

# Statutory Instrument 1992 No. 3298

## **The Products of Animal Origin (Import and Export) Regulations 1992**

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### STATUTORY INSTRUMENTS

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**1992 No. 3298**

**AGRICULTURE**

The Products of Animal Origin (Import and Export) Regulations 1992

*Made* 23rd December 1992

*Laid before Parliament* 30th December 1992

*Coming into force* 1st January 1993

The Minister of Agriculture, Fisheries and Food and the Secretary of State, being Ministers designated<sup>[1]</sup> for the purposes of section 2(2) of the European Communities Act 1972<sup>[2]</sup> in relation to the common agricultural policy of the Economic Community, acting jointly, in exercise of the powers conferred on them by the said section 2(2), hereby make the following Regulations:

#### PART I

#### INTRODUCTION

## **Title, commencement, interpretation and application**

1.—(1) These Regulations may be cited as the Products of Animal Origin (Import and Export) Regulations 1992 and shall come into force on 1st January 1993.

(2) In these Regulations, unless the context otherwise requires, any expressions used have the meaning they bear in Council Directive 89/662/EEC concerning veterinary checks in intra-Community trade with a view to the completion of the internal market<sup>[3]</sup> and Council Directive 90/675/EEC laying down the principles governing the organisation of veterinary checks on products entering the Community from third countries<sup>[4]</sup> both as read in accordance with Schedule 1;

"aquaculture product" means a product controlled by Council Directive 91/67/EEC concerning the animal health conditions governing the placing on the market of aquaculture products and animals<sup>[5]</sup>

"border inspection post" means a place specified in Schedule 2;

"customs warehouse" has the same meaning as in Council Regulation 2503/88/EEC on customs warehouses<sup>[6]</sup>;

"Divisional Veterinary Officer" means a veterinary surgeon appointed by the Minister to be responsible for an animal health division;

"establishment" means any undertaking which produces, stores or processes products of animal origin;

"fishery products" has the same meaning as in Council Directive 91/493/EEC laying down the health conditions for the production and the placing on the market of fishery products<sup>[7]</sup>

"free zone" and "free warehouse" have the same meaning as in Article 1.4.a and 1.4.b of Council Regulation 2504/88/EEC on free zones and free warehouses<sup>[8]</sup>

"health conditions" includes conditions relating to both animal health and public health;

"import" means import into Great Britain;

"live bivalve molluscs" has the same meaning as in Council Directive 91/492/EEC laying down the health conditions for the production and the placing on the market of live bivalve molluscs<sup>[9]</sup>

"local authority" means—

(a) in relation to England and Wales—

(i) where there is a Port Health Authority, that authority;

(ii) where there is not a Port Health Authority, as respects each London borough, or district, the council of that borough or district;

(iii) as respects the City of London, the Common Council;

(b) in relation to Scotland—

(i) where there is a port local authority (including a joint port local authority) constituted under section 172 of the Public Health (Scotland) Act 1897<sup>[10]</sup> that authority;

(ii) where there is not a port local authority, the islands or district council;

"Minister" means the Minister of Agriculture, Fisheries and Food;

"official veterinary surgeon", except in Regulation 7, means a person designated under Regulation 2 of these Regulations;

"place of destination" means the address or addresses to which the consignment is consigned by the consignor;

"product of animal origin" in relation to intra-Community trade means—

(a) a product controlled by one of the directives in Annex A to Council Directive 89/662/EEC (except for aquaculture products not intended for human consumption), or

(b) a product in Annex B to Council Directive 89/662/EEC;

and in relation to third country trade means those products as well as—

(c) aquaculture products;

- (d) semen, embryos, ova and hatching eggs referred to in Council Directive 90/425/EEC 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<sup>[11]</sup> as read in accordance with Schedule 1,
- (e) hay and straw, and
- (f) any product controlled by Directive 90/667/EEC laying down the veterinary rules for the disposal and processing of animal waste, for its placing on the market and for the prevention of pathogens in feedingstuffs of animal or fish origin<sup>[12]</sup>

(3) For the purposes of these Regulations, goods are in customs temporary storage arrangements if they have been presented to Customs under Article 14 of Council Regulation 4151/88/EEC laying down the provisions applicable to goods brought to the customs territory of the Community<sup>[13]</sup> and not assigned a customs-approved treatment or use in accordance with Article 14 of that Regulation.

(4) Any reference in these Regulations to a directive is a reference to that directive as amended.

(5) All notices served under these Regulations shall be in writing and may be made subject to conditions and may be amended, suspended or revoked in writing at any time.

(6) Unless the context otherwise requires, any reference in these Regulations to a Schedule is a reference to a Schedule of these Regulations.

(7) These Regulations (other than Regulation 22) shall not apply in the circumstances described in Article 14 of Council Directive 90/675/EEC.

(8) These Regulations do not apply to Northern Ireland.

### **Official veterinary surgeons**

2.—(1) The Minister may designate a veterinary surgeon as an official veterinary surgeon for the purposes of these Regulations.

(2) Subject to paragraphs (3) and (4) below, the Minister may, at any time, revoke or suspend the designation of any person as an official veterinary surgeon if it appears to the Minister that such person is unfit to perform one or more of the functions of an official veterinary surgeon under these Regulations.

(3) Where the Minister revokes or suspends a designation under paragraph (2) above he shall, as soon as possible, give to the person whose designation has been revoked or suspended a notice in writing of the reasons for the revocation or suspension and shall afford him an opportunity of making representations in writing to the Minister with regard to the revocation or suspension or of being heard by a person appointed for the purpose by the Minister.

(4) A notice given under paragraph (3) above shall inform the person to whom it is given of his right to make representations in writing, of the manner in which and the time (not being less than 21 days from the giving of the notice) within which such representations may be made and of his right to be heard and of the manner in which and the time (not being less than 21 days from the giving of the notice) within which he may apply for an opportunity to be heard; and, in the event of the designated person making any representations (whether orally or in writing) to the Minister under this paragraph, the Minister shall reconsider whether that person is unfit to perform one or more of the functions of an official veterinary surgeon under these

Regulations and shall reconsider, as soon as practicable, his decision to revoke or suspend the designation under paragraph (2) above in the light of those representations.

(5) The powers of the Minister under this Regulation shall be exercised in Scotland and Wales by the Secretary of State instead of by the Minister.

### **Enforcement**

**3.**—(1) Except where expressly otherwise provided, these Regulations shall be executed and enforced by the local authority.

(2) Subject to paragraph (4) below, where the Minister is satisfied that a local authority is failing or has failed to execute or enforce these Regulations, either generally or in any individual case or in any class of case, he may, having given notice to that authority, empower one of the Minister's officers to execute or enforce them in place of that authority.

(3) The Minister may recover from the local authority in default any expenses reasonably incurred by him under paragraph (2) above.

(4) In addition to the powers in paragraph (2) above, the Minister may direct, in relation to cases of a particular description or a particular case, that these Regulations shall be executed and enforced by the Minister instead of the local authority, or jointly by the Minister and the local authority.

(5) The powers of the Minister under paragraphs (2), (3) and (4) above shall, in relation to matters concerning public health where the products concerned are subject to intraCommunity trade, be exercised, instead of by the Minister—

- (a) in England, by the Secretary of State for Health;
- (b) in Scotland and Wales, by the Secretary of State.

### **Powers to give directions**

**4.**—(1) The following Ministers, acting alone or jointly, namely, the Minister of Agriculture, Fisheries and Food, the Secretary of State for Scotland, the Secretary of State for Wales and the Secretary of State concerned with health in England shall have power to give directions in writing to a local authority concerning the execution and enforcement of these Regulations.

(2) In the exercise of the functions conferred on them by these Regulations, every local authority shall have regard to any relevant provision of such directions.

(3) Any such directions shall, on the application of the Minister or the Secretary of State be enforceable by mandamus or, in Scotland, by an order of the Court of Session under section 45 of the Court of Session Act 1988<sup>[14]</sup>.

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*Notes:*

[1] S.I. 1972/1811. [back](#)

[2] 1972 c. 68. [back](#)

[3] OJ No. L395, 30.12.89, p. 13 as amended in accordance with Schedule 1. [back](#)

[4] OJ No. L373, 31.12.90, p. 1 as amended in accordance with Schedule 1. [back](#)

[5] OJ No. L46, 12.2.91, p. 1. [back](#)

[6] OJ No. L225, 15.8.88, p. 1. [back](#)

[7] OJ No. L268, 24.9.92, p. 15. [back](#)

[8] OJ No. L225, 15.8.88, p. 8. [back](#)

[9] OJ No. L268, 24.9.91, p. 1. [back](#)

[10] 1897 c. 38 (60 & 61 Vict.). [back](#)

[11] OJ No. L224, 18.8.90, p. 29 as read with the provisions in Schedule 1. [back](#)

[12] OJ No. L363, 27.12.90, p. 51. [back](#)

[13] OJ No. L367, 31.12.88, p. 1. [back](#)

[14] [1988 c. 36. back](#)