Commission Implementing Regulation (EU) 2015/1850 of 13 October 2015 laying down detailed rules for the implementation of Regulation (EC) No 1007/2009 of the European Parliament and of the Council on trade in seal products (Text with EEA relevance)

COMMISSION IMPLEMENTING REGULATION (EU) 2015/1850

of 13 October 2015

laying down detailed rules for the implementation of Regulation (EC) No 1007/2009 of the European Parliament and of the Council on trade in seal products

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EC) No 1007/2009 of the European Parliament and of the Council of 16 September 2009 on trade in seal products[(1)], and in particular Article 3(4) thereof,

Whereas:

(1) Regulation (EC) No 1007/2009 allows, under specific conditions, for the placing on the market of seal products which result from hunts conducted by Inuit and other indigenous communities. It also allows for the placing on the market of seal products where the import of seal products is occasional in nature and where the imported products consist exclusively of goods for the personal use of travellers and their families.

(2) Commission Regulation (EU) No 737/2010[(2)] established detailed rules for the placing on the market of seal products pursuant to Article 3 of Regulation (EC) No 1007/2009.

(3) Regulation (EU) 2015/1775 of the European Parliament and of the Council[(3)] has amended Article 3 of Regulation (EC) No 1007/2009, and it has repealed Regulation (EU) No 737/2010 with effect from date of application of this Regulation. It is necessary, therefore, to lay down measures implementing Article 3 of Regulation (EC) No 1007/2009, as amended.

(4) It is appropriate to provide that entities which comply with certain requirements should be included in a list of recognised bodies issuing documents attesting compliance with conditions for placing on the market of seal products.

(5) Models should be set out for the attesting documents and their copies in order to facilitate the management and verification of attesting documents.

(6) Procedures for the control of attesting documents should be set out. Those procedures should be as simple and as practical as possible without compromising the credibility and consistency of the control system.

(7) The use of electronic systems should be allowed in order to facilitate the exchange of data between competent authorities, the Commission and the recognised bodies.

Changes to legislation: *There are outstanding changes not yet made to Commission Implementing Regulation (EU) 2015/1850. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(8) The processing of personal data for the purposes of this Regulation, in particular as regards the processing of personal data contained in attesting documents, should comply with Directive 95/46/EC of the European Parliament and of the Council[(4)] and Regulation (EC) No 45/2001 of the European Parliament and of the Council[(5)].

(9) Since this Regulation lays down detailed rules for the implementation of Article 3 of Regulation (EC) No 1007/2009 as amended by Regulation (EU) 2015/1775, which applies as of 18 October 2015, it should enter into force as a matter of urgency.

(10) The measures provided for in this Regulation are in accordance with the opinion of the Committee established pursuant to Article 18(1) of Council Regulation (EC) No 338/97[(6)],

HAS ADOPTED THIS REGULATION:

Article 1

Subject matter

This Regulation lays down detailed rules for the placing on the market of seal products and for the importing of seal products for the personal use of travellers or their families pursuant to Article 3 of Regulation (EC) No 1007/2009.

Article 2

Personal use of travellers or their families

1 Seal products for the personal use of travellers or their families may only be imported where any of the following requirements is fulfilled:

a the seal products are either worn by the travellers, or carried or contained in their personal luggage;

b the seal products are contained in the personal property of a natural person transferring his normal place of residence from a third country to the Union;

c the seal products are acquired on site in a third country by travellers and imported by those travellers at a later date, provided that, upon arrival in the Union territory, those travellers present to the customs authorities of the Member State concerned the following documents:

(i) a written notification of import;

(ii) a supporting document giving evidence that the products were acquired in the third country concerned.

2 For the purposes of paragraph 1(c), the written notification and the supporting document shall be endorsed by the customs authorities and returned to the travellers. On import, the notification and the supporting document shall be presented to the customs authorities together with the customs declaration for the products concerned.

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Article 3

Recognised bodies

1 An entity shall be included in a list of recognised bodies where it demonstrates that it fulfils the following requirements:

a it has legal personality;

b it has the capacity to ascertain that the requirements of Article 3(1) of Regulation (EC) No 1007/2009 are met;

c it has the capacity to issue and manage attesting documents referred to in Article 4(1), as well as to process and archive records;

d it has the ability to carry out its functions in a manner that avoids conflict of interest;

e it has the ability to monitor compliance with the requirements set out in Article 3(1) of Regulation (EC) No 1007/2009;

f it has the capacity to withdraw attesting documents referred to in Article 4(1) or suspend their validity in case of non-compliance with the requirements of this Regulation, and to take measures to inform competent authorities and customs authorities of Member States thereof;

g it is subject to independent third party audits;

h it operates at national or regional level.

2 In order to be included in the list referred to in paragraph 1, an entity shall submit to the Commission a request accompanied by documentary evidence that it fulfils the requirements set out in paragraph 1.

3 The recognised body shall submit audit reports produced by the independent third party referred to in paragraph 1(g) to the Commission at the end of each reporting cycle.

Article 4

Attesting documents

1 Upon request, where the requirements for placing on the market set out in Article 3(1) of Regulation (EC) No 1007/2009 are met, a recognised body shall issue attesting documents conforming to the models set out in the Annex to this Regulation.

2 The recognised body shall deliver the attesting document to the applicant and shall keep a copy for three years for record-keeping purposes.

3 Subject to Article 5(2), when a seal product is placed on the market, the original attesting document shall be delivered with the seal product. The applicant may keep a copy of the attesting document.

4 A reference to the attesting document number shall be included in any further invoice.

5 A seal product accompanied by an attesting document issued in accordance with paragraph 1 shall be deemed to comply with Article 3(1) of Regulation (EC) No 1007/2009.

6 Acceptance of a customs declaration for release for free circulation of a seal product pursuant to Article 79 of Council Regulation (EEC) No 2913/92[(7)] shall be subject to the presentation of an attesting document issued in accordance with paragraph 1 of this Article.

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Without prejudice to Article 77(2) of Regulation (EEC) No 2913/92, the customs authorities shall keep a copy of the attesting document in their records.

7 In case of doubts relating to the authenticity or correctness of an attesting document issued in accordance with paragraph 1 as well as when further advice is required, the customs authorities and other enforcement officers shall contact a competent authority designated by the Member State concerned in accordance with Article 6. The competent authority contacted shall decide on the measures to be taken.

Article 5

Format of the attesting documents

1 The attesting document referred to in Article 4(1) shall be paper-based or in electronic form.

2 In case of an electronic attesting document, a printed copy of that attesting document shall accompany the seal product at the time the product is placed on the market.

3 The use of the attesting document shall be without prejudice to any other formalities relating to the placing on the market.

4 A competent authority designated in accordance with Article 6 may require that the attesting document be translated into the official language of the Member State where the product is to be placed on the market.

Article 6

Competent authorities

1 Each Member State shall designate one or several competent authorities responsible for the following tasks:

a verification, upon request of the customs authorities pursuant to Article 4(7), of attesting documents for imported seal products;

b control of the issuing of attesting documents by recognised bodies established and active in that Member State;

c preservation of a copy of attesting documents issued for seal products originating from seal hunts in that Member State.

2 Member States shall notify the Commission of the competent authorities designated in accordance with paragraph 1.

3 The Commission shall make the list of competent authorities designated in accordance with paragraph 1 available on its website. The list shall be regularly updated.

Article 7

Electronic systems for the exchange and recording of data

1 Competent authorities may use electronic systems for the exchange and recording of data contained in attesting documents.

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2 Member States shall take into account the complementarity, compatibility and interoperability of the electronic systems referred to in paragraph 1.

Article 8

Protection with regard to the processing of personal data

This Regulation is without prejudice to the level of protection of individuals with regard to the processing of personal data under Union law and national law, and in particular does not alter the obligations and rights set out in Directive 95/46/EC and Regulation (EC) No 45/2001. The protection of individuals with regard to the processing of personal data shall be ensured in particular with regard to any disclosure or communication of personal data in an attesting document.

Article 9

Transitional provision

The attesting documents issued by a recognised body in accordance with Regulation (EU) No 737/2010 prior to 18 October 2015 shall remain valid after that date.

Article 10

Entry into force and application

This Regulation shall enter into force on the day of its publication in the *Official Journal of the European Union*.

It shall apply from 18 October 2015.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 13 October 2015.

For the Commission

The President

Jean-Claude JUNCKER