power conferred by regulation 8 or 9 or in the performance of any other regulatory function;
- (b) without reasonable cause fail to comply with a requirement made of that person under regulation 8 or 9, or fail to give to any person exercising a power conferred by those regulations or performing any other regulatory function such assistance or information as that person may reasonably require for the purpose of exercising the power or performing the function; or
- (c) furnish to any person exercising a power conferred by regulation 8 or 9 or performing any other regulatory function any information which the former knows to be false or misleading.

(24) O.J. No. L 378, 31.12.82, p.58.

Defences

63.—(1) In any proceedings for an offence of contravening a provision of the regulations listed in Schedule 4, it is a defence for the person charged to prove that the person took all reasonable precautions and exercised all due diligence to avoid the commission of the offence by that person or by any person under the control of that person.

(2) If in any case the defence provided by paragraph (1) involves the allegation that the commission of the offence was due to an act or default of another person, or to reliance on information supplied by another person, the person charged is not, without leave of the Court, entitled to rely on that defence, unless—

- (a) at least seven clear days before the hearing; and
- (b) where the person has previously appeared, or been brought, before a court in connection with the alleged offence, within one month of the person's first such appearance,

the person has served on the prosecutor a notice in writing giving such information identifying or assisting in the identification of that other person as was then in the person's possession.

(3) In any proceedings for an offence of contravening regulation 5(9), it is a defence for the person charged to prove that the person reasonably believed—

- (a) that the disclosure was lawful; or
- (b) that the information had already lawfully been made available to the public.

Contraventions

64. Any person who—

- (a) contravenes a provision of these Regulations, other than—
 - (i) the provisions contained in regulations 8(3) and 19(3) referring to payment of costs; and
 - (ii) the provisions contained in regulations 23(7), 28, 43(5), 45(2) and 57; or
- (b) fails to comply with a notice served upon that person under these Regulations,

is guilty of an offence.

Penalties

65.—(1) A person guilty of the offence of contravening regulation 62(a) or (b) is liable 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.

(2) A person guilty of any other offence under these Regulations is liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum, to imprisonment for a term not exceeding three months or to both;
- (b) on conviction on indictment, to imprisonment for a term not exceeding two years, to a fine or to both.

Offences by bodies corporate

66.—(1) If an offence under these Regulations committed by a body corporate is shown—

- (a) to have been committed with the consent or connivance of an officer, or
- (b) to be attributable to any neglect on the part of an officer,

the officer as well as the body corporate is guilty of the offence and liable to be proceeded against and punished accordingly.

(2) If the affairs of a body corporate are managed by its members, paragraph (1) applies in relation to the acts and defaults of a member in connection with the member's functions of management as if the member were a director of the body.

(3) "Officer", 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.

Offences by Scottish partnerships

67. Where an offence under these Regulations which has been committed by a Scottish partnership is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a partner, the partner, as well as the partnership is deemed to be guilty of that offence and liable to be proceeded against and punished accordingly.

PART 12

Notices and Decisions

Service of notices

68.—(1) Any notice served under these Regulations by the Scottish Ministers, the Agency, an official veterinary surgeon, an official fish inspector or an authorised officer may be served on a person by—

- (a) delivering it to that person;
- (b) leaving it at the person's proper address; or
- (c) posting it to the person's proper address.

(2) Any such notice which is to be served on a body corporate or an unincorporated association other than a partnership must be duly served on the secretary or clerk or other similar officer of that body.

(3) Any such notice which is to be served on a partnership (including a Scottish partnership) must be duly served on a partner or a person having the control or management of the partnership business.

(4) Subject to paragraphs (5) and (6), for the purposes of this regulation, the proper address of any person on whom a notice is to be served is the person's last known address, except that the proper address is—

- (a) in the case of a body corporate or their secretary or clerk, the address of the registered office or principal office of the body corporate;
- (b) in the case of an unincorporated association (other than a partnership) or their secretary or clerk, the address of the principal office of the association; and
- (c) in the case of a partnership (including a Scottish partnership) or a person having the control or management of the partnership business, the address of the principal office of the partnership.

(5) Where the person to be served is a company registered, or a partnership carrying on business, outside the United Kingdom, and the company or partnership has an office within the United Kingdom, the principal office of that company or partnership for the purposes of paragraph (4) is its principal office within the United Kingdom.

(6) If the person to be served with any such notice has furnished the person by whom the notice is to be served with an address under any provision of these Regulations, that address shall be treated as the person's proper address for the purposes of this regulation.

(7) For the purposes of this regulation, “posting”, in relation to a notice, means sending it pre paid by a postal service which seeks to deliver documents by post within the United Kingdom no later than the next working day in all or the majority of cases, and to deliver documents by post outside the United Kingdom within such period as is reasonable in all the circumstances.

Notification of decisions

69. Where, under any provision of these Regulations, a decision is taken in relation to a product or consignment, the person taking the decision must notify the person responsible for the product or consignment in writing of the decision and the reasons for it, together with details of the person’s right of appeal against the decision including the procedure and time limits applicable.

PART 13

Disapplications and Revocations

Disapplication of existing provisions

70.—(1) The Importation of Embryos, Ova and Semen Order 1980(**25**) does not apply to products to which these Regulations apply, except embryos, ova and semen of the ovine and caprine species.

(2) The Importation of Animal Products and Poultry Products Order 1980(**26**) does not apply to products to which these Regulations apply, except the products referred to in regulation 4(7) of these Regulations.

(3) The following do not apply to products to which these Regulations apply—

- (a) the Importation of Bovine Semen Regulations 1984(**27**); and
- (b) the Importation of Processed Animal Protein Order 1981(**28**).

Revocations

71. The following regulations are hereby revoked—

- (a) The Products of Animal Origin (Third Country Imports) (Scotland) Regulations 2002(**29**);
- (b) The Products of Animal Origin (Third Country Imports) (Scotland) Amendment Regulations 2002(**30**);
- (c) The Products of Animal Origin (Third Country Imports) (Scotland) Amendment Regulations 2003(**31**);
- (d) The Products of Animal Origin (Third Country Imports) (Scotland) Amendment (No) Regulations 2003(**32**);
- (e) The Products of Animal Origin (Third Country Imports) (Scotland) Amendment (No) Regulations 2003(**33**);

(25) S.I. 1980/12, as amended by S.I. 1984/1326, 1990/2371, and 1994/2920.

(26) S.I. 1980/14, as amended by S.I. 1982/948, 1990/2371, 1994/2920 and 1994/3142, and as read with S.I. 1997/322.

(27) S.I. 1984/1325, as amended by S.I. 1993/1966.

(28) S.I. 1981/677, as amended by S.I. 1982/459 and S.I. 1990/2371.

(29) S.S.I. 2002/445.

(30) S.S.I. 2002/565.

(31) S.S.I. 2003/165.

(32) S.S.I. 2003/225.

(33) S.S.I. 2003/333.

- (f) Paragraph 4 of Part 2 of Schedule 5 to the Animal By-Products (Scotland) Regulations 2003**(34)**;
- (g) The Products of Animal Origin (Third Country Imports) (Scotland) (Amendment) Regulations 2005**(35)**
- (h) The Products of Animal Origin (Third Country Imports) (Scotland) (Amendment) (No) Regulations 2005**(36)**; and
- (i) The Products of Animal Origin (Third Country Imports) (Scotland) (Amendment) Regulations 2006**(37)**.

St Andrew's House,
Edinburgh
9th January 2007

ROSS FINNIE
A member of the Scottish Executive

(34) S.S.I. 2003/411.
(35) S.S.I. 2005/323.
(36) S.S.I. 2005/645.
(37) S.S.I. 2006/156.