

2008 No. 2795

ANIMALS

CUSTOMS

The Cat and Dog Fur (Control of Import, Export and Placing on the Market) Regulations 2008

<i>Made</i> - - - -	<i>26th October 2008</i>
<i>Laid before Parliament</i>	<i>28th October 2008</i>
<i>Coming into force</i> - -	<i>31st December 2008</i>

The Secretary of State, being a designated(a) Minister under section 2(2) of the European Communities Act 1972(b), makes the following Regulations in exercise of his powers under that section.

Interpretation

1.—(1) These Regulations may be cited as the Cat and Dog Fur (Control of Import, Export and Placing on the Market) Regulations 2008 and shall come into force on 31st December 2008.

(2) In these Regulations, the following definitions shall apply—

“business” includes a trade or profession and the activities of a professional or trade association or of a local authority or other public authority;

“cat” means an animal of the species *felis silvestris*;

“dog” means an animal of the subspecies *canis lupus familiaris*;

“enforcement authority” means any body on whom functions are conferred by or under regulation 3(1);

“goods” means any article which an officer reasonably believes to be cat and dog fur or a product containing such fur;

“officer” means a person authorised by an enforcement authority to enforce these Regulations; and

“records” includes any books or documents and any records in electronic form.

Penalty for breach of Regulation (EC) No 1523/2007

2. Any person who contravenes Article 3 of Regulation (EC) No 1523/2007 of the European Parliament and of the Council of 11 December 2007 banning the placing on the market and the

(a) In relation to the placing on the market of cat and dog fur or products containing such fur by the European Communities (Designation) Order 2008 (SI 2008/301) and in relation to the control of the import and export of goods by the European Communities (Designation) (No. 2) Order 1983 (SI 1983/1706).

(b) 1972 c. 68.

import to, or export from, the Community of cat and dog fur, and products containing such fur^(a) shall be guilty of an offence and liable—

- (a) on conviction on indictment, to a fine not exceeding £75,000; and
- (b) on summary conviction, to a fine not exceeding the statutory maximum.

Powers of investigation and enforcement

3.—(1) Subject to paragraph (2), it shall be the duty of—

- (a) every weights and measures authority in Great Britain; and
- (b) every district council in Northern Ireland

to enforce these Regulations within their area.

(2) It shall be the duty of Her Majesty's Revenue and Customs and not the enforcement authorities to enforce these Regulations at any place where goods are subject to customs supervision within the meaning of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code^(b).

(3) For the purposes of enforcing these Regulations, an officer may at any reasonable hour and on production, if required, of evidence that he is an officer—

- (a) inspect any goods;
- (b) enter any premises (including any place or vehicle) other than premises occupied only as a dwelling;
- (c) purchase any goods for the purposes of inspection;
- (d) examine any procedure connected with the production of any goods;
- (e) require any person carrying on a business, or employed in connection with a business, to produce any records relating to the business;
- (f) seize and detain any goods or records where there are reasonable grounds for believing that they may be—
 - (i) required as evidence in proceedings for an offence under regulation 2; or
 - (ii) (in relation to goods only) liable to be forfeited under regulation 4;
- (g) take copies of, or of any entry in, any records produced by virtue of sub-paragraph (e) or seized by way of sub-paragraph (f) ;
- (h) require any person having authority to do so to open any container; and
- (i) where a requirement made under sub-paragraph (h) has not been complied with, open or break open any container.

Forfeiture and destruction of goods

4.—(1) An enforcement authority may apply under this regulation for an order for the forfeiture of any goods on the grounds that there has been an offence under regulation 2 in relation to the goods.

(2) An application under this regulation may be made—

- (a) where proceedings have been brought in a magistrates' court for an offence under regulation 2 in relation to some or all of the goods, to that court; or
- (b) where no application for the forfeiture of the goods has been made under sub-paragraph (a), by way of complaint to a magistrates' court.

(3) On an application under this regulation, the court shall make an order for the forfeiture of any goods only if it is satisfied that there has been an offence under regulation 2 in relation to the goods.

(a) OJ No L 343, 27.12.2007, p1.
(b) OJ No L 302, 19.10.1992, p.1.

(4) A court may infer for the purposes of this regulation that an offence under regulation 2 has been committed in relation to any goods if it is satisfied that an offence under regulation 2 has been committed in relation to goods which are representative of those goods (whether by reason of being part of the same consignment or batch or otherwise).

(5) Any person aggrieved by an order made under this regulation by a magistrates' court, or by a decision of such a court not to make such an order, may appeal against that order or decision—

- (a) in England and Wales, to the Crown Court;
- (b) in Northern Ireland, to the County court; and
- (c) in Scotland, to the sheriff court

and an order made under this regulation by a magistrates' court may contain such provision as appears to the court to be appropriate for delaying the coming into force of the order pending the making and determination of any appeal (including any application under section 111 of the Magistrates' Courts Act 1980^(a) or Article 146 of the Magistrates' Courts (Northern Ireland) Order 1981^(b) (statement of case)).

(6) Where any goods are forfeited under this regulation they shall be destroyed.

Obstruction of an officer

5.—(1) It is an offence for a person ("P")—

- (a) intentionally to obstruct an officer in the exercise of any power granted under these Regulations;
- (b) intentionally to fail to comply with any requirement properly imposed on P by an officer in the exercise of any such power;
- (c) to fail, without reasonable excuse, to give an officer any assistance or information which the officer may reasonably require of P for the purpose of exercising any such power; or
- (d) in giving to an officer any information which P has been required to give an officer exercising any such power, to make any statement which P knows to be false or misleading in a material particular.

(2) A person who is guilty of an offence under this regulation is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(3) Nothing in this section is to be taken to require any person to answer any question put to that person by an officer, or to give any information to such an officer, if to do so might incriminate that person.

26th October 2008

Gareth Thomas
Minister of State for Trade, Investment and Consumer Affairs
Department for Business, Enterprise and Regulatory Reform

(a) 1980 c. 43.
(b) No. 1675 (N.I. 26).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations implement in the United Kingdom Regulation (EC) No 1523/2007 of the European Parliament and of the Council of 11 December 2007 (the “EC Regulation”) which prohibits the import, export and placing on the market of cat and dog fur.

Article 3 of the EC Regulation prohibits the import, export and placing on the market of cat and dog fur. Article 8 of the EC Regulation states that Member States shall lay down the rules on penalties applicable to infringements of Article 3 of the EC Regulation and that the penalties provided for shall be “effective, proportionate and dissuasive”.

The other provisions of the EC Regulation are directly applicable in the United Kingdom and do not need to be transposed.

Regulation 2 implements Article 8 of the EC Regulation by making contravention of Article 3 of the EC Regulation a criminal offence, punishable on indictment with a maximum penalty of £75,000 and on summary conviction with a fine not exceeding the statutory maximum (currently £5,000).

Regulation 3(1) imposes a duty on local weights and measures authorities (in Great Britain) and district councils (in Northern Ireland) to enforce regulation 2 but regulation 3(2) excludes from this duty the enforcement of the Regulations within areas where the goods are under the supervision of Her Majesty’s Revenue and Customs, in which areas enforcement will be the responsibility of Her Majesty’s Revenue and Customs.

Regulation 3(3) gives powers to local weights and measures authorities (in Great Britain) and district councils (in Northern Ireland) to inspect and seize goods suspected to be cat and dog fur for the purposes of enforcing regulation 2. No such powers are conferred on Her Majesty’s Revenue and Customs since all necessary powers are already granted by the Customs and Excise Management Act 1979.

Regulation 4 grants powers to local weights and measures authorities (in Great Britain) and district councils (in Northern Ireland) to apply to Court for forfeiture orders in respect of goods which contravene the prohibition in regulation 2. No such powers are conferred on officers of Her Majesty’s Revenue and Customs since all necessary powers are already granted by the Customs and Excise Management Act 1979.

Regulation 5 makes it a criminal offence (carrying a maximum penalty of a fine at level 3 on the standard scale) for a person intentionally to obstruct or fail to co-operate with an officer exercising powers granted under regulation 4.

Data (including personal data) which needs to be transferred between enforcement authorities and Her Majesty’s Revenue and Customs for the purposes of enforcing these Regulations will be transferred through existing powers conferred by section 19 of the Anti-Terrorism Crime and Security Act 2001.

A full Impact Assessment has been carried out and a copy has been placed in the libraries of both Houses of Parliament, together with a transposition note. Copies may be obtained from the Trade Policy Unit of the Department of Business, Enterprise and Regulatory Reform, 1 Victoria Street, London, SW1H 0ET.

STATUTORY INSTRUMENTS

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£5.00