

2007 No. 3518 (W.310)

ANIMALS, WALES

ANIMAL HEALTH

**The Export Restrictions (Foot-and-Mouth Disease) (Wales)
Regulations 2007**

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations revoke and remake The Export and Movement Restrictions (Foot-and-Mouth Disease) (No.2) (Wales) Regulations 2007. They implement Commission Decision 2007/554/EC as last amended by the Commission Decision of 13 December 2007 amending Decision 2007/554/EC concerning certain protection measures against foot-and-mouth disease in the United Kingdom (not yet published in the Official Journal), which extends the categories of products derived from animals which may be exported, and extends the areas from which such export may take place.

They regulate—

- (a) the export of live animals (regulation 3);
- (b) the export of semen, ova or embryos of animals of the bovine, ovine, caprine or porcine species or other biungulates (regulation 4).

They create an offence of offering to export anything which it is prohibited to export under the Regulations (regulation 5).

They provide powers for enforcement, and powers for officers of Revenue and Customs (regulations 6 to 8) and create an offence of obstruction (regulation 9).

Breach of the Regulations is an offence, punishable with up to two years' imprisonment (regulation 11).

The Regulations are enforced by the Welsh Ministers or the local authority (regulation 14).

A regulatory impact assessment has not been prepared for these Regulations.

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**The Export Restrictions (Foot-and-Mouth Disease) (Wales)
Regulations 2007**

Made - - - - 6.20 p.m. on 13 December 2007

Laid before the National Assembly for Wales

14 December 2007

Coming into force - - 6.30 p.m. on 13 December 2007

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SCHEDULE — Areas subject to export restrictions

The() Welsh Ministers are designated(1) for the purposes of section 2(2) of the European Communities Act 1972(2) in relation to the Common Agricultural Policy of the European Community.

The Welsh Ministers make these Regulations in exercise of the powers conferred on them by section 2(2) of the European Communities Act 1972.

PART 1

General provisions

Title, application, commencement and cessation

1. These Regulations —

- (c) are entitled the Export Restrictions (Foot-and-Mouth Disease) (Wales) Regulations 2007;
- (d) apply in relation to Wales;
- (e) come into force at 6.30 p.m. on 13 December 2007; and
- (f) cease to have effect on 31 December 2007.

Interpretation

2. In these Regulations—

“the Decision” means Commission Decision 2007/554/EC concerning certain protection measures against foot-and-mouth disease in the United Kingdom(3);

“export” includes consigning for export;

“inspector” means a person appointed as an inspector or a veterinary inspector for the purposes of the Animal Health Act 1981(4) or the Animals and Animal Products (Import and Export) (Wales) Regulations 2006(5), or a person authorised by the Welsh Ministers, local authority or Food Standards Agency to be an authorised officer or official veterinary surgeon for the purposes of the Products of Animal Origin (Third Country Imports) (Wales) Regulations 2007(6) or the Products of Animal Origin (Import and Export) Regulations 1996(7);

(1) S. I. 2005/2766. By virtue of sections 59(1) and 162 of, and paragraphs 28 and 30 of Schedule 11 to, the Government of Wales Act 2006, functions conferred on the National Assembly for Wales by this designation are exercisable by the Welsh Ministers.

(2) 1972 c. 68.

(3) OJ No. L210, 10.8.2007, p. 36 as last amended by the Commission Decision of 13 December 2007 amending Decision 2007/554/EC concerning certain protection measures against foot-and-mouth disease in the United Kingdom (not yet published in the Official Journal).

(4) 1981 c. 22

(5) S.I. 2006/1536 (W.153).

(6) S. I. 2007/376 (W.36).

(7) S. I. 1996/3124.

“local authority” means in relation to an area the council or county borough council for that area;

“premises” includes any land, building or other place.

PART 2

Export Restrictions

Export of live animals

3.—(1) No person may export any live animal of the bovine, ovine, caprine or porcine species or any other biungulate from the areas specified in the Schedule.

(2) No person may export any biungulate to another member State from Wales unless—

(a) at least three days before export the Welsh Ministers have notified that member State; and

(b) in the case of—

(i) bovine, ovine, caprine or porcine animals, the health certificate accompanying the animals bears the following words—

“Animals conforming to Commission Decision 2007/554/EC of 9 August 2007 concerning certain protection measures against foot-and-mouth disease in the United Kingdom.”;

(ii) other biungulates, the health certificate accompanying the animals bears the following words—

“Live biungulates conforming to Commission Decision 2007/554/EC of 9 August 2007 concerning certain protection measures against foot-and-mouth disease in the United Kingdom.”.

Export of semen, ova and embryos

4.—(1) No person may export semen, ova or embryos of animals of the bovine, ovine, caprine or porcine species or other biungulates produced in or brought into the areas specified in the Schedule.

(2) The prohibition in paragraph (1) does not apply in relation to—

(a) semen, ova or embryos produced before 15th July 2007;

(b) frozen bovine semen imported into the United Kingdom in accordance with the conditions laid down in Council Directive 88/407/EEC laying down the animal health requirements applicable to intra-Community trade in and imports of deep-frozen semen of domestic animals of the bovine species⁽¹⁾, which since introduction into the United Kingdom have been stored and transported separately from semen, ova or embryos not eligible for export;

(c) bovine embryos imported into the United Kingdom in accordance with the conditions laid down in Council Directive 89/556/EEC on animal health conditions governing intra-Community trade in and importation from third countries of embryos of domestic animals of the bovine species⁽²⁾, which since introduction into the United Kingdom have been stored and transported separately from semen, ova or embryos not eligible for export;

(d) porcine semen imported into the United Kingdom in accordance with the conditions laid down in Council Directive 90/429/EEC laying down the animal health requirements applicable to intra-Community trade in and imports of semen of domestic animals of the

(1) OJ No. L194, 22.7.1988, p. 10 as last amended by the Act of Accession of Austria, Finland and Sweden.

(2) OJ No. L302, 19.10.1989, p.11 as last amended by Act of Accession of Austria, Finland and Sweden.

porcine species(1), which since introduction into the United Kingdom have been stored and transported separately from semen, ova or embryos not eligible for export; or

- (e) frozen ovine or caprine semen or frozen ovine or caprine embryos imported into the United Kingdom in accordance with the conditions laid down in Council Directive 92/65/EEC laying down the animal health requirements governing trade in and imports into the Community of animals, semen, ova and embryos not subject to animal health requirements laid down in specific Community rules(2), which since introduction into the United Kingdom have been stored and transported separately from semen, ova or embryos not eligible for export.

(3) The health certificate accompanying frozen bovine semen exported to another member State from Wales must bear the following words—

“Frozen bovine semen conforming to Commission Decision 2007/554/EC of 9 August 2007 on certain protection measures against foot-and-mouth disease in the United Kingdom.”.

(4) The health certificate accompanying bovine embryos exported to another member State from Wales must bear the following words—

“Bovine embryos conforming to Commission Decision 2007/554/EC of 9 August 2007 concerning certain protection measures against foot-and-mouth disease in the United Kingdom.”.

(5) The health certificate accompanying ovine or caprine semen exported to another member State from Wales must bear the following words—

“Frozen ovine/caprine semen conforming to Commission Decision 2007/554/EC of 9 August 2007 concerning certain protection measures against foot-and-mouth disease in the United Kingdom.”.

(6) The health certificate accompanying ovine or caprine embryos exported to another member State from Wales must bear the following words—

“Frozen ovine/caprine embryos conforming to Commission Decision 2007/554/EC of 9 August 2007 concerning certain protection measures against foot-and-mouth disease in the United Kingdom.”.

(7) The health certificate accompanying porcine semen exported to another member State from Wales must bear the following words—

“Frozen porcine semen conforming to Commission Decision 2007/554/EC of 9 August 2007 concerning certain protection measures against foot-and-mouth disease in the United Kingdom.”.

Offers to dispatch or export

5. No person may offer to export, or accept orders for the export of, anything prohibited from being exported by these Regulations, whether on the internet or otherwise.

PART 3

Administration and enforcement

Powers of inspectors

6.—(1) An inspector may, on producing, if required to do so, some duly authenticated document showing his or her authority, at all reasonable hours enter any land or premises for the purposes of ascertaining whether there is or has been on the premises any contravention of these Regulations;

(1) OJ No. L224, 18.08.1990, p. 62 as last amended by Council Decision 2001/36/EC.

(2) OJ No. L268, 14.09.1992, p.54 as last amended by Council Decision 2007/265/EC.

and in this regulation “premises” includes any place, installation, vehicle (including any container, trailer, semi-trailer, caravan or other thing which is designed or adapted to be towed by another vehicle), train, ship, vessel, boat, craft, hovercraft or aircraft.

(2) An inspector may carry out all checks and examinations necessary for the enforcement of these Regulations, and in particular may—

- (a) detain any vehicle, vessel, container or anything which he or she reasonably suspects to contain animals or products controlled by these Regulations and intended for export for as long as is reasonably necessary to determine whether the consignment complies with the conditions for export;
- (b) search any premises;
- (c) carry out inspections of any processes used for the marking or identification of animals, any premises or any installation;
- (d) examine documentary or data processing material relevant to the checks carried out under these Regulations, including any import or export manifest; and
- (e) take with him or her a representative of the European Commission acting for the purposes of the Decision.

Powers of officers of Revenue and Customs

7. An Officer of Revenue and Customs may detain any vehicle, vessel, container or anything which the officer reasonably suspects to contain animals or products controlled by these Regulations for as long as is reasonably necessary to enable an inspector to exercise a power under these Regulations.

Illegal consignments of products

8.—(1) This regulation has effect when an inspector, on reasonable grounds, suspects that anything other than live animals is intended to be exported in contravention of these Regulations.

(2) The inspector may seize it and remove it in order to have it dealt with by a justice of the peace.

(3) If anything is seized under this regulation, the inspector must inform the person appearing to the inspector to be in charge of the consignment of the inspector’s intention to have it dealt with by a justice of the peace, and—

- (a) any person who might be liable for prosecution under these Regulations in relation to the export must, if they attend before the justice of the peace by whom the matter falls to be dealt with, be entitled to be heard and to call witnesses; and
- (b) the justice of the peace may, but need not, be a member of the court before which any person is charged with an offence under these Regulations in relation to that consignment.

(4) If it appears to a justice of the peace that there was an intention to export the consignment in contravention of these Regulations the justice of the peace must, unless satisfied that the consignment can be returned to the owner without risk of a further attempt to export it in contravention of these Regulations, order that the consignment be destroyed or otherwise disposed of so as to prevent it from being exported.

(5) When under the preceding paragraph a justice of the peace is satisfied that there was an intention to export a consignment in breach of these Regulations, the owner, the consignor and the consignee are jointly and severally liable for the costs reasonably incurred in its removal to storage, its storage and its destruction or disposal.

Obstruction

9. A person must not—

- (a) intentionally obstruct any person acting in the execution of these Regulations;

- (b) without reasonable cause, fail to give to any person acting in the execution of these Regulations any assistance or information which that person may reasonably require for the purposes of his or her functions under these Regulations;
- (c) furnish to any person acting in the execution of these Regulations any information which they know to be false or misleading; or
- (d) deface, obliterate or remove any mark made by an inspector under these Regulations.

Offences by bodies corporate

10.—(1) Where a body corporate is guilty of an offence under these Regulations, and that offence is proved to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of—

- (a) any director, manager, secretary or other similar officer of the body corporate, or
- (b) any person who was purporting to act in any such capacity,

that person as well as the body corporate, is guilty of the offence and is liable to be proceeded against and punished accordingly.

(2) For the purposes of this regulation, “director” in relation to a body corporate whose affairs are managed by its members, means a member of the body corporate.

Penalties

11. A person contravening any provision of these Regulations is guilty of an offence and liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum or to imprisonment not exceeding three months or to both; or
- (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years or to both.

Certificates issued in another part of the United Kingdom

12. Where these Regulations require any certificate to be issued or granted by the Welsh Ministers, a veterinary inspector or inspector, an equivalent document issued in another part of the United Kingdom by the relevant competent authority is valid.

Sharing information

13.—(1) The Welsh Ministers, the Commissioners and any local authority may exchange information for the purposes of these Regulations, and may divulge information to the enforcement authorities in another part of the British Islands.

(2) Paragraph (1) is without prejudice to any other power of the Welsh Ministers, the Commissioners or any local authority to disclose information.

(3) No person, including a servant of the Crown, may disclose any information received from the Commissioners under paragraph (1) if—

- (a) the information relates to a person whose identity—
 - (i) is specified in the disclosure; or
 - (ii) can be deduced from the disclosure;
- (b) the disclosure is for a purpose other than the purposes of these Regulations; and
- (c) the Commissioners have not given their prior consent to the disclosure.

(4) In this regulation, “the Commissioners” means the Commissioners for Her Majesty’s Revenue and Customs.

Enforcement

14. These Regulations will be enforced by the Welsh Ministers or the local authority.

Revocation

15. The Export and Movement Restrictions (Foot-And-Mouth Disease) (No.2) (Wales) Regulations 2007(1) are revoked.

Brian Gibbons

Minister for Social Justice and Local Government, one of the Welsh Ministers

6.20 p.m. on 13 December 2007

SCHEDULE

Regulation 3

Areas subject to export restrictions

GROUP	ADNS^(a)	Administrative Unit
England	41	Bracknell Forest Borough
	66	Slough
	76	Windsor and Maidenhead
	77	Wokingham
	138	The following district of Buckinghamshire County: South Buckinghamshire
	148	The following districts of Hampshire County: Hart Rushmoor
	163	Surrey (except Tandridge District)
	168	The following boroughs of the Greater London Authority: Hillingdon Hounslow Richmond upon Thames Kingston upon Thames Ealing Harrow Brent Hammersmith and Fulham Wandsworth Merton Sutton

^(a) ADNS means the Animal Disease Notification System set up by Commission Decision 2005/176 laying down a codified form and the codes for the notification of animal diseases pursuant to Council Directive 82/894/EEC(1)

(1) S. I. 2007/3441 (W. 305).

(1) OJ No.L59, 5.3.2005, p. 40.