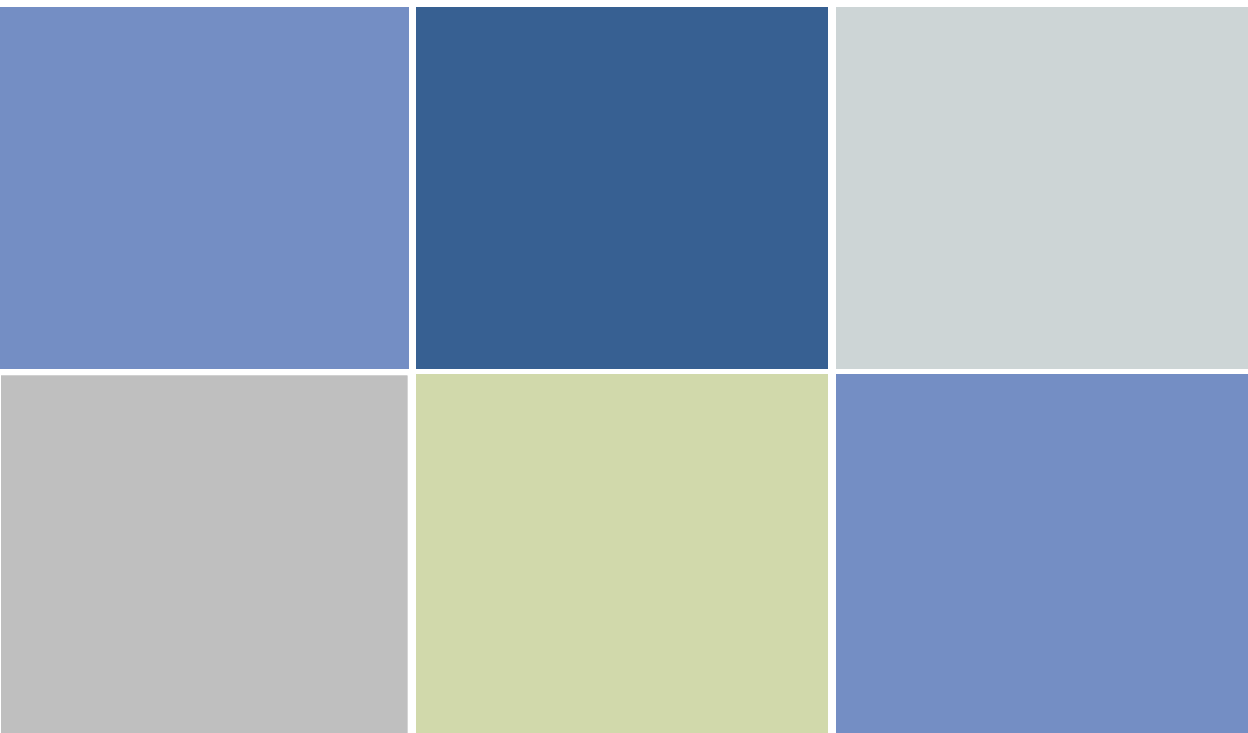


# Regulations on market surveillance of goods and other related enforcement activities



Unofficial translation from Swedish into English of

*Förordning (2014:1039) om marknadskontroll av varor och annan närliggande tillsyn*

Swedish Code of Statutes No: 2014:1039  
Resp. Ministry: Ministry for Foreign Affairs  
Promulgated: 17 July 2014  
Date of entry into force: 1 Sept 2014

# Introductory provisions

## **Section 1**

These regulations supplement the following EU Regulations:

1. Regulation (EC) No. 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation (EEC) No 339/93<sup>1</sup>, as relating to market surveillance of goods;
2. Regulation (EC) No. 764/2008 of the European Parliament and of the Council of 9 July 2008 laying down procedures relating to the application of certain national technical rules to products lawfully marketed in another Member State and repealing Decision No 3052/95/EC<sup>2</sup>; and
3. Council Regulation (EC) No 2679/98 of 7 December 1998 on the functioning of the internal market in relation to the free movement of goods among the Member States<sup>3</sup>.

These regulations also include other provisions on market surveillance and obligations on notification and guidance.

## Definitions

### **Section 2**

For the purposes of these regulations the following definitions shall apply.

*market surveillance*: the activities carried out and the measures taken by a government authority or a municipality to ensure that goods made available on the market comply with applicable requirements;

*market surveillance authority*: a government authority or a municipality responsible for carrying out market surveillance; and

*coordinating authority*: a government market surveillance authority that is responsible by statute for guidance or coordination within a certain sector.

## Market surveillance plans and information to the public

### **Section 3**

Government market surveillance authorities shall annually draw up and implement market surveillance plans and follow up the plans of the previous year. The authorities shall submit these to the Swedish Board for Accreditation and Conformity Assessment.

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<sup>1</sup> EUT L 218, 13.8.2008, p 30 (Celex 32008R0765).

<sup>2</sup> EUT L 218, 13.8.2008, p 21 (Celex 32008R0764).

<sup>3</sup> EUT L 227, 12.12.1998, p 8 (Celex 31998R2679).

Municipal market surveillance authorities shall assist coordinating authorities with data in accordance with the first subparagraph.

#### **Section 4**

Government market surveillance authorities shall inform the public of their activities and transmit corresponding information to the Swedish Board for Accreditation and Conformity Assessment.

## The Market Surveillance Council

#### **Section 5**

There is a Market Surveillance Council at the Swedish Board for Accreditation and Conformity Assessment.

The Director General of the Swedish Board for Accreditation and Conformity Assessment is the chair of the Market Surveillance Council.

The Market Surveillance Council shall adopt its rules of procedure.

#### **Section 6**

The Market Surveillance Council consists of government market surveillance authorities, the National Board of Trade and Swedish Customs. The market surveillance authorities listed in the annex to these regulations are represented in the Market Surveillance Council.

Other bodies than those specified in the first paragraph may, upon invitation by the chair of the Market Surveillance Council, participate in meetings of the Council.

The chair of the Market Surveillance Council appoints delegates representing the authorities, after nomination from each authority.

#### **Section 7**

The Market Surveillance Council shall

1. serve as a national coordinating body on issues of market surveillance;
2. promote cooperation and efficiency;
3. organise continuous exchange of experience;
4. be responsible for disseminating general information on market surveillance;
5. facilitate contacts between the public, the industry and the market surveillance authorities;
6. promote cooperation with market surveillance authorities in other Member States; and
7. annually draw up and implement a national market surveillance plan.

### **Section 8**

The Market Surveillance Council shall consult authorities, business and consumer representatives and other stakeholders to obtain input of significance for market surveillance.

### **Section 9**

The Swedish Board for Accreditation and Conformity Assessment is responsible for the secretariat of the Market Surveillance Council and shall:

1. draw up and make publicly available a list of the government market surveillance authorities, their areas of responsibility and contact persons, and transmit this information to the European Commission in accordance with Article 17(1) of Regulation (EC) No. 765/2008; and
2. make publicly available and notify the European Commission of the market surveillance plans referred to in section 3 and section 7(7).

The documents referred to in the first paragraph shall be transmitted to the Government.

## **Exchange of information between authorities and the European Commission**

### **Section 10**

The Swedish Consumer Agency shall be responsible for submitting information to the European Commission in the rapid alert system (RAPEX) in accordance with Article 20(1) and Article 22 of Regulation (EC) No. 765/2008.

The market surveillance authorities shall provide the Swedish Consumer Agency with the information necessary to be able to fulfil its obligations in accordance with the first paragraph.

The Swedish Board for Accreditation and Conformity Assessment shall administer the general information and communication system for market surveillance (ICSMS), in accordance with Article 23 of Regulation (EC) No. 765/2008, which the market surveillance authorities shall use.

### **Section 11**

Government authorities, the county administrative boards exempted, shall inform the National Board of Trade of the decisions they have addressed to economic operators in accordance with Article 6(2) of Regulation (EC) No. 764/2008.

Municipalities and county administrative boards shall submit decisions according to the first paragraph to the coordinating authorities. The coordinating authorities shall inform the

National Board of Trade of such decisions.

The National Board of Trade shall notify the European Commission of the decisions.

### **Section 12**

Government authorities or municipalities that decide on a temporary prohibition in accordance with Article 7 of Regulation (EC) No. 764/2008 shall, in connection with the notification to the economic operator, fulfil the information obligation in relation to the European Commission by transmitting the decision to the National Board of Trade, which shall immediately transmit it to the European Commission.

County administrative boards or municipalities that communicate a decision in accordance with the first paragraph shall also communicate it to the coordinating authority.

### **Section 13**

Information in accordance with sections 10–12 shall be submitted without delay.

## **Responsibility of the National Board of Trade in its capacity as contact point**

### **Section 14**

The National Board of Trade shall, in its capacity as contact point in accordance with Article 9 of Regulation (EC) No. 764/2008,

1. fulfil the obligation of the contact point in accordance with Article 10 of the Regulation; and
2. provide the Government with statistics and data for the annual report to the European Commission in accordance with Article 12 of the Regulation.

### **Section 15**

Government authorities and municipalities shall immediately submit the necessary information that the National Board of Trade needs to be able to, in its capacity as contact point, provide information in accordance with Article 10 of Regulation (EC) No. 764/2008.

## **Procedures in the event of measures due to actual obstacles to the free movement of goods**

### **Section 16**

The National Board of Trade shall, on behalf of Sweden,

1. fulfil the obligation on Member States to provide information as indicated in Articles 3-5 of Regulation (EC) No. 2679/98, and
2. receive such information as indicated in Articles 4(2) and 5(1) of the

aforementioned Regulation.

### **Section 17**

The Swedish Police, the Swedish Customs and the Swedish Coast Guard shall without delay inform the National Board of Trade of

1. obstacles indicated in Article 1 of Regulation (EC) No. 2679/98 which they are informed of within their areas of responsibility and
2. measures taken or intended to be taken in order to remove the obstacles.

The authorities indicated in the first paragraph shall, upon request, transmit such information necessary to the National Board of Trade for the Board to be able to fulfil its tasks in accordance with section 16.

## **Obligations on notification and guidance**

### *Notification to the Government and other authorities*

### **Section 18**

The Swedish National Board of Trade, the Swedish Board for Accreditation and Conformity Assessment and the Consumer Agency shall keep the Government and other authorities concerned informed regarding issues of particular significance for the application of these regulations.

### *Notification of formal objection to standards*

### **Section 19**

A government market surveillance authority shall inform the National Board of Trade if there is reason to object to a harmonised standard in accordance with Article 11 in Regulation (EU) No. 1025/2012 of the European Parliament and of the Council of 25 October 2012 on European standardization, amending Council Directives 89/686/EEC and 93/15/EEC and Directives 94/9/EC, 94/25/EC, 95/16/EC, 97/23/EC, 98/34/EC, 2004/22/EC, 2007/23/EC, 2009/23/EC and 2009/105/EC of the European Parliament and of the Council and repealing Council Decision 87/95/EEC and Decision No 1673/2006/EC of the European Parliament and of the Council<sup>4</sup>, or a proposal for such a standard on the grounds that the standard does not meet the requirements it aims at meeting.

### *Obligation to provide guidance*

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<sup>4</sup> EUT L 316, 14.11.2012, p 12 (Celex 32012R21025).

### ***Section 20***

Within their respective areas of responsibility, the National Board of Trade, the Swedish Board for Accreditation and Conformity Assessment, and the Consumer Agency shall provide guidance to other authorities on the application of these regulations.

## **AUTHORISATION**

### ***Section 21***

The National Board of Trade is authorised to issue regulations on the implementation of sections 11–12, 15, and 17, second paragraph.

These regulations enter into force on 1 September 2014. These regulations repeal:

1. Regulations SFS 1999:762 on the obligation of information in the event of obstacles to the free movement of goods;
2. Regulations SFS 2005:893 on market surveillance of goods; and
3. Regulations SFS 2009:52 on contact point and information procedures concerning the application of mutual recognition of technical rules for products.



## Annex

List of market surveillance authorities represented in the Market Surveillance Council in accordance with section 6

The Swedish Work Environment Authority

The Swedish National Board of Housing, Building, and Planning

The National Electrical Safety Board

The Swedish Energy Agency

The Health and Social Care Inspectorate

The Swedish Chemicals Agency

The Swedish Consumer Agency

The Medical Products Agency

The Swedish Broadcasting Authority

The Swedish Civil Contingencies Agency

The Swedish Environmental Protection Agency

The Swedish Post and Telecom Authority

The National Board of Health and Welfare

The Swedish Radiation Safety Authority

The Swedish Board for Accreditation and Conformity Assessment

The Swedish Transport Agency

