EXPLANATORY MEMORANDUM TO

THE PRODUCTS OF ANIMAL ORIGIN (THIRD COUNTRY IMPORTS) (ENGLAND) (NO 4) REGULATIONS 2004

2004 No. 3388

1. This explanatory memorandum has been prepared by the Department for Environment, Food and Rural Affairs and is laid before Parliament by Command of Her Majesty

2. Description

2.1 These Regulations revoke and remake, with changes, the Products of Animal Origin (Third Country Imports) (England) (No 3) Regulations 2004 in order to-

(i) bring them up to date with Community law (primarily by revising Schedules 1 and 2); and

(ii) to make a number of changes regarding the exemption from the veterinary checks requirements for certain products authorised by the Secretary of State (regulation 3).

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Legislative Background

4.1 The Regulations implement Council Directive 97/78/EC (laying down the principles governing the organisation of veterinary checks on products entering the Community from third countries). Regulations implementing this Directive were first introduced in 2002 and have been updated regularly since, primarily to include Commission Decisions amending Community import requirements (which are listed in Schedule 1).

4.2 The Regulations require that products of animal origin to which the Directive applies (listed in Commission Decision 2002/349/EC) for import from third countries must be presented to an approved Border Inspection Post for veterinary examination to ensure that the product complies with the relevant import requirements. The Regulations require importers to comply with the import requirements listed in Schedule 1. Enforcement at Border Inspection Posts is the responsibility of the local authority or, in the case of a Border Inspection Post that handles only consignments not intended for human consumption, the State Veterinary Service. HM Customs are responsible for enforcement at points of entry other than Border Inspection Posts.

4.3 The transposition note submitted previously for these Regulations remains unchanged. The amendments to regulation 3 are, as explained in paragraph 6 below, designed to implement certain provisions of Article 16 of Directive 97/78/EC more effectively and with greater transparency, but do not affect the information given in the transposition note. The amendments to Schedules 1 and 2 are to ensure that the import requirements in the Regulations are kept up to date with Community law.

5. Extent

5.1 The Regulations apply in England. Scotland, Wales and Northern Ireland will introduce similar legislation.

6. European Convention on Human Rights

Not applicable

7. Policy Background

7.1 The objective of Directive 97/78/EC is to protect Community human and animal health by ensuring that imports of products of animal origin from third countries are produced to animal health and hygiene standards at least equivalent to those required for Community production. The changes to Schedules 1 and 2 are minor technical ones, reflecting the constantly changing disease situation in third countries.

7.2 Regulation 3 exempts products introduced into England with the previous authorisation of the Secretary of State as trade samples, for exhibition, or for particular studies or analyses from the requirements in the Regulations relating to veterinary checks. This exemption implements the exemption contained in Article 16(1)(e) and (f) of Directive 97/78/EC. Regulation 3 has been revised in this version of the Regulations in order to provide-

(i) that the Secretary of State's authorisation must be made subject to certain specified conditions (regulation 3(2));

(ii) that using such a product for an unauthorised purpose or contravening a condition of the Secretary of State's authorisation is an offence (regulation 3(3));

(iii) that products introduced for exhibition or for studies or analyses (or what remains of them) must be disposed of or redispatched to a third country within 6 months of their introduction or before the expiry of such other time limit as the Secretary of State may specify in her authorisation (regulation 3(4)); and

(iv) powers for an authorised officer to deal with such products in the case of non-compliance (regulation 3(5) and (6)).

7.3 These changes have been made in the interests of effective and transparent implementation of Community law. This is achieved by making it clear that the Secretary of State is bound (by Article 16(1)(e) and (f) of Directive 97/78/EC) to impose certain conditions (which were in any event previously imposed through the Secretary of State's authorisation), and by including the requirement concerning redispatch or disposal in the Regulations, rather than in the Secretary of State's authorisation. Implementation of the Directive's requirements has been further improved by the inclusion of enforcement provisions for dealing with breaches of the conditions of the authorisation that relate to the products' use following introduction.

7.4 The effect of the changes to regulation 3 is to make implementation of the Directive more transparent and enforcement more effective, and as such they have little effect on the burdens imposed on industry. The changes to the Schedules are primarily technical.

8. Impact

8.1 No RIA or consultation exercise has been prepared for this revision of the Regulations as no impact on the private sector, voluntary sector or the public sector is foreseen.

9. Contact

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