



Jersey

## EU LEGISLATION (VETERINARY CHECKS – IMPORTS FROM THIRD COUNTRIES) (JERSEY) REGULATIONS 2016

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## **EU LEGISLATION (VETERINARY CHECKS – IMPORTS FROM THIRD COUNTRIES) (JERSEY) REGULATIONS 2016**

*Made*

*22nd March 2016*

*Coming into force*

*22nd April 2016*

**THE STATES**, in pursuance of Article 2(2) of the European Union Legislation (Implementation) (Jersey) Law 2014<sup>1</sup>, have made the following Regulations –

### **1 Interpretation**

(1) In these Regulations, unless the context otherwise requires –

“border inspection post” means an inspection post designated and approved in accordance with Article 6 of the Directive;

“Community area” means the territories referred to in Annex I to 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 countries (OJ L 24, 30.1.1998, p. 9<sup>2</sup>) or such EU instrument as from time to time replaces it;

“consignment” means a group of animals of the same species, covered by the same veterinary certificate or document, conveyed by the same means of transport and coming from the same third country or same part of such country;

“Directive” means the Council Directive of 15 July 1991 laying down the principles governing the organization of veterinary checks on animals entering the Community from third countries and amending Directives 89/662/EEC, 90/425/EEC and 90/675/EEC (91/496/EEC, OJ L 268, 24.9.1991, p. 56<sup>3</sup>);

“documentary check” means verification of the veterinary certificates or documents accompanying an animal;

“identity check” means verification, by visual inspection only, for consistency between the documents or certificates and the animals and

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for the presence and conformity of the marks which must appear on the animals;

“holding” has the same meaning as in the Trade with Member States Regulations;

“importer” means any person who presents animals which originate in a third country for importation into Jersey;

“inspector” means a person appointed by the Minister, or deemed, to be an inspector for the purposes of the Diseases of Animals (Jersey) Law 1956<sup>4</sup>;

“official veterinarian” means –

- (a) the Veterinary Officer appointed under Article 2 of the Diseases of Animals (Jersey) Law 1956<sup>5</sup>; or
- (b) any other inspector who is also a veterinary surgeon;

“third country” means a country or territory that is not a member State or another place in the British Islands;

“Trade with Member States Regulations” means the EU Legislation (Veterinary and Zootechnical Checks – Trade with Member States) (Jersey) Regulations 2016<sup>6</sup>.

(2) In these Regulations –

- (a) the expressions “approved”, “holding”, “Minister”, “physical check”, “premises”, “relevant EU instrument” and “veterinary surgeon” have the same meaning as in the Trade with Member States Regulations;
- (b) a reference to animals as being, or not being, subject to harmonized health rules shall be construed in accordance with Regulation 2(3) and (4) of those Regulations; and
- (c) in the case of animals subject to harmonized health rules, a reference to any relevant EU instrument is a reference to any instrument listed in Schedule 1 to those Regulations and which applies to those animals.

(3) In these Regulations a reference to an EU instrument is a reference to that instrument as amended from time to time.

(4) Expressions which are used in these Regulations and which are not defined in paragraphs (1) to (3), but are used in the Directive, have the same meaning as in the Directive.

## 2 Application

- (1) These Regulations apply to the importation of animals from third countries.
- (2) These Regulations do not apply to veterinary checks on family pets accompanying travellers for non-commercial purposes, other than *equidae*.

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**3 Regulation of imports from third countries**

No person shall import into Jersey animals which originate in a third country unless –

- (a) the checks required by Article 4 or 8 of the Directive have been carried out on or in relation to the animals at a border inspection post in another part of the British Islands or another member State;
- (b) the entry of the animals into the Community area is not prohibited pursuant to the Directive;
- (c) the animals are transported to Jersey from a place in the Community area without entering the territory of a third country;
- (d) the animals are accompanied by the documentation required by the Directive to accompany the animals to a place of destination in the Community area; and
- (e) in the case of animals that are not subject to harmonized health rules, the animals satisfy the conditions of importation imposed by or under any enactment.

**4 Notice before arrival**

An importer or consignee of animals must notify the Minister, in writing, at least 24 hours in advance, of the nature of the consignment, its anticipated date of arrival in Jersey and the place of destination.

**5 Application to animals subject to harmonized health rules**

- (1) This Regulation applies to animals which originate outside the Community area and which are subject to harmonized health rules.
- (2) Once the animals have passed through a border inspection post, as described in Regulation 3(a), trade in the animals shall be conducted in accordance with the rules for veterinary checks in the Trade with Member States Regulations.

**6 Quarantine**

- (1) Notwithstanding Schedule 1 to the Diseases of Animals (Jersey) Law 1956<sup>7</sup>, where by virtue of –
  - (a) in the case of animals subject to harmonized health rules, any relevant EU instrument; or
  - (b) in the case of animals not subject to harmonized health rules, any enactment,

an animal imported from a third country is required to be placed in quarantine, the quarantine may take place at the holding of destination or an approved quarantine centre.

- (2) Where animals imported from a third country are to be quarantined at the holding of destination or at an approved quarantine centre, the consignor

and the recipient of the consignment shall comply with the requirements for transportation from the border inspection post to the holding or centre laid down under the Directive.

- (3) Where it is a condition of the importation of animals that they be placed in quarantine at the holding of destination or an approved quarantine centre, the consignor shall comply with the condition and with the conditions for transportation from the border inspection post to the holding or centre in Jersey.

## **7 Approved quarantine centres**

- (1) The conditions for approval of a quarantine centre as an approved quarantine centre are set out in the Schedule.
- (2) Schedule 3 to the Trade with Member States Regulations shall apply –
  - (a) for the purposes of the approval of quarantine centres; and
  - (b) to confer regulatory powers in respect of approved quarantine centres.
- (3) For the purposes of paragraph (2), compliance with the conditions set out in the Schedule to these Regulations shall be the relevant requirement for the purposes of paragraph 1(3) and (8) of the said Schedule 3.

## **8 Post-import controls**

- (1) An inspector may, at all reasonable times, and on production of his or her authority, conduct a check on a consignment of animals imported from a third country, either during transport of the consignment or at the consignment's place of destination.
- (2) Where an inspector knows or suspects that conditions of importation applicable to the animals (including requirements for the quarantine or transportation of imported animals) have not been complied with or there is doubt as to the identity of an animal, the inspector may, at any time, and on production of his or her authority carry out any documentary check, identity check or physical check on that animal as he or she deems appropriate.
- (3) If checks carried out under paragraph (1) or (2) indicate that a consignment of animals is likely to constitute a danger to animal or human health, an official veterinarian shall –
  - (a) seize the animals; and
  - (b) arrange for their slaughter and destruction of the carcasses.
- (4) If checks carried out under paragraph (1) or (2) confirm that conditions of importation applicable to the animals have not been complied with, the following provisions shall apply.
- (5) An inspector shall, by notice served on the person appearing to the inspector to be in charge of the animals, require that person to –
  - (a) shelter, feed and water and, if necessary, treat the animals;

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- (b) place the animals in quarantine or isolate the consignment in such place as may be specified in the notice, and to take such other action in relation to the animals as may be necessary for the purpose of preventing the introduction or spreading of disease into or within Jersey; or
    - (c) re-despatch them outside the Community area, where animal health or welfare considerations so permit, within such period as may be specified in the notice.
  - (6) An inspector shall, before exercising any of the powers in paragraph (5), consult the importer or the importer's representative.
  - (7) If the animals are re-despatched in accordance with paragraph (5)(c), an official veterinarian shall cancel the veterinary certificate accompanying the rejected consignment and complete the details of re-consignment in the common veterinary entry document as soon as the relevant information is known.
  - (8) If, in the opinion of an official veterinarian, re-despatch is not possible, in particular for reasons of the welfare of animals, the official veterinarian shall, in accordance with paragraph (9), serve a notice on the person appearing to the official veterinarian to be in charge of the animals.
  - (9) A notice served under paragraph (8) may authorize slaughter of the animals for human consumption if the animals comply with all of the legislative requirements which must be complied with before slaughter for human consumption is permitted but, if this is not possible, shall either –
    - (a) order the slaughter of the animals for purposes other than human consumption; or
    - (b) order the slaughter of the animals and destruction of the carcasses, specifying, in each case, the conditions regarding control of the use of the products obtained.
  - (10) In the event of a notice served under paragraph (5) or (8) not being complied with, an inspector may –
    - (a) seize any animal to which the notice relates; and
    - (b) arrange for the requirements of the notice to be complied with.
  - (11) The consignor, or the consignor's representative, or the person responsible for the animals, shall be liable for the costs incurred by an official veterinarian or other inspector in taking measures under this Regulation but, if the animals are slaughtered pursuant to a notice served under paragraph (8), shall be entitled, after deduction of costs, to any proceeds of sale.
  - (12) The powers conferred by paragraphs (1) and (2) do not confer any right of entry of premises used solely as a private dwelling without a warrant issued under Regulation 13.
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**9 Animals subject to harmonized health rules**

- (1) This Regulation applies to animals subject to harmonized health rules which have been imported from a third country and completed the observation period required by Article 8A(5) of the Directive.
- (2) This Regulation shall not apply to animals for slaughter or registered *equidae*.
- (3) The operator of the holding or other place of destination shall, in respect of the animals, comply with Regulation 10(3), (4), (5)(b), (6), (9) and (10) of the Trade with Member States Regulations.

**10 Rights to be informed of reasons and rights of appeal**

- (1) The Minister or an official veterinarian or inspector shall give reasons for a decision made in respect of a consignment of animals to the consignor or the consignor's representative.
- (2) A consignor or consignor's representative may request that he or she is provided with –
  - (a) a written record of the decision and the reasons for it; and
  - (b) written details of the rights of appeal available to him or her and of the procedure and time limits applicable.
- (3) The person who made the decision shall comply with a request under paragraph (2).

**11 Outbreaks of disease in third country**

- (1) This Regulation applies where the Minister learns, or has reasonable grounds to suspect, under the procedures set out in Article 18 of the Directive, or through any other means, the presence, in a third country of –
  - (a) a disease listed in Annex 1 to the Council Directive of 21 December 1982 on the notification of animal diseases within the Community (82/894/EEC, OJ L 378,31.12.1982, p. 58<sup>8</sup>); or
  - (b) any other zoonoses, diseases or other cause likely to constitute a serious hazard to animals or to human health.
- (2) The Minister may, for the purpose of preventing the introduction into or spreading of disease within Jersey, by declaration suspend or impose conditions upon the importation of animals from the third country in question.
- (3) The Minister shall publish a declaration in such manner as he or she thinks fit.
- (4) While a declaration is in force suspending the entry of an animal from a third country, a person shall not bring the animal into Jersey if it is dispatched from or originates in that third country.
- (5) While a declaration is in force imposing conditions on the entry of an animal from a third country, a person shall not bring the animal into



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Jersey from that third country if the animal does not comply with those conditions.

## **12 Entry of premises – general**

Subject to Regulation 14, an inspector may, on producing his or her authority, enter premises for the purpose of exercising the powers conferred by these Regulations (apart from Regulation 13).

## **13 Entry of premises where offence suspected**

- (1) Subject to Regulation 14, an inspector may, on producing the person's authority, enter at all reasonable times any premises on which, or in connection with which, the person has reasonable grounds for suspecting that an offence against these Regulations is being or has been committed.
- (2) The inspector may –
  - (a) inspect the premises and any equipment and animals on them;
  - (b) carry out such tests or other investigations, whether on the premises, equipment on the premises or animals on the premises, or on samples taken from the premises, equipment or animals, as the person thinks fit in order to ascertain whether any offence against these Regulations is being or has been committed; and
  - (c) for the purposes of any such test or investigation, require the occupier of the premises, and any person in the employment of such occupier, to furnish such information as is in that person's power to give.
- (3) An inspector may not exercise the power of entry conferred by this Regulation so as to enter premises used solely as a private dwelling without a warrant issued under Regulation 14.

## **14 Warrant for entry of dwellings**

- (1) Nothing in these Regulations authorizes an inspector to enter, as of right, premises used solely as a private dwelling without a warrant issued under paragraph (2).
- (2) The Bailiff or a Jurat may, on an application by an inspector, issue a warrant authorizing an inspector to enter premises used solely as a private dwelling for the purposes mentioned in Regulation 12 or 13.
- (3) The Bailiff or Jurat may only issue a warrant under paragraph (2) if satisfied that –
  - (a) there are reasonable grounds for entry into the premises; and
  - (b) either –
    - (i) admission to the premises has been refused, or refusal is anticipated, and that the occupier has been notified of the intention to apply for a warrant, or

- (ii) an application for admission or the giving of such notice would defeat the object of the entry, or the case is one of urgency, or that the premises are unoccupied or the occupier temporarily absent.

## **15 Exercise of powers of entry**

- (1) A person exercising any power of entry conferred by these Regulations may be accompanied by any inspector or veterinarian who is an officer or a representative of the Commission, for the purpose of enabling that person to discharge functions under the Directive, in particular, Articles 18 and 19.
- (2) A person who enters unoccupied premises in exercise of a power conferred by or under these Regulations must leave them as effectively secured against unauthorized entry as they were prior to entry.

## **16 Offences**

- (1) A person who contravenes any provision of these Regulations is guilty of an offence and liable to a fine of level 4 on the standard scale.
- (2) A person who –
  - (a) hinders or obstructs an official veterinarian or inspector in the exercise of that person's powers under these Regulations; or
  - (b) refuses or neglects to furnish, in the time and manner specified, any return or information when required to do so under these Regulations,is guilty of an offence and liable to imprisonment for a term of 6 months and a fine of level 4 on the standard scale.
- (3) A person who knowingly or recklessly contravenes any condition subject to which an approval is given under these Regulations is guilty of an offence and liable to a fine of level 4 on the standard scale.
- (4) The holder of an approval given under these Regulations is guilty of an offence and liable to a fine of level 4 on the standard scale if any condition subject to which the approval was given is contravened and the holder of the approval did not take all reasonable precautions and exercise due diligence to avoid the contravention.
- (5) A person who –
  - (a) in an application for approval under these Regulations, makes any statement knowing that, or reckless as to whether, the statement is false in a material particular;
  - (b) furnishes any return or information when required to do so under these Regulations, knowing that, or reckless as to whether, the return or information is false in a material particular; or
  - (c) fraudulently alters or uses or permits to be fraudulently used any approval given under these Regulations or any certificate or other document issued and required as evidence that a requirement of these Regulations is satisfied,

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is guilty of an offence and liable to imprisonment for a term of 6 months and a fine of level 4 on the standard scale.

## **17 Offences – general**

- (1) Where an offence against these Regulations committed by a limited liability partnership or a separate limited partnership or by an incorporated limited partnership or other body corporate is proved to have been committed with the consent or connivance of –
  - (a) in the case of a limited liability partnership, a person who is a partner of the partnership;
  - (b) in the case of a separate limited partnership or an incorporated limited partnership –
    - (i) a general partner, or
    - (ii) a limited partner who is participating in the management of the partnership;
  - (c) in the case of a body corporate other than an incorporated limited partnership, a director, manager, secretary or other similar officer of the body corporate; or
  - (d) any person purporting to act in any capacity described in subparagraphs (a) to (c),

the person shall also be guilty of the offence and liable in the same manner as the partnership or body corporate to the penalty provided for that offence.
- (2) If the affairs of a body corporate are managed by its members, paragraph (1) shall apply in relation to acts and defaults of a member in connection with his or her functions of management as if the member were a director of the body corporate.

## **18 Diseases of Animals (Jersey) Law 1956**

- (1) These Regulations shall not be construed as permitting the importation of live cattle, which is prohibited by Article 12 of the Diseases of Animals (Jersey) Law 1956<sup>9</sup>.
- (2) These Regulations do not derogate from any prohibition, imposed by Order made under Article 13 of the Diseases of Animals (Jersey) Law 1956, on the importation of sheep or goats without a licence granted by the Minister.

## **19 Fees**

- (1) The Minister may, by Order, prescribe fees for the issue of certificates under these Regulations.
- (2) Where a fee is prescribed under paragraph (1), the certificate shall not be issued until the fee has been paid.

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- (3) The Minister may, by Order, prescribe fees for any application for, or the giving of, any approval to be given, or given, under these Regulations.
  - (4) Where a fee is prescribed under paragraph (3) the Minister shall not consider the application for the approval until the fee has been paid.
  - (5) The Minister may, by Order, prescribe fees for any inspection, test or official examination carried out by or on behalf of an official veterinarian in the discharge of functions under these Regulations.
  - (6) Fees prescribed by the Minister under this Regulation may be determined by reference to rates which represent the reasonable costs and expenses incurred in employing or contracting for an official veterinarian to undertake an inspection, test or official examination, during any given unit of time, whether for the purpose of the issue of a certificate or the grant of an approval or otherwise in the discharge of functions under these Regulations.
  - (7) Fees prescribed by reference to a rate for an official veterinarian shall be charged in units of no more than half an hour.

## **20 Expenses**

- (1) The consignor, the consignor's representative and the person in charge of any animal shall be jointly and severally liable for any reasonable expenses arising out of or in connection with the exercise of any power conferred on an official veterinarian or inspector by these Regulations relating to that animal.
- (2) In relation to any activity undertaken by an official veterinarian or inspector for which a charge may be made at the rate applicable to that officer –
  - (a) the Minister shall by Order determine a rate which represents the reasonable costs and expenses incurred in employing or contracting for the services of an official veterinarian or inspector to undertake the activity during any given unit of time;
  - (b) time charged for an activity undertaken by an official veterinarian or inspector shall be charged in units of no more than half an hour.

## **21 Orders amending these Regulations**

The Minister may by Order amend the Schedule.

## **22 Citation and commencement**

These Regulations may be cited as the EU Legislation (Veterinary Checks – Imports from Third Countries) (Jersey) Regulations 2016 and shall come into force one month after they are made.

**L.-M. HART**

*Deputy Greffier of the States*

**SCHEDULE**

(Regulation 7(1))

**CONDITIONS FOR APPROVAL OF QUARANTINE CENTRE**

**1 Facilities, services and equipment**

An approved quarantine centre must have –

- (a) facilities (which must be easy to clean and disinfect) for loading and unloading the different means of transport, inspection, feeding, watering and treatment of the animals, with adequate space, lighting and ventilation for the number of animals to be inspected;
- (b) sufficiently large premises at the disposal of the staff responsible for carrying out veterinary checks, including changing rooms, showers and toilets;
- (c) appropriate premises and facilities for taking and processing the samples for the routine checks laid down in Community rules;
- (d) the services of an undertaking in the immediate vicinity which has the facilities and equipment to house, feed, water, treat and, if necessary, slaughter the animals;
- (e) appropriate equipment permitting the rapid exchange of information with border inspection posts and the competent veterinary authorities referred to in Article 20 of the Council Directive of 26 June 1990 concerning veterinary and zootechnical checks applicable in intra-Community trade in certain live animals and products with a view to the completion of the internal market (90/425/EEC, OJ L 224, 18.8.1990, p. 29<sup>10</sup>);
- (f) equipment and facilities for cleaning and disinfecting.

**2 Controls and location**

An approved quarantine centre must –

- (a) be located at a distance from holdings or other places where animals are kept which are likely to be infected by contagious diseases;
- (b) have an efficient control system so as to ensure adequate surveillance of the animals.

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<sup>1</sup> *chapter 17.245*

<sup>2</sup> [http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L\\_.1998.024.01.0009.01.ENG](http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.1998.024.01.0009.01.ENG)

<sup>3</sup> <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31991L0496:EN:NOT>

<sup>4</sup> *chapter 02.400*

<sup>5</sup> *chapter 02.400*

<sup>6</sup> *R&O.33/2016*

<sup>7</sup> *chapter 02.400*

<sup>8</sup> <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31982L0894:EN:NOT>

<sup>9</sup> *chapter 02.400*

<sup>10</sup> <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31990L0425:EN:NOT>