STATUTORY INSTRUMENTS

2007 No. 1621

ANIMALS, ENGLAND

ANIMAL HEALTH

The Animals and Animal Products (Import and Export) (England) (Laboratories, Circuses and Avian Quarantine) Regulations 2007

Made - - - -	*5th June 2007*
Laid before Parliament	*8th June 2007*
Coming into force - -	*1st July 2007*

The Secretary of State is designated(**a**) for the purposes of section 2(2) of the European Communities Act 1972(**b**) in relation to the Common Agricultural Policy of the European Community.

In accordance with section 56(1) of the Finance Act 1973(**c**), the Treasury consent to the making of these Regulations.

The Secretary of State makes these Regulations in exercise of the powers conferred on him by section 2(2) of the European Communities Act 1972 and by section 56(1) and (2) of the Finance Act 1973:

Title, application and commencement

1. These Regulations may be cited as the Animals and Animal Products (Import and Export) (England) (Laboratories, Circuses and Avian Quarantine) Regulations 2007; they apply in relation to England only and come into force on 1st July 2007.

Amendment to the Animals and Animal Products (Import and Export) (England) Regulations 2006

2. The Animals and Animal Products (Import and Export) (England) Regulations 2006(**d**) are amended as follows.

3.—(1) Regulation 1 is amended as follows.

(2) In paragraph (2)—

(**a**) S.I. 1972/1811.
(**b**) 1972 c. 68.
(**c**) 1973 c.51.
(**d**) S.I. 2006/1471, amended by SI 2006/2126, SI 2007/3 and 1044.

(a) for the definition of "captive bird", substitute—

""captive birds" means birds as defined in Article 3(a) of Commission Regulation (EC) No. 318/2007(**a**)";

(b) after the definition of "inspector", insert—

""inspector rate" is the rate determined under regulation 31(2)(a);";

(c) for the definitions of "quarantine centre" and "quarantine facility", substitute—

""quarantine centre" in relation to captive birds and "quarantine facility" mean a centre or facility, as the case may be, for which approval is required for the purposes of Article 11 of Commission Regulation (EC) No. 318/2007;".

(d) in the definition of "quarantine manager" for "regulation 19(11)" substitute "regulation 19(10)".

(3) In paragraph (3)—

(a) omit the definition of "Commission Decision 2000/666/EC"; and

(b) after the definition of "Commission Regulation (EC) No. 282/2004", insert—

""Commission Regulation (EC) No. 318/2007" means Commission Regulation (EC) No. 318/2007 laying down animal health conditions for imports of certain birds into the Community and the quarantine conditions thereof;";

(4) In paragraph (4), for "Commission Decision 2000/666/EC", substitute "Commission Regulation (EC) No. 318/2007.".

4. After regulation 5(6) insert—

"(7) For the purposes of Commission Regulation (EC) No. 1739/2005 laying down animal health requirements for the movement of circus animals between member States(**b**) the Secretary of State is the competent authority, and may charge such fee as he considers will enable him to meet the expenses incurred by him when registering a circus or animal act under Article 4 of that Regulation.

(8) Such fee shall be paid by the applicant for registration and shall be due after submission of the application upon the written demand of the Secretary of State;

(9) A demand under paragraph (8) may be addressed to the applicant concerned at his last known address, whether or not it is his address for business.

(10) No operator may contravene Article 8(3) of Commission Regulation (EC) No. 1739/2005 (obliging operators of circuses, and animal acts to which the Regulation applies, to retain for at least five years the information in their registers of animals and of venues).

(11) In paragraph (8), "operator" means a circus operator within the meaning of Commission Regulation (EC) No. 1739/2005, or the operator of an animal act in so far as that Regulation applies to him.".

5. In regulation 9—

(a) in paragraph (4), after "Mycoplasma" insert "and Salmonella";

(b) omit paragraph (5).

6. In regulation 16, for paragraph (4), substitute—

"(4) No person may import a captive bird unless it is from an approved breeding establishment as defined in Article 3(b) of Commission Regulation (EC) No. 318/2007.".

7. In regulation 18, for paragraph (3), substitute—

"(3) In relation to a captive bird, the importer or his agent shall at the expense of the importer ensure that—

(**a**) OJ No. L84, 24.3.2007, p. 7.
(**b**) OJ No. L279, 22.10.2005, p. 47.

(a) the bird is conveyed from the border inspection post referred to in paragraph (2) to an approved quarantine centre or approved quarantine facility in accordance with Article 7 of Commission Regulation (EC) No. 318/2007 (which provides for the direct transport of birds to approved quarantine facilities or centres); and

(b) the bird is placed and remains in quarantine at that approved quarantine centre or approved quarantine facility in accordance with Article 11(1) of Commission Regulation (EC) No. 318/2007 (which requires birds to be quarantined for at least 30 days).".

8. For regulation 19, substitute—

"**Quarantine of captive birds**

19.—(1) No person may operate a quarantine centre or quarantine facility for the quarantine of captive birds pursuant to Article 11(1) of Commission Regulation (EC) No. 318/2007 unless the quarantine centre or quarantine facility has been approved by the Secretary of State.

(2) Schedule 8 (quarantine of captive birds) has effect.

(3) A quarantine manager shall—

(a) ensure that the quarantine centre or quarantine facility is maintained and operated in accordance with—

(i) the minimum conditions in Chapter 1 of Annex IV to Commission Regulation (EC) No. 318/2007 (requirements as to construction and equipment);

(ii) paragraph (1)(a) and (c) of Chapter 2 of that Annex (management requirements); and

(iii) any other conditions attached to an approval granted under this regulation;

(b) provide such information to the Secretary of State as the latter may request to enable him to comply with Article 17(2) of Commission Regulation (EC) No. 318/2007 (requiring annual reports from member States to the European Commission as to the number of imported birds, mortality rates and confirmed cases of disease);

(c) provide such assistance to any veterinary inspector carrying out the functions of the official veterinarian under Commission Regulation (EC) No. 318/2007 as that veterinary inspector may reasonably require.

(4) In relation to any consignment of captive birds placed in quarantine pursuant to Article 11(1) of Commission Regulation (EC) No. 318/2007, the quarantine manager shall—

(a) ensure compliance with the following Articles of that Commission Regulation—

(i) 10(1)(b) (requiring notification of the arrival of a consignment at the quarantine centre or quarantine facility);

(ii) 11(1);

(iii) 12(2) and (3) (imposing requirements in relation to the use of sentinel birds); and

(iv) 15 (requiring action where *Chlamydophyla psittaci* is suspected);

(b) ensure there is surveillance of the captive birds during their quarantine which is adequate for the purposes of the Regulation, and consult with and seek the supervision of a veterinary inspector in respect of any analyses or treatments required under the Regulation;

(c) ensure compliance with the management requirements in paragraphs 2 to 10, and 12 to 15 of Chapter 2 of Annex IV to the Regulation;

(d) where any captive bird or sentinel bird dies during quarantine, make its carcase available to the veterinary inspector for examination in the official laboratory.

(5) No person may—

(a) contravene any requirement in paragraphs 4 to 6 of Chapter 2 of Annex IV to Commission Regulation (EC) No. 318/2007;

(b) in relation to a captive bird or a sentinel bird which dies during quarantine, remove or dispose of its carcase during the quarantine of captive birds, unless he is authorised to do so by a veterinary inspector;

(c) release captive birds in breach of Article 16 of Commission Regulation (EC) No. 318/2007 (requiring written authorisation by the official veterinarian for the release of birds from quarantine).

(6) A person is unauthorised for the purpose of paragraph 4 of Chapter 2 of Annex IV to Commission Regulation (EC) No 318/2007 (which prohibits unauthorised persons from entering quarantine centres and quarantine facilities), unless, in relation to a quarantine centre or quarantine facility—

(a) he is the quarantine manager;

(b) he is a member of staff who enters with the authority of the quarantine manager;

(c) he has been authorised to enter by the Secretary of State or by a veterinary inspector; or

(d) he otherwise enters in fulfilment of a statutory function in relation to animal health, animal welfare or species conservation which he is appointed by the Secretary of State or by the local authority to perform.

(7) In so far as not provided for under regulation 30, a veterinary inspector may, in relation to the quarantine of captive birds,—

(a) enter a quarantine centre or quarantine facility to check compliance with these Regulations or with an approval granted under this regulation, or to assess whether it is appropriate to grant such an approval;

(b) inspect and arrange for copies to be taken of any documents or records (including those in electronic form) which he reasonably considers relevant for checking compliance as described in sub-paragraph (a); and

(c) take samples and carry out official veterinary supervision.

(8) A veterinary inspector exercising powers under this regulation shall produce, if required to do so, some duly authenticated document showing his authority to exercise those powers.

(9) For the purposes of sampling and testing required under or in connection with Commission Regulation (EC) No. 318/2007, the Veterinary Laboratories Agency (an executive agency of Defra) is the official laboratory.

(10) In this regulation and Schedule 8—

(a) "official veterinary supervision" means the functions of the official veterinarian under Commission Regulation (EC) No. 318/2007 in relation to a consignment of captive birds to which Article 11(1) of that Commission Regulation applies;

(b) "quarantine manager" means the person in charge of a quarantine centre or quarantine facility for which approval is required pursuant to Article 11 of Commission Regulation (EC) No. 318/2007;

(c) references to sampling and the taking of samples are to the taking of samples required under that Commission Regulation, or which are taken for purposes of reaching a suspected or confirmed diagnosis of *Chlamydophyla psittaci*.".

9. In regulation 21, for paragraphs (2) and (3), substitute—

"(2) A veterinary inspector —

(a) shall take or require to be taken, the action required under Article 13(1) and (2) of Commission Regulation (EC) No. 318/2007 in relation to avian influenza or Newcastle disease suspected at a quarantine centre or quarantine facility where

captive birds are quarantined, imposing such restrictions as are required by that Article;

(b) shall, where the Secretary of State grants a derogation provided for in Article 14 of that Commission Regulation (relating to findings of low pathogenic avian influenza or Newcastle disease), take or require to be taken such further measures and impose such restrictions as are required under Article 14;

(c) who requires action to be taken by, or imposes restrictions upon, a quarantine manager or other person under this paragraph, shall do so by serving notice specifying the action or restrictions to be taken or observed.

(3) In the event of non-compliance by a quarantine manager with Article 15 of Commission Regulation (EC) No. 318/2007 (requiring treatment of birds suspected of infection with *Chlamydophyla psittaci*), a veterinary inspector may treat the captive birds concerned, or cause them to be treated, as required by Article 15, and shall serve notice extending the period of quarantine required under Commission Regulation (EC) No. 318/2007.".

10. For regulation 31, substitute—

"Recovery of expenses and determination of charges

31.—(1) The consignor, his representative and the person in charge of any animal or animal product 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 inspector by these Regulations relating to that animal or animal product.

(2) In relation to any activity undertaken by an inspector for which a charge may be made at the inspector rate—

(a) the Secretary of State shall determine a rate which represents the reasonable costs and expenses incurred in employing an inspector to undertake that activity during any given unit of time;

(b) the Secretary of State shall publish the current inspector rate on the Defra website;

(c) time charged at the inspector rate shall be charged in units of no more than half an hour.".

11. In regulation 34, for paragraph (2), substitute—

"(2) The provisions referred to in paragraph (1) are those contained in—

(a) regulation 5(8);

(b) paragraph 6 of Part I of Schedule 4;

(c) paragraphs 2 and 7 of Part I of Schedule 5;

(d) paragraphs 7(7), 8(5) and 9(3) of Part II of Schedule 8.".

12. For regulation 35, substitute—

"Disapplication of provisions

35. To the extent specified in column 3 of the table in Schedule 9, and subject to paragraph (1), the provisions of the legislation listed in Schedule 9 shall not apply to—

(a) imports from another member State of animals and animal products to which an instrument in Part I of Schedule 3 applies; or

(b) imports of an animal to which an instrument in Schedule 7 applies from a country subject to that instrument.".

13. In Part I of Schedule 3, after paragraph 10, insert—

"Circuses and animal acts

10A. Commission Regulation (EC) No. 1739/2005 laying down animal health requirements for the movement of circuses between member States.

Relevant provisions in that instrument: Articles 8(2), 9 and 10(1) and (3).".

14.—(1) Schedule 5 is amended as follows.

(2) For Part I, substitute—

"PART I

APPROVAL

1. The Secretary of State may approve any laboratory that he considers to be suitable for the purposes of carrying out Mycoplasma or Salmonella testing under the Poultry Health Scheme.

2. The operator of a laboratory approved under paragraph 1 shall pay the annual approval fee each year.

3. The annual approval fee is the fee provided for in Part II.

4. An inspector shall carry out inspections and quality assurance testing as the Secretary of State considers necessary.

5. In so far as such costs have not been taken into account in determining the annual approval fee, the Secretary of State may make a charge at the inspector rate for an inspector's time in carrying out inspections at laboratories.

6. The Secretary of State—

(a) may charge a fee for the provision of samples for quality assurance testing for the purposes of—

(i) assessing an application for an approval under this Schedule;

(ii) assessing whether an approved laboratory remains suitable for approval (in so far as such costs have not been taken into account in determining the annual approval fee); and

(iii) assessing whether suspension of such an approval should be lifted; and

(b) shall publish on the Defra website the current fees which may be charged under this paragraph.

7. A fee charged under paragraphs 4, 5 or 6 shall be paid by the operator of the laboratory concerned and payment shall be due upon written demand.".

(3) In Part II, for paragraph 1, substitute—

"**1.** The Secretary of State—

(a) shall determine the annual approval fee on the basis of the cost attributable to each laboratory of the items listed in paragraph 3;

(b) may determine different annual approval fees depending on whether the approval relates to:

(i) bacteriological testing for Mycoplasma only;

(ii) serological testing for Mycoplasma only;

(iii) bacteriological testing for Salmonella only;

(iv) serological testing for Salmonella only; or

(v) a combination of (i) to (iv); and

(c) shall publish the current annual approval fee or fees on the Defra website.".

15.—(1) Schedule 7 is amended as follows.

(2) In Part I, for paragraph 3, substitute—

"**Captive Birds**

3. Commission Regulation (EC) No. 318/2007, as read with Commission Decision 2006/696/EC laying down a list of third countries from which poultry, hatching eggs, day-old chicks, meat of poultry, ratites and wild game-birds, eggs and egg products and specified pathogen-free eggs may be imported into and transit through the Community and the applicable veterinary certification conditions, and amending Decisions 93/342/EEC, 2000/585/EC and 2003/812/EC (**a**).".

(3) In Part II, for paragraph 6, substitute—

"**Captive Birds**

6. Instrument: Commission Regulation (EC) No. 318/2007, as read with Council Directive 92/65/EEC.

Relevant provisions in that instrument: Articles 4, 5 and 8.".

16. For Schedule 8, substitute the Schedule to these Regulations.

17. For the text in the third column of the fifth entry in Schedule 9, substitute—

"Articles 4 to 7, 9(3) to (6), 10 to 12 except that article 4 shall continue to apply to all birds (including domestic fowl) and their hatching eggs other than—

(a) those subject to the provisions of Council Directive 90/539/EEC (excluding domestic fowl),

(b) those birds and their hatching eggs traded within the Community which are subject to the provisions of Council Directive 92/65; and

(c) captive birds whose import is provided for in Article 4 of Commission Regulation (EC) No. 318/2007.".

Revocation

18. The Animals and Animal Products (Import and Export) (England) (Imports of Captive Birds) Regulations 2007(**b**) are revoked.

Ian Pearson
Minister of State
27th May 2007 Department for Environment, Food and Rural Affairs

Dave Watts
Frank Roy
5th June 2007 Two of the Lords Commissioners of Her Majesty's Treasury

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(**a**) OJ No. L295, 25.10.2006, p.1.
(**b**) SI 2007/1044.

SCHEDULE

Regulation 15

"SCHEDULE 8

Regulation 19

Quarantine of Captive Birds

PART I

Approvals

1. The Secretary of State—

(a) may, if he is satisfied in all the circumstances that it is appropriate to do so, grant to a quarantine manager an approval in respect of a quarantine centre or a quarantine facility for which the quarantine manager has charge and which at least meets the minimum conditions set out in Annex IV to Commission Regulation (EC) No. 318/2007;

(b) shall comply with Chapter 3 of that Annex in relation to the suspension, revocation or reinstatement of such an approval.

2. The Secretary of State shall give reasons in writing—

(a) for refusing an application for an approval;

(b) for attaching conditions to an approval.

3. Notice of a revocation or suspension of an approval shall—

(a) take effect when it is served, unless otherwise stated in the notice;

(b) state—

(i) the reasons for the revocation or suspension, and

(ii) the time and date when it is to take effect;

(c) be served upon the quarantine manager—

(i) in person, or by leaving it at the quarantine centre or quarantine facility concerned; or

(ii) by post addressed to the quarantine manager at the quarantine centre or quarantine facility concerned, in which case it shall be deemed to be served at noon on the second day after posting it; and

(d) be copied to the importer, and so far as is practicable, if the importer is not the owner of the birds concerned, to the owner, of captive birds kept at the quarantine centre or quarantine facility at the date the revocation or suspension is to take effect.

4. Where an approval is revoked or is to be revoked and the continuation of quarantine at the quarantine centre or quarantine facility concerned would in the opinion of a veterinary inspector cause a significant public or animal health risk, he may issue directions by notice as to the movement or disposal of birds held in quarantine at the time the notice of revocation is stated to take effect, and such notice shall be served and copied to any importer and owner concerned as if it were a notice to which paragraph 3(c) and (d) applied.

PART II

Charges in relation to approvals of avian quarantine centres and facilities, official supervision, sampling and laboratory testing

General charging provisions

5. Using such criteria as he considers appropriate in all the circumstances to avoid an over-recovery of costs for which a charge is made under this Schedule, the Secretary of State may make a reduced charge, if during a veterinary inspector's attendance at a quarantine centre or quarantine facility he undertakes official activity for which a charge may be made to another party under this Schedule.

6. A demand for payment of charges made under this Schedule may be addressed to the importer or quarantine manager concerned, as appropriate, at his last known address, whether or not it is his address for business.

Charges relating to approvals

7.—(1) The Secretary of State may make a charge in connection with the granting, suspension, amendment or revocation of an approval under regulation 19 and this Schedule in accordance with this paragraph.

(2) A fee ("the approval administration fee") may be charged in relation to the receipt and processing of an application for —

(a) an approval;

(b) the lifting of the suspension of an approval; or

(c) the lifting of or amendment of conditions attached to an approval.

(3) The Secretary of State shall from time to time determine the fee for each type of application described in sub-paragraph (2) and shall publish the current fee on the Defra website.

(4) The approval administration fee for any type of application shall represent costs and expenses which the Secretary of State reasonably considers attributable to the receipt and processing of an application of that type.

(5) The inspector rate may be charged for time spent by a veterinary inspector inspecting premises to assess compliance with the minimum approval conditions.

(6) The Secretary of State may make a charge at no more than the inspector rate determined for the purposes of this paragraph for time spent by a veterinary inspector travelling to or from premises for purposes of inspecting them to assess compliance with the minimum approval conditions.

(7) Charges and fees under this paragraph shall be paid by the quarantine manager and shall be due upon written demand.

(8) In this paragraph—

(a) "approval" means an approval as provided for in regulation 19 and this Schedule;

(b) "minimum approval conditions" means the minimum conditions set out in Annex IV to Commission Regulation (EC) No. 318/2007.

Charges for official veterinary supervision and sampling

8.—(1) The Secretary of State shall make a charge at the inspector rate for time spent by a veterinary inspector at a quarantine centre or quarantine facility in relation to any consignment of captive birds placed in quarantine pursuant to regulation 19—

(a) carrying out official veterinary supervision; or

(b) taking samples.

(2) The Secretary of State may make a charge at no more than the inspector rate determined for the purposes of this paragraph for time spent by a veterinary inspector travelling to or from premises to carry out official veterinary supervision or take samples.

(3) The Secretary of State may make a charge for the administrative costs of official supervision and the taking of samples ("the consignment administration fee").

(4) The Secretary of State shall—

(a) from time to time determine the consignment administration fee in relation to consignments of different types and sizes as representing the costs and expenses which the Secretary of State reasonably considers attributable to the administration of official supervision and the taking of samples in relation to a type or size of consignment, including the recovery of costs provided for under this Part; and

(b) publish the current fee on the Defra website.

(5) Charges under this paragraph shall be paid by the importer and shall be due upon written demand.

Charges for testing of samples by the official laboratory

9.—(1) The Secretary of State may make a charge for the testing of samples.

(2) The Secretary of State shall—

(a) from time to time determine the fee for each type of test as representing the costs and expenses which the Secretary of State reasonably considers attributable to the undertaking by the official laboratory of a test of that type; and

(b) publish the current fee on the Defra website.

(3) Charges under this paragraph shall be paid by the importer and shall be due upon written demand.

(4) In this paragraph "testing of samples" means testing and analysis of samples carried out by the official laboratory pursuant to Articles 12 to 15 of and Annex VI to Commission Regulation (EC) No. 318/2007, and includes the removal of tissue *post mortem.*"

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Animals and Animal Products (Import and Export) (England) Regulations 2006 (S.I. 2006/1471) ("the principal Regulations").

They apply and enforce Commission Regulation (EC) No. 1739/2005 laying down animal health requirements for the movement of circus animals between member States (OJ No. L279, 22.10.2005, p. 47). Regulation 5 of the principal Regulations is amended to make provision for the Secretary of State's designation as competent authority for the purpose of Commission Regulation (EC) No. 1739/2005, and for fees to be charged for expenses incurred in registering circuses and animal acts as required under that Commission Regulation (regulation 4). The Commission Regulation is added to the list of instruments imposing conditions on the movement of animals within the Community in Part I of Schedule 3 to the principal Regulations (regulation 13).

Regulations 5 and 14 of these Regulations amend regulation 9 of and Schedule 5 to the principal Regulations to provide for the approval of laboratories to carry out official testing for Salmonella in poultry for export within the European Community under the Poultry Health Scheme (a scheme established under regulation 9 of and Schedule 4 to the principal Regulations). Schedule 5 is also amended in relation to charges for laboratory approvals, to reflect these new arrangements, and to provide for charges to be made for inspections and the supply of quality assurance testing kits where such costs are not recovered through the annual approval fee.

These Regulations also apply and enforce Commission Regulation (EC) No. 318/2007 laying down animal health conditions for imports of certain birds into the Community and the quarantine conditions thereof (OJ No. L84, 24.3.2007, p. 7). Regulation 16(4) of the principal Regulations is amended so that it prohibits the import of captive birds unless they are from an approved breeding establishment within the meaning of Commission Regulation (EC) No. 318/2007 (regulation 6). Regulation 19 of the principal Regulations ("quarantine of captive birds") is revised to reflect the new requirements for quarantine and to create offences accordingly (regulation 8). Measures to deal with the presence or the suspicion of avian influenza, Newcastle disease, and *Chlamydophyla psittaci* are provided for by amendment to regulation 21 of the principal Regulations (regulation 9). The import conditions in relation to captive birds set out in Commission Regulation (EC) No. 318/2007 are applied by introduction of additional paragraphs in Parts I and II of Schedule 7 (regulation 15). Schedule 8 is replaced with new provisions relating to approvals of quarantine centres and facilities, and fees, including new fees for such approvals (regulation 16).

Regulation 10 of these Regulations extends regulation 31 of the principal Regulations to provide for the determination and publication by the Secretary of State of a rate which may be charged for an inspector's time carrying out specified inspection work under the principal Regulations. Some inspections of laboratories under the Poultry Health Scheme, inspections of avian quarantine centres and facilities, and official veterinary supervision of captive birds during quarantine may be charged at this rate.

Regulatory impact assessments have been produced in relation to the arrangements for approvals and charges introduced for avian quarantine, to the movement of circus animals, and for approvals and charges in relation to laboratories carrying out salmonella testing under the Poultry Health Scheme. Copies are available by post from the Defra Information Resource Centre, Lower Ground Floor, Ergon House, Horseferry Road, London SW1P 3JR, or can be downloaded via the Defra website, www.defra.gov.uk.

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