

Statutory Instruments.

S.I. No. 548 of 2003

European Communities (Veterinary Checks on Fish and Fishery Products Imported from Third Countries) Regulations 2003

I, Dermot Ahern, Minister for Communications, Marine and Natural Resources, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972), and for the purpose of giving effect to Council Directive 97/78/EC of 18 December 1997¹ in respect of fish and fishery products, hereby make the following regulations:

¹ OJ No. L24 30.1.98, p.9

Citation

1. These Regulations may be cited as the European Communities (Veterinary Checks on Fish and Fishery Products Imported from third Countries) Regulations 2003.

Interpretation

2. (1) In these Regulations -

"authorised officer" means a person appointed under Regulation 20 as an authorised officer;

"Commission" means the Commission of the European Communities;

"designated border inspection post" means a border inspection post designated under Regulation 5;

"Directive" means Council Directive 97/78/EC of 18 December 1997 laying down the principles governing the organisation of veterinary checks on products entering the Community from third countries²;

² OJ No L24 30.1.98, p.9

"Member State" means a Member State of the European Community;

"Minister" means the Minister for Communications, Marine and Natural Resources;

"product" means fish or fishery products being any one or more of the following, that is to say, fish, live bivalve molluscs, aquaculture animals and products, fishery products and waste of fish and fishery products;

"third country" means a country that is not a Member State.

(2) In these Regulations a reference to -

(a) a Regulation is to a Regulation of these Regulations, unless it is indicated that reference to some other Regulation is intended,

(b) a paragraph or subparagraph is to the paragraph or subparagraph of the provision in which the reference occurs, unless it appears that reference to some other provision is intended.

(3) In these Regulations a reference to an Article by number is a reference to an Article so numbered in the Directive.

(4) A word or expression that is used in these Regulations and is also used in the Directive has, unless the contrary intention appears, the meaning in these Regulations that it has in the Directive.

Scope

3. These Regulations apply to products entering the State from a third country.

Application and non-application

4. (1) These Regulations apply without prejudice to obligations arising from customs rules.

(2) Without prejudice to the rules applicable to fish and fishery products set down in Council Directive 91/492/EC of 15 July 1991³ and 91/493/EC of 22 July 1991⁴, and any law giving effect to those Directives, these Regulations do not apply to products to which, by virtue of Article 16, Chapter I of the Directive does not apply.

⁴ OJ No. 224 18.8.90, p.29.

³ OJ No. L268 24.09.91, p. 15-34

Designated border inspection posts

5. The following are designated as border inspection posts for the purpose of these Regulations, namely -

- (a) Dublin Port, and
- (b) Shannon Airport.

Introduction of Products

6. (1) A person shall not introduce a product into the State unless, subject to paragraph (8), it is presented at a designated border inspection post in the State for the purpose of the carrying out by an authorised officer of the checks required by the Directive.

(2) A person who intends to introduce a product into the State shall give notice of that intention in writing, in the format specified by the Minister, to an authorised officer at the designated border inspection post at which it is intended to land the product at least 24 hours before landing the product and shall specify in the notice the quantity, type, country of origin and estimated date and time of arrival at the inspection post of the product.

(3) An authorised officer may require the owner or person in charge of the means of transport of a product, or a person employed in connection therewith, to give to the authorised officer the manifest relevant to the product for the purpose of checking that the manifest is in agreement with the information provided under paragraph (2). The person to whom the requirement is made shall comply with it.

(4) Following completion of the checks required by the Directive, an authorised officer shall issue a certificate in accordance with Article 5 certifying the results of the checks and, if the product concerned complies with the import conditions, the certificate shall include a declaration that the product complies with those conditions on the basis of the veterinary checks carried out at the designated border inspection post.

(5) The person responsible for the load shall ensure that the certificate referred to in paragraph (4) accompanies the consignment as far as the first centre or organisation of destination referred to in Council Directive 90/425/EEC of 26 June 1990⁵.

⁵ OJ No. L 32 5.2.85, p.14

(6) An authorised officer shall, on request by the person responsible for a load that is intended to be divided following importation and dispatched to different destinations, supply to that person copies, authenticated by the authorised officer in such manner as he or she considers appropriate, of the certificate referred to in paragraph (4), and a copy so authenticated shall accompany each part of the consignment to the destinations referred to in paragraph (5).

(7) Subject to paragraph (8), a vessel flying a third country flag shall be subject to veterinary checks at landing as listed in the Council Regulation (EEC) No. 1093/94 of 6 May 1994⁶.

⁶ OJ No. L162 1.7.96, pp.1 to 13

(8) Frozen and whole deep-frozen whole tuna landed by a vessel flying a third country flag and destined for -

(a) an approved establishment (with the meaning of Regulation 13(1)(a)) may be checked at the establishment, or

(b) another Member State, may be checked at the nearest designated border inspection post, if not checked on landing.

(9) Transport of frozen or whole deep-frozen whole tuna, which has not been checked on landing, to the approved establishment or designated border inspection post shall be under the control of an authorised officer. The person in charge of the load shall in this regard follow the instructions of the authorised officer.

Importation of products

7. (1) A product intended for import shall be accompanied at the time of presentation at a designated border inspection post by the original veterinary certificates or original veterinary documents or other original documents in respect of the product as required by the veterinary legislation of the European Community.

(2) The person responsible for a load shall ensure that the certificates and documents referred to in paragraph (1) are furnished to an authorised officer at the designated border inspection post.

(3) An authorised officer to whom certificates and documents referred to in paragraph (1) are furnished shall retain them or ensure that they are retained by another authorised officer for 5 years.

(4) If the product complies with the import conditions, an authorised officer shall furnish the person responsible for the load with a copy, authenticated by the authorised officer in such manner as he or she considers appropriate, of the documents referred to in paragraph (1).

(5) The customs authorities of the State shall not allow the importation of a product unless -

(a) the veterinary checks required by the Directive have been carried out and indicate that the product complies with the import conditions,

(b) the certificate referred to in Regulation 6(4) has been issued, and

(c) they are satisfied that the inspection fees referred to in Council Directive 85/73/EEC of 29 January 1985⁷ on the financing of veterinary inspections

and controls, as amended by Council Directive 97/79/EC⁸ have been or will be paid in accordance with that Directive.

⁸ OJ No. L162 1.7.96, p. 1

⁷ OJ. No. L32, 5.2.85, p. 14

(6) A person who is not an authorised officer shall not purport to authenticate a copy of any certificate or document referred to in paragraph (1) or of a certificate referred to in Regulation 6(4).

Transhipment to other Member States

8. (1) A person shall not introduce at a designated border inspection post ("border inspection post of introduction") a product that is intended for transhipment to, and subsequent importation via, another designated border inspection post or a border inspection post in another Member State unless -

(a) the product is transported either by air before and after transhipment or by sea before and after transhipment,

(b) the person responsible for the load gives notice in writing, at the time of arrival of the consignment, to an authorised officer at the border inspection post of introduction of -

(i) the estimated time of unloading of the consignment,

(ii) the exact location of the consignment within the seaport or airport, and

(iii) the border inspection post of destination,

(c) the product remains within the customs area of the seaport or airport of arrival pending despatch to the border inspection post of destination,

(d) where the product is stored -

(i) for not less than 12 hours or more than 48 hours, in case the border inspection post of introduction is located at an airport, or

(ii) for not less than 7 days or more than 20 days, in case the border inspection post of introduction is located at a seaport,

the product -

(I) remains under the supervision of an authorised officer,

(II) is subjected to a documentary check by an authorised officer, and

(III) is subjected to an identity check and a physical check if the authorised officer is of the opinion that there may be a risk to human or animal health, and

(e) where the product is transhipped from -

(i) one aircraft to another at the airport of arrival, either directly or after being unloaded on the tarmac of the airport for a period of less than 12 hours, or

(ii) one vessel to another within the seaport of arrival, either directly or after being unloaded on the quayside for a period of less than 7 days,

the product is subject to a documentary check by an authorised officer if the authorised officer is of the opinion that there is a risk to human or animal health.

(2) Where a product is stored at the seaport or airport of arrival for a period longer than the relevant maximum period indicated in paragraph (1)(d), it shall be subjected to the checks provided for in Article 4.

(3) The person responsible for a load referred to in paragraph (1) shall furnish to an authorised officer such certificates or veterinary documents of origin or

other documents accompanying the consignment, or an authenticated copy thereof, as the officer may require for the purposes of his or her functions under these Regulations and the Directive.

(4) A person shall not introduce into the State a product intended for transshipment as referred to in paragraph (1) unless it is presented at a border inspection post situated in the State.

Transit from one third country to another third country

9. (1) A person shall not introduce into the State at a designated border inspection post a product that is in transit from one third country to another third country unless -

(a) the product comes from a third country whose products are not prohibited entry into the European Community by virtue of European Community veterinary or public health legislation,

(b) notice in writing has been given to an authorised officer at the border inspection post at least 24 hours in advance of the intended time of arrival of the product, specifying the quantity, type, country of origin, country of destination and intended time of arrival and departure of the product,

(c) the transit has been authorised by an authorised officer, before transit takes place,

(d) the person responsible for the load undertakes in writing, before transit, to repossess the product if it is rejected by the official authority of the third country of destination competent for imports and to dispose of it in accordance with Article 17, and

(e) the product is accompanied by the original veterinary certificates and documents and other original documents required by European Community veterinary legislation and, if so requested by an authorised officer, translations into English of the certificates or documents.

(2) An authorised officer shall approve the transit of a product referred to in paragraph (1) following completion of the checks carried out pursuant to Article 11 if the product complies with the requirements of these Regulations and the Directive and all inspection costs incurred by the Minister under this Regulation have been paid by the person responsible for the load or the person's representative in accordance with Regulation 7(5) (c).

(3) Notwithstanding paragraph (1) (a), an authorised officer may authorise the transit of a product referred to in paragraph (1) that is prohibited entry into the European Community where the product -

(a) is transhipped -

(i) from one aircraft to another within the customs area of Shannon Airport either directly or after being unloaded on the tarmac of the airport for a period of less than 12 hours, or

(ii) from one vessel to another within the customs area of Dublin Port either directly or after being unloaded on the quayside for a period of less than 7 days, and

(b) will not be introduced into the State or another Member State after dispatch from the place of transshipment.

(4) A person shall not introduce into the State a product in transit as referred to in paragraph (1) unless it is presented at a designated border inspection post.

Products destined for free zone, etc.

10. (1) A person shall not introduce into the State a product intended for a free zone, a free warehouse or a customs warehouse, as referred to in Council Regulation (EEC) No. 2913/92 of 12 October 1992⁹, from a third country unless -

⁹ OJ No. L 302 19.10.92, p.1

(a) the person responsible for the load has given a declaration in writing to an authorised officer at the designated border inspection post where it is intended to land the product, at least 24 hours before such landing, that the product is destined for eventual release into free circulation in a Member State, or specifying any other intended end-use, and indicating whether the product complies with the import conditions applicable to such product,

(b) the product is accompanied by the original veterinary certificates and documents and other original documents required pursuant to European Community veterinary legislation, and

(c) the product is presented at a designated border inspection post for the purpose of the carrying out by an authorised officer of the checks required pursuant to the Directive.

(2) An authorised officer shall authorise the entry of a product to a warehouse in a free zone, to a free warehouse or to a customs warehouse if he or she is satisfied, on the basis of the checks referred to in paragraph (1) (c), that the product complies with the requirements of the European Community veterinary legislation applicable to such a product and the authorised officer shall issue a certificate certifying the results of such checks.

(3) Where an authorised officer, on the basis of the checks referred to in paragraph (1) (c), is of the opinion that a product does not comply with the requirements of European Community veterinary legislation applicable to such a product the authorised officer shall issue a certificate certifying the results of such checks and shall authorise entry to a warehouse in a free zone, to a free warehouse or to a customs warehouse only if-

(a) the product comes from a third country whose products are not prohibited entry into the European Community under European Community legislation, and

(b) the warehouse where the product will be stored is approved by the Minister under Regulation 11.

(4) Notwithstanding paragraph (3), an authorised officer may refuse entry to a warehouse in a free zone, to a free warehouse or to a customs warehouse if, on the basis of the checks referred to in paragraph (1)(c), the authorised officer is of the opinion that the product poses a risk to human or animal health.

(5) A person shall not remove from an approved warehouse where it is stored a product that does not comply with the requirements of the European Community veterinary legislation applicable to such a product, unless the product -

(a) is dispatched to a third country and the person responsible for it undertakes in writing to repossess the product if it is rejected by the third country and to dispose of it in accordance with Article 17 and subparagraphs (a), (c), (d) and (e) of Article 11(2) are complied with, or

(b) is transported to a place of destruction after the product has been denatured in a manner directed by an authorised officer.

(6) A person shall not transport a product referred to in paragraph (5) except in leak-proof vehicles or containers that have been sealed by an authorised officer

and the person responsible for the load shall ensure that the product is not unloaded during transportation.

(7) A person shall not place a product in a free zone, a free warehouse or a customs warehouse unless a customs seal has been applied to it.

(8) Where the checks referred to in paragraph (1)(c) show that the person responsible for the load has made a false declaration under paragraph (1)(a), he or she shall dispose of the product in accordance with Article 17.

(9) All expenditure incurred by the Minister under this Regulation shall be paid to the Minister by the person responsible for the load or the person's representative.

Approval of warehouses

11. (1) The Minister may, on application to him or her in that behalf by the owner or person in charge of a warehouse, approve a warehouse for the storage of products not meeting the requirements of European Community legislation if the Minister is satisfied that the warehouse fulfils the requirements of Article 12(4)(b).

(2) The Minister may specify the format of an application referred to in paragraph (1) and, when the Minister does so, it is a requirement of this Regulation to furnish the application in the format so specified.

(3) A person who applies for approval of a warehouse under this Regulation shall furnish the Minister with such information as the Minister may reasonably require for the purposes of his or her functions under these Regulations and the Directive.

(4) When the Minister approves a warehouse in accordance with paragraph (1), the Minister shall notify the applicant of any terms and conditions of the approval and, if the Minister amends any such terms or conditions, of the amendments.

(5) The Minister may, if he or she is not satisfied that -
(a) these Regulations and the Directive, or
(b) a term or condition referred to in paragraph (4),
are being or have been complied with, refuse to grant an approval, or revoke an approval.

(6) The owner or person in charge of a warehouse shall, if requested by the Minister to do so and in such format and within such time as the Minister may require, furnish to the Minister such information in respect of transactions at the warehouse as the Minister may reasonably require for the purposes of his or her functions under these Regulations and the Directive.

(7) The owner or person in charge of a warehouse shall facilitate the carrying out by an authorised officer of inspections conducted for the purposes of these Regulations and the Directive.

Products destined for special destination or end-use

12. (1) A person shall not introduce into the State a product intended to be sent to another Member State where-

(a) that Member State or an area of the Member State has obtained specific requirements in the framework of European Community veterinary legislation in regard to the product in question, or

(b) the importation of the product for specific purposes has been provided for in European Community legislation, unless the product complies with the specific requirements applicable to it and is presented at a border inspection post in the State

for the purpose of undergoing the checks by an authorised officer required under the Directive.

(2) The person responsible for the product referred to in paragraph (1) shall ensure, subject to Regulation 13, that it is brought to the intended Member State of destination.

Products requiring monitoring to destination

13. (1) A person shall not remove from the designated border inspection post of arrival a product required under European Community veterinary legislation to be monitored to the establishment of destination, unless-

(a) the establishment of destination is included on a list of approved establishments published by the Commission under Article 8,

(b) the vehicle or container containing the product is leak-proof and sealed by an authorised officer before dispatch from the border inspection post,

(c) the product is dispatched from the designated border inspection post to the establishment of destination under the supervision of an authorised officer, and

(d) in case the product is one the importation of which has been authorised for specific purposes under European Community legislation, the product remains under the customs supervision arrangements set down in Article 8(4) and is accompanied by the certificate referred to in Regulation 6(4).

(2) The person responsible for the load referred to in paragraph (1) shall ensure that the product reaches the establishment of destination concerned.

(3) The management of the establishment of destination referred to in paragraph (1) shall inform the authorised officer responsible for the establishment of the arrival of the product within 12 hours of its arrival and shall ensure that the product undergoes in the establishment of destination the treatment defined in the relevant European Community legislation.

Victualling

14. A person shall not supply cross-border means of sea transport with a product originating in a third country that does not comply with the requirements of the European Community veterinary legislation applicable to the product, unless -

(a) the product is supplied only for the purpose of consumption by staff and passengers on board the means of transport outside the territorial waters of the Member States,

(b) Regulations 10(1), (3) and (7) were complied with at the time of importation or other introduction,

(c) the product has not been the subject of a refusal under Regulation 10(4), and

(d) the person is an operator authorised by the Minister for the purposes of Article 13 and complies with the requirements of paragraphs (1), (2) and (3) of that Article.

Re-importation after third country refusal

15. (1) A person shall not re-import a product that originated in the European Community that has been refused entry by a third country unless -

(a) the product is presented at a designated border inspection post for the purpose of undergoing the checks by an authorised officer required pursuant to Article 15,

(b) in case the product is in a sealed container, the product is accompanied by a certificate issued by the carrier of the product certifying that the product has not been handled or unloaded,

(c) the product is accompanied by the original health certificate issued for the product, or a copy thereof authenticated by the competent authority which issued the certificate, and a statement in writing given by the owner or person responsible for the load or the official authority of the third country competent for imports -

(i) giving details of the reasons why entry into the third country was refused,

(ii) confirming that the conditions governing storage and transport of the product have been complied with, and

(iii) confirming that the product has not been handled,

(d) in case the product has transited through another Member State before arrival in the State, the product is accompanied by an authorisation given under Article 15 by the official veterinarian at the designated border inspection post where the product first arrived in the European Community, and

(e) re-importation has been authorised by an authorised officer.

(2) A person shall not remove a product referred to in paragraph (1) from the border inspection post unless it is returned directly to the establishment of origin where the health certificate was issued, in a leak-proof means of transport that has been sealed by an authorised officer, and Article 8(4) is complied with.

Treatment of non-complying products

16. (1) Where an authorised officer is of the opinion that the checks conducted under the Directive show that a product does not satisfy the import conditions applicable to it or that an irregularity has occurred, he or she shall consult with the person responsible for the load and shall serve or cause to be served on that person a notice directing that the product be either -

(a) re-dispatched out of the State to a destination in a third country agreed with the person responsible for the load, provided the re-dispatch is not precluded by the results of the veterinary inspection or health requirements, or

(b) where re-dispatch is impossible or the time limit referred to in paragraph (4) has elapsed, or the person in charge of the product gives his or her immediate consent, destroyed in such manner and at such place as the authorised officer specifies in the notice.

(2) Where an authorised officer is of the opinion that a consignment presents a direct risk to human or animal health, the authorised officer may serve or cause to be served on the person responsible for the consignment directing that the consignment be destroyed, at the expense of that person, in such a manner and in such a place as the authorised officer specifies in the notice.

(3) Where an authorised officer is of the opinion that a product originating in a third country has been brought into the State and it -

(a) has not been presented at a border inspection post in the State for the purpose of carrying out the checks required by the Directive,

(b) has not undergone such checks at an approved border inspection post in another Member State or

(c) has undergone such checks in another Member State but was found not to comply with the import conditions,

the authorised officer shall seize the product and serve or cause to be served on the person responsible for the load a notice directing that the product be dealt with in the manner described in paragraph (1) or (2).

(4) A requirement specified in a notice under this Regulation may specify a time limit within which it is to be complied with.

(5) A requirement specified in a notice under this Regulation (in this paragraph referred to as the "earlier notice") may be modified or withdrawn by a further such notice and in that event the earlier notice shall have effect subject to such modification or withdrawal.

(5) A notice under this Regulation may require the importer or, as the case may be, the person for the time being in charge of the product to choose between 2 or more of the requirements specified in the notice.

(6) A notice under this Regulation may be served on a person by delivering it by hand to the person or by sending it by prepaid registered post to, or by leaving it at, his or her last known place of residence or business.

(7) Pending compliance with a notice under this Regulation, the person responsible for the load shall store the product, at his or her own expense, in the location and under such conditions as may be directed by an authorised officer.

(8) A person shall not deal with a product the subject of a notice under this Regulation otherwise than in accordance with the notice.

(9) The costs incurred in the course of complying with a notice under this Regulation shall be borne by the person responsible for the load or his or her representative.

(10) Where a notice under this Regulation or, in the event of an appeal under Regulation 17, a notice confirmed with or without modifications under Regulation 17(6) has not been complied with, an authorised officer may, without payment of compensation, seize and destroy or otherwise dispose of the product concerned, or cause it to be seized and destroyed or otherwise disposed of, at such premises or place as he or she considers appropriate.

(11) The cost of disposal of a product incurred by the Minister under paragraph (10) may be recovered by the Minister from the person who was the owner of the product at the time of the disposal as a simple contract debt in a court of competent jurisdiction.

(12) Moneys arising out of the disposal of a product under paragraph (11) shall be paid to the owner of the product after deducting any expenses reasonably incurred in connection with the disposal.

Right of appeal

17. (1) When an authorised officer issues a notice he or she shall state in the notice that, within 5 days of the service of the notice, an appeal may be made to the District Court in accordance with paragraph (2).

(2) A person may, within 5 days of the service on the person of a notice, appeal against the notice to the judge of the District Court assigned to the District Court District in which the product concerned is situated or where the person ordinarily resides or carries on business.

(3) Notification of an appeal -

(a) shall be given to the authorised officer concerned by serving it on him or her personally, or by leaving it at the place and in the manner specified in the notice, at least 48 hours before the hearing of the appeal, and

(b) shall contain a statement of the grounds upon which it is alleged that the notice or any of its terms are not justified.

(4) A copy of a notification of appeal shall be lodged with the District Court clerk for the district court area in which the appeal concerned is to be heard and served on the Minister, in the manner specified in the relevant notice, at least 48 hours before the hearing of the appeal.

(5) The Minister and the authorised officer concerned shall, as well as the appellant, be entitled to be heard and to adduce evidence at the hearing of an appeal.

(6) On the hearing of an appeal a judge of the District Court may, at his or her discretion, confirm, with or without modification, or annul, the notice.

(7) In the event of an appeal, a person shall not deal with the product concerned pending the determination of the appeal otherwise than in accordance with such directions (if any) as may be given in writing to the appellant by an authorised officer.

(8) Where, on the hearing of an appeal, the terms of a notice are confirmed, with or without modification, a person shall not deal with the product concerned otherwise than in accordance with the notice as so confirmed.

(9) In this Regulation -

"appeal" means an appeal under paragraph (2);

"notice" means a notice under Regulation 16.

Safeguard measures

18. (1) Where an authorised officer is of the opinion that a product originating in a third country that has been introduced into the State is likely to constitute a danger to animal or human health, he or she shall immediately seize the product and have it destroyed.

(2) Where an authorised officer suspects that, in respect of a product introduced into the State, European Community veterinary legislation applicable to that product has not been complied with or there is doubt as to the identity or actual destination of the product, the authorised officer shall, for the purposes of Article 20 -

(a) carry out or have carried out any veterinary checks he or she considers appropriate in order to confirm or rule out the suspicion, and

(b) retain the product under his or her supervision until the results of such checks are obtained.

(3) Where the checks required by the Directive, conducted by an authorised officer or by the competent authority of another Member State, give grounds for believing that European Community veterinary legislation has been seriously or repeatedly infringed in respect of a particular type of product or third country, an authorised officer may, pursuant to Article 24 -

(a) impound a consignment of products of the type concerned or coming from the third country concerned and detain it until the results of the checks referred to in subparagraph (c) are obtained,

(b) require a deposit to be lodged against inspection costs, and

(c) carry out or have carried out any checks he or she considers appropriate for the purpose of checking compliance with these Regulations and the Directive.

(4) A person shall not move or deal with a product that has been seized under paragraph (1), detained under paragraph (2) or impounded under paragraph (3) otherwise than in accordance with directions given in writing by an authorised officer.

(5) If the Minister is of the opinion that there exists in a third country a disease or zoonosis or other phenomenon or circumstance liable to present a serious threat to animal or human health, or if any other serious animal or human health reason so warrants, the Minister may adopt, pursuant to Article 22(5), safeguard measures for the importation or introduction into the State of products originating in that country and any such importation or introduction from that country shall be subject to those measures.

(6) Without prejudice to the generality of paragraph (5), the safeguard measures concerned may include a prohibition on imports of products from the third country concerned.

(7) Where the Minister is of the opinion that there is a serious risk to human or animal health, the Minister may suspend the approval of a border inspection post in accordance with Article 6(3).

Special measures taken by Commission

19. (1) Where the Commission has suspended imports from all or part of a third country under Article 22(1), a person shall not import or introduce into the State a product that is subject to such a suspension.

(2) Where the Commission has set special conditions in respect of products pursuant to Article 22(1), a person shall not import or introduce into the State such a product unless it complies with those conditions.

(3) Where the Commission has drawn up, under Article 22(1), requirements for appropriate checks, all products being imported or introduced into the State shall be subject to those checks in addition to the checks specified in these Regulations and the Directive.

Appointment and powers of authorised officers

20. (1) The Minister may appoint such and so many persons as the Minister thinks fit to be authorised officers for the purposes of these Regulations.

(2) An authorised officer when exercising a power conferred on him or her under these Regulations shall, if so requested by any person affected, produce evidence in writing of the authorised officer's appointment as an authorised officer.

(3) An authorised officer or a member of the Garda Síochána or an officer of Customs and Excise may, for the purposes of these Regulations and the Directive-

(a) at any time stop any vehicle or enter (by force if necessary) any premises or place (excluding any premises or place consisting or a dwelling or so much thereof as consists of a dwelling) or any vehicle, wagon, vessel, aircraft or other means of transport where he or she reasonably suspects there are or have been products which are being or have been brought into the State, or any place used for or in connection with the purchase, sale, transport, distribution or processing of such products,

(b) there, search for, examine and inspect any product, document or thing,

(c) take, without payment of compensation, such samples of any product or of any article, substance or liquid at the premises or place as he or she may reasonably require for the purposes of his or her functions under these Regulations or the Directive and carry out or have carried out on the samples such analyses, examinations, checks and inspections as he or she considers necessary or expedient for the purposes of such functions,

(d) there or at any other place, carry out or have carried out such examinations, checks and inspections of the premises, place or means of transport, and any equipment, machinery or plant, and any other article, substance or liquid found there as he or she reasonably considers necessary or expedient for the purposes of such functions,

(e) require the person who is for the time being in charge or control of any vehicle so stopped or entered to refrain from moving it,

(f) require any person at the premises or place or on or in the means of transport or the owner or person in charge thereof or any person employed in connection therewith to produce to him or her such books, certificates, documents and other records within the power of procurement of the person, and to give to him or her such information, as he or she may reasonably require for the purposes of such functions,

(g) examine and take copies of, or extracts from, any such records as aforesaid,

(h) require the production of, take up and retain, where required for the purposes of his or her functions, the original certificate or certificates concerned, and

(i) seize and detain any product or record or other thing found there which he or she reasonably suspects may be evidence of an offence under these Regulations.

(4) An authorised officer, a member of the Garda Síochána or an officer of Customs and Excise shall not, except with the consent of the occupier, enter a private dwelling unless he or she has obtained a warrant under paragraph (5).

(5) If a judge of the District Court is satisfied on the sworn information of an authorised officer, a member of the Garda Síochána or an officer of Customs and Excise that there are reasonable grounds for suspecting that evidence of or relating to the commission or intended commission of an offence under these Regulations is to be found in, on or under any holding or premises or in or on any vehicle or vessel or container or any part thereof as consists of a dwelling, the judge may issue a search warrant.

(6) A search warrant issued under paragraph (5) shall be expressed and operate to authorise a named authorised person, member of the Garda Síochána or officer of Customs and Excise, at any time or times within one month from the date of issue of the warrant, on the production of the warrant if so requested, to enter the dwelling, by force if necessary, and exercise all or any of the powers conferred on an authorised officer, member of the Garda Síochána or officer of Customs and Excise under these Regulations.

(7) A person shall not obstruct or impede an authorised officer, a member of the Garda Síochána or an officer of Customs and Excise in the performance of his or her functions under these Regulations or, in purported compliance with a requirement under paragraph (1) (f), give information to an authorised officer, a member of the Garda Síochána or an officer of Customs and Excise that the person knows to be false or misleading in a material respect.

(8) A person shall not create a false document, or alter, efface, obliterate or make false or unauthorised entries on a document that has been or is being or is

intended to be used in purported compliance with the requirements of these Regulations or the Directive.

(9) Where a member of the Garda Síochána, with reasonable cause, suspects that a person has in his or her possession a product that has been brought into the State in contravention of these Regulations and the Directive or any document relating thereto, the member may without warrant -

(a) search or cause to be searched by such a member the person, and

(b) seize and detain, or cause to be seized and detained by such a member, anything found in the course of a search which any such member reasonably suspects to be something which might be required as evidence of an offence under these Regulations.

(10) Where a member of the Garda Síochána, with reasonable cause, suspects that a person has committed an offence under these Regulations, the member may arrest the person without warrant if -

(a) with reasonable cause the member suspects that the person, unless arrested, either will abscond for the purposes of evading justice or will obstruct the course of justice,

(b) has reasonable doubts as to the person's identity or place of residence, or

(c) having enquired of the person, the member knows that the person does not ordinarily reside in the State, or has reasonable doubts as to whether the person so resides.

Cancellation of certificate

21. An authorised officer, if he or she has formed the opinion referred to in Regulation 16(1) or (2) or 17(1), may require any person who is the importer or who appears to the officer to be for the time being in control of the product concerned to surrender to him or her the original certificate or document referred to in Regulation 7(1) relating to the product for the purpose of cancellation, and may cancel the certificate or document. The person shall comply with the requirement.

Possession of illegally imported product

22. A person shall not have in his or her possession or under his or her control a product brought into the State from a third country in respect of which the person knows that the requirements of these Regulations and the Directive have not been complied with or has reasonable grounds for so suspecting.

Offences

23. (1) A person who contravenes or fails to comply with these Regulations (other than Regulation 6(1), 7(6), 19(1) or (2), 20(8) or 22) is guilty of an offence and is liable on summary conviction to a fine not exceeding €3,000.

(2) A person who contravenes Regulation 6(1), 7(6), 19(1) or (2), 20(8) or 22 is guilty of an offence, and is liable on summary conviction to a fine not exceeding €3,000 or to imprisonment for a term not exceeding 6 months or to both.

(3) An offence under these Regulations may be prosecuted by the Minister.

(4) Where an offence under these Regulations is committed by a body corporate and is proved to have been so committed with the consent or connivance of or to be attributable to any neglect on the part of any person, being a director, manager,

secretary or other officer of the body corporate, or a person who was purporting to act in any such capacity, that person, as well as the body corporate, is guilty of an offence and is liable to be proceeded against and punished as if he or she were guilty of the first-mentioned offence.

(5) Paragraph (1) does not apply to an authorised officer where the officer fails to comply with a requirement required of or an obligation imposed on the officer under these Regulations.

Revocation

24. The European Communities (Importation of Animals and Animal Products from Third Countries) Regulations 1997 (S.I. No. 192 of 1997) are revoked.

GIVEN under my Official Seal,
this 12th day of November 2003.

L.S.

DERMOT AHERN

Minister for Communications,
Marine and Natural Resources

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation.)

These Regulations implement Council Directive 97/78/EC of 18 December 1997 laying down the principles governing the organization of veterinary checks on products entering the Community from third countries. They require the presentation of such products at an approved border inspection post for the purpose of official checking. They also provide for the appointment of authorised officers to implement the Regulations and for the prosecution of offences.