

**EXPLANATORY MEMORANDUM TO**  
**THE IMPORT OF AND TRADE IN ANIMALS AND ANIMAL PRODUCTS**  
**(AMENDMENT ETC.) (EU EXIT) REGULATIONS 2019**

**2019 No. [XXXX]**

**1. Introduction**

- 1.1 This explanatory memorandum has been prepared by the Department for Environment Food and Rural Affairs and is laid before Parliament by Act.
- 1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

**2. Purpose of the instrument**

- 2.1 The purpose of this instrument is to address failures of domestic legislation and other deficiencies arising from the withdrawal of the UK from the EU. This instrument is made under the European Union (Withdrawal) Act 2018 (“the Withdrawal Act”) to amend the directly applicable EU Regulations and Decisions listed in Annex 2, in England, Scotland and Wales, in relation to trade in animals and animal related products. The instrument also makes a deficiency amendment to two importation fee provisions in domestic Regulations that apply in England and in Northern Ireland. No substantive policy changes are being introduced by these amendments, which are technical in nature and would come into force in the event that the UK leaves the EU without a deal only.

*Explanations*

*What did any relevant EU law do before exit day?*

- 2.2 The EU Regulations and Decisions being amended by this instrument are related to the importation into, and transit through, the EU of live animals, products of animal origin, germplasm (semen, ova and embryos) and the non-commercial movement of pet animals, circus animals and equines. The amendments contained in these Regulations will provide for the continuation of the existing legal framework under EU law which relates to the importation into, and transit through, the UK of live animals and animal products from the EU and from listed third countries on exit day. They will ensure that veterinary controls on EU trade and imports of live animals and animal products safeguard animal and public health and that they continue to meet the specific import conditions laid down in the relevant EU legislation. Provision will be made in respect of the continuing authorisation of businesses, health certification, conditions for transport and appropriate actions to be taken in case of a reported non-compliance and disease outbreak.
- 2.3 This legislation is aimed primarily at ensuring sufficient pre-notification of arrival, proper certification, checks of certain consignments and isolation and vaccination facilities where necessary to ensure strong biosecurity protection of animals and related products into the UK.
- 2.4 Part 2 of this instrument allows for the appropriate UK or Devolved authority to draw up lists of third countries approved for the purposes of continuing trade with the UK in live animals and animal products.

- 2.5 Part 3 of this instrument introduces amendments to provisions in domestic legislation relating to the recovery of fees for any activity relating to imports of animals and animal products from the EU. Paragraph 1(2) of Schedule 7 to the Withdrawal Act provides that any amendment relating to public authority fees must be introduced in an affirmative resolution instrument. Other amendments to these two domestic trade Regulations are being made in separate negative resolution EU Exit instruments.
- 2.6 Part 4 of this instrument amends retained direct EU legislation. A summary of the content and purpose of each of the forty-six Regulations amended by this instrument is set out in the following paragraphs:
- 2.7 Commission Decision 93/352/EEC laying down derogations from the conditions of approval for border inspection posts located in ports where fish is landed. The Decision provides for the competent authority to designate an official trained agent to be responsible for the carrying out of checks on fish in border inspection posts located in ports where fish is unloaded.
- 2.8 Commission Decision 94/360/EC on the reduced frequency of physical checks of consignments of certain products to be implemented from third countries. This Decision sets the frequencies of physical checks that need to be carried out on imported animal products and those where an equivalence agreement is in place.
- 2.9 Commission Decision 97/152/EC concerning the information to be entered in the computerized file of consignments of animals or animal products from third countries which are re-dispatched. This Decision sets out the information that must be entered in the computerized file of such consignments, and ensures that this is sufficient to allow accurate identification of re-dispatched consignments, and the reasons for re-dispatch.
- 2.10 Commission Decision 97/794/EC laying down certain detailed rules for the application of Council Directive 91/496/EEC as regards veterinary checks on live animals to be imported from third countries. This Decision lays down rules on identity, veterinary and zootechnical checks, and documentation for imports from third countries of certain live animals. It also provides for certain derogations from the above in the case of certain species.
- 2.11 Commission Decision 2000/571/EC laying down the methods of veterinary checks for products from third countries destined for introduction into free zones, free warehouses, customs warehouses or operators supplying cross border means of sea transport. This Decision sets down the health checks and documentary requirements for products of animal origin being imported from third countries that are destined for warehouses in free zones, free warehouses or customs warehouses. It also sets down the controls that need to be applied for movement in and out of these facilities.
- 2.12 Commission Decision 2000/572/EC laying down the animal and public health and veterinary certification conditions for imports of meat preparations from third countries. This Decision sets down requirements for the importation of such products, third country lists and model certificates.
- 2.13 Commission Decision 2001/812/EC laying down the requirements for the approval of border inspection posts responsible for veterinary checks on products introduced into the Community from third countries. This Decision sets the standards for procedures, facilities and hygiene that must be adhered to in designating border inspection posts for veterinary checks. It also sets down requirements for expertise of personnel, availability of equipment and handling of products at border inspection posts.

- 2.14 Commission Decision 2003/459/EC on certain protection measures with regard to monkey pox virus. This Decision prohibits importation of specific species from certain regions outside the EU, with certain derogations, with the aim of preventing introduction of the monkey pox virus into the EU.
- 2.15 Commission Decision 2003/467/EC establishing the official tuberculosis, brucellosis, and enzootic-bovine-leukosis-free status of certain Member States and regions of Member States as regards bovine herds. This Decision lists areas declared officially free from the above diseases.
- 2.16 Commission Decision 2003/779/EC laying down animal health requirements and the veterinary certification for the import of animal casings from third countries. This Decision lays the import conditions and model health certificates from third countries from which imports of animal casings are authorised.
- 2.17 Commission Regulation (EC) No 136/2004 laying down procedures for veterinary checks at Community border inspection posts on products imported from third countries. This Regulation sets out required veterinary checks, pre-notification requirements and procedures for imports of animal products from third countries. It also lays down the Common Veterinary Entry Document (CVED) that is used to pre-notify the consignment and to record the outcome of the veterinary checks.
- 2.18 Commission Regulation (EC) No 282/2004 introducing a document for the declaration of, and veterinary checks on, animals from third countries entering the Community. This Regulation provides for notification of arrival of animals from third countries by means of the Common Veterinary Entry Document, and sets out rules for issuing said document. It also lays down procedures to be followed for animals under customs control or subject to special monitoring, and for mutual sharing of data between Member States' customs services.
- 2.19 Commission Regulation No (EC) 1739/2005/ laying down animal health requirements for the movement of circus animals between Member States. This Regulation lays down rules (including registration, use of animal passports where appropriate, and veterinary checks) for the movement of circus animals between Member States.
- 2.20 Commission Decision 2006/168/EC establishing the animal health and veterinary certification requirements for imports into the Community of bovine embryos. This Decision lays down the list of approved third countries, the import conditions and model veterinary certificates for imports of bovine embryos.
- 2.21 Commission Decision 2007/25/EC as regards certain protection measures in relation to highly pathogenic avian influenza and movements of pet birds accompanying their owners into the Community. This Decision lays down requirements for the import of pet birds from third countries into the EU, including veterinary checks, health certificates and quarantine where appropriate.
- 2.22 Commission Decision 2007/240/EC laying down new veterinary certificates for importing live animals, semen, embryos, ova and products of animal origin into the Community. This Decision lays out standard model veterinary certificates for imports from third countries of live animals, germplasm and products of animal origin.
- 2.23 Commission Decision 2007/275/EC concerning lists of animals and products to be subject to controls at border inspection posts. This Decision lays down lists of commodities subject to veterinary checks at border inspection posts, and animal health requirements for composite products.

- 2.24 Commission Decision 2007/777/EC laying down the animal and public health conditions and model certificates for imports of certain meat products and treated stomachs, bladders and intestines for human consumption from third countries. This Decision lays down animal and public health rules, third country lists and model veterinary certificates for imports into the EU, transit and storage of the above products.
- 2.25 Commission Decision 2008/185/EC on additional guarantees in intra-Community trade of pigs relating to Aujeszky's disease and criteria to provide information on this disease. This Decision lays down a list of regions in EU Member States certified free from Aujeszky's disease and lays down conditions for movement of live pigs from areas not listed. These conditions include provisions for disease notification, health certification and biosecurity requirements of areas of production and during movement, to prevent spread of the disease.
- 2.26 Commission Decision 2008/636/EC establishing the list of third countries from which Member States authorise imports of ova and embryos of the porcine species. This Decision lays down the list of third countries for imports into the EU of porcine ova and embryos.
- 2.27 Commission Regulation (EC) No 798/2008 laying down a list of third countries, territories, zones or compartments from which poultry and poultry products may be imported into and transit through the Community and the veterinary certification requirements. This Regulation lays down veterinary certification requirements for imports into and transit through the EU of live poultry and poultry products (meat and eggs), and lays down a list of areas from which the above may be imported.
- 2.28 Commission Regulation (EC) No 1251/2008 implementing Council Directive 2006/88/EC as regards conditions and certification requirements for the placing on the market and the import into the Community of aquaculture animals and products thereof and laying down a list of vector species. This regulation refers to the model health certificates which must be used for the placing of aquaculture animals and products on the market and for imports of aquaculture animals and products and aquatic animals into the EU.
- 2.29 Commission Regulation (EC) No 119/2009 laying down a list of third countries or parts thereof, for imports into, or transit through the Community of meat of wild Leporidae, of certain wild land mammals and of farmed rabbits and the veterinary certification requirements. This Regulation lays down veterinary certification requirements for imports into and transit through the EU of the above commodities, and lays down a list of areas from which the above may be imported.
- 2.30 Commission Regulation (EC) No 206/2009 on the introduction into the Community of personal consignments of products of animal origin. This Regulation lays down rules concerning import into the EU of personal consignments (travellers' luggage or by mail) of products of animal origin and pet food for non-commercial purposes. These rules include limits on quantity, customs checks, and information to be provided to the public.
- 2.31 Commission Decision 2009/712/EC implementing Council Directive 2008/73/EC as regards Internet-based information pages containing lists of establishments and laboratories approved by Member States in accordance with Community veterinary and zootechnical legislation. This Decision lays down a requirement for Member States to have in place up to date Internet-based information pages to make

electronically available lists of approved veterinary and zootechnical establishments and laboratories.

- 2.32 Commission Decision 2009/821/EC drawing up a list of approved border inspection posts, laying down certain rules on the inspections carried out by Commission veterinary experts and laying down the veterinary units in Traces. This Decision lays down a list of approved border inspection posts, detailed rules for the inspections carried out by veterinary experts at border inspection posts and at certain other points of entry into the EU, and the list of veterinary units designated within the Traces system.
- 2.33 Commission Regulation (EU) No 206/2010 laying down lists of third countries, territories or parts thereof authorised for the introduction into the European Union of certain animals and fresh meat and the veterinary certification requirements. This Regulation sets out the veterinary certification requirements for the introduction into the EU of consignments of certain live animals (including certain species of bees) or fresh meat, and lays down a list of areas from which such consignments may be imported. It also sets down general rules for the import and transport of such consignments, including conditions for transport of live animals.
- 2.34 Commission Decision 2010/470/EU laying down model health certificates for trade within the Union in semen, ova and embryos of animals of the equine, ovine and caprine species and in ova and embryos of animals of the porcine species. This Decision lays down the model health certificates for trade within the EU of the above commodities.
- 2.35 Commission Decision 2010/472/EU on imports of semen, ova and embryos of animals of the ovine and caprine species. This Decision sets out a list of areas from which the importation into the EU of ovine and caprine semen, ova and embryos are authorised, and also lays down certification requirements for the importation of those commodities into the EU.
- 2.36 Commission Regulation (EU) No 605/2010 laying down animal and public health and veterinary certification conditions for the introduction into the European Union of raw milk, dairy products, colostrum and colostrum-based products intended for human consumption. This Regulation sets out the public and animal health conditions and certification requirements for the introduction into the EU of consignments of raw milk and dairy products, and a list of third countries from which importation of the above is authorised.
- 2.37 Commission Decision 2011/163/EU on the approval of plans submitted by third countries in accordance with Article 29 of Council Directive 96/23/EC. Council Directive 96/23/EC lays down measures to monitor certain chemical residues in live animals and animal products intended for human consumption. This Decision approves residue plans for third countries in accordance with that Council Directive for exports to the EU of certain commodities.
- 2.38 Commission Implementing Decision 2011/215/EU implementing Council Directive 97/78/EC as regards transshipment at the border inspection post of introduction of consignments of products intended for import into the Union or for third countries. This Decision sets down rules for transshipment of products through the EU, including conditions for notification and maximum time periods allowed for transit without additional checks.

- 2.39 Commission Implementing Decision 2011/630/EU on imports into the Union of semen of domestic animals of the bovine species. This Decision lays down a list of third countries from which imports of bovine semen are authorised, and sets down requirements for such imports including the model health certificates.
- 2.40 Commission Regulation (EU) No 28/2012 laying down requirements for the certification for imports into and transit through the Union of certain composite products. This Regulation lays down rules and certification requirements for certain composite products introduced into the EU from third countries.
- 2.41 Commission Implementing Decision 2012/137/EU on imports into the Union of semen of domestic animals of the porcine species. This Decision lays down a list of areas from which imports of porcine semen are allowed into the EU. It also lays down certification requirements for such imports.
- 2.42 Commission Implementing Regulation (EU) No 139/2013 laying down animal health conditions for imports of certain birds into the Union and the quarantine conditions thereof. This Regulation sets out the health conditions for imports of certain birds (not including poultry or pet birds) into the EU. It also lays down lists of areas from which such imports should be authorised, and the quarantine conditions for such imports.
- 2.43 Commission Implementing Decision 2013/519/EU laying down the list of territories and third countries authorised for imports of dogs, cats and ferrets and the model health certificate for such imports. This Decision lists areas from which the above imports into the EU are authorised. It also sets down various conditions with which such imports should comply, including animal health certification, and lays down the appropriate model health certificate.
- 2.44 Regulation (EU) No 576/2013 on the non-commercial movement of pet animals. This Regulation lays down the animal health and documentary requirements applicable to the non-commercial movement of pet animals into or within the EU, and the rules for compliance checks on such movement.
- 2.45 Commission Implementing Regulation (EU) No 577/2013 on the model identification documents for the non-commercial movement of dogs, cats and ferrets, the establishment of lists of territories and third countries and the format, layout and language requirements of the declarations attesting compliance with certain conditions provided for in Regulation (EU) No 576/2013. This Regulation lists third countries which are subject to reduced requirements for non-commercial movements of pet animals into the EU. It also sets out the documentation required for non-commercial movements, namely pet passports and model health certificates. Commission Implementing Regulation (EU) 2016/561 of 11 April 2016 amended Annex IV of 577/2013.
- 2.46 Commission Implementing Regulation EU No 743/2013 introducing protective measures on imports of bivalve molluscs from Turkey intended for human consumption. This Regulation bans imports of live and chilled bivalve molluscs for human consumption from Turkey, and sets down rules for inspection and testing of imports of frozen and processed bivalves from Turkey, to protect against contamination with *Escherichia coli* bacteria and marine biotoxins which could be injurious to human health.
- 2.47 Commission Implementing Decision 2013/764/EU concerning animal health control measures relating to classical swine fever in certain Member States. This Decision lays down certain control measures in relation to classical swine fever to be applied in

certain areas within the EU, including prohibition/restrictions of imports of live pigs, porcine germplasm and pigmeat from some areas.

- 2.48 Commission Implementing Regulation (EU) No 636/2014 on a model certificate for the trade of unskinned large wild game. This Regulation lays down a model health certificate required for trade within the EU of unskinned large wild game.
- 2.49 Commission Decision 2015/1901/EU laying down certification rules and a model health certificate for importation into the Union of consignments of live animals and of animal products from New Zealand. This Decision lays down certification requirements concerning importation into the EU of consignments of live animals and animal products from New Zealand in accordance with an equivalence agreement. It also sets out a model health certificate to be used for such imports.
- 2.50 Commission Implementing Decision (EU) 2018/320 on certain animal health protection measures for intra-Union trade in salamanders and the introduction into the Union of such animals in relation to the fungus *Batrachochytrium salamandrivorans*. This Decision lays down the animal health protection measures (including quarantine and reporting requirements) for intra-Union trade and import from third countries of salamanders.
- 2.51 Commission Implementing Regulation (EU) 2018/659 on the conditions for the entry into the Union of live equidae and of semen, ova and embryos of equidae. This Regulation establishes the list of areas from which the entry into the EU of consignments of equidae and of their semen, ova and embryos is authorised. It also lays down the animal health and veterinary certification requirements applicable to those consignments.
- 2.52 Commission Delegated Regulation (EU) 2018/772 of 21 November 2017 supplementing Regulation (EU) No 576/2013 with regard to preventive health measures for the control of *Echinococcus multilocularis* infection in dogs. This Regulation lays down rules for preventive health measures for the control of *Echinococcus multilocularis* (dog tapeworm) infection in dogs intended for non-commercial movement into the territory or parts of the territory of certain Member States, including the UK.
- 2.53 Part 5 of this instrument saves the effect of the existing provisions relating to model certificates so that those model certificates can continue to be used for transitional purposes after EU Exit, for such period as is published by the appropriate authority. It also revokes seven directly applicable pieces of EU legislation that will no longer be relevant after the withdrawal of the UK from the EU.

Why is it being changed?

- 2.54 After the United Kingdom leaves the EU, without amendment, certain provisions within the above EU-derived domestic legislation will be inoperable and, as a result, existing law will either be unclear or will not function effectively. This instrument uses powers conferred by the Withdrawal Act to make the necessary technical changes to ensure that it will continue to operate effectively after the UK has left the EU. The amendments contained in this instrument also remove redundant references.
- 2.55 The corrections within this instrument will help ensure that imports of live animals, products of animal origin, germplasm, animal by-products and the non-commercial movement of pet animals, equines and circus animals continue to function correctly, and the legislation remains fully operable after EU exit.

- 2.56 If the amendments within this instrument were not made, the impacts would be lack of clarity and commercial certainty for industry. This could result in confusion and disruption to trade, as well as making enforcement more difficult. Up to 9 million tonnes of products of animal origin and live animals are imported into the UK annually, with a value of up to £19.3 billion (of which, roughly 80% is from trade with the EU). Approximately 300,000 pet animals move into the UK annually through the Pet Travel Scheme.

*What will it now do?*

- 2.57 The amendments are purely technical in nature and adapt or replace existing or redundant references in EU retained legislation where necessary, for example “Member States” with “appropriate authority” or “member States” and “Community” with “United Kingdom” or “national” to ensure that the legislation continues to operate effectively in relation to the UK after exit day.

### **3. Matters of special interest to Parliament**

*Matters of special interest to the Joint Committee on Statutory Instruments*

- 3.1 The amendments being made by this instrument are intended to provide a UK framework relating to the importation, movement of and trade in animals and animal products, and include arrangements for the authorisation of businesses, pet travel documents, animal and public health certificates and conditions for transport. They remove relevant model certificates and pet travel documentation from the legislation and allow for them to be published elsewhere, to allow improvements or corrections to be made without requiring amendments to legislation in future. They also enable appropriate actions to be taken by the UK authorities in cases of reported non-compliance or disease outbreaks. These functions are currently carried out by the European Commission in relation to EU Member States. However, once the UK leaves the EU, it will be necessary for these functions to be transferred to the “appropriate authority” in the UK as defined in the amendments. The amendments therefore provide for these functions to be exercised instead by the appropriate authority which involves the transfer/creation of functions of a legislative character, requiring this instrument to be subject to the affirmative resolution procedure.

*Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)*

- 3.2 The territorial application of this instrument includes Scotland and Northern Ireland.
- 3.3 The powers under which this instrument is made cover the entire United Kingdom (see section 24 of the Withdrawal Act) and the territorial application of this instrument is not limited either by the Act or by the instrument.

### **4. Extent and Territorial Application**

- 4.1 The territorial extent of this instrument is the United Kingdom.
- 4.2 The territorial application of this instrument is the United Kingdom.



## **5. European Convention on Human Rights**

- 5.1 The Parliamentary Under Secretary of State at the Department for Environment, Food and Rural Affairs, Lord Gardiner of Kimble has made the following statement regarding Human Rights:

“In my view the provisions of the Import of and Trade in Animals and Animal Products (Amendment etc.) (EU Exit) Regulations 2019 are compatible with the Convention rights.”

## **6. Legislative Context**

- 6.1 This instrument amends the forty-six directly applicable pieces of EU legislation listed in Annex 2, which are in force in the UK via EU-derived domestic legislation. It also introduces amendments to the domestic powers to recover fees in relation to activity relating to imports of animals and animal products from the EU.
- 6.2 Section 8 of the Withdrawal Act makes provision for retaining certain EU law, as it exists at the moment of the UK’s withdrawal from the EU, and also makes provision in respect of fees. It provides for the creation of a new body of domestic legislation by bringing across the texts of directly applicable EU legislation into domestic legislation.
- 6.3 The Withdrawal Act also contains temporary powers to make secondary legislation to enable Ministers and devolved administrations to deal with deficiencies in retained EU law, to ensure that the UK’s legal system continues to function properly after EU exit.

## **7. Policy background**

### *What is being done and why?*

- 7.1 No substantive change is being made to policy. This instrument amends redundant references to EU laws and systems which will no longer be relevant once the UK leaves the EU. It will ensure continuity of existing arrangements and prevent creation of barriers to the importation and trade in live animals, products of animal origin (including meat), animal by-products, germplasm, and the non-commercial movement of pets, circus animals and equines following the UK’s withdrawal from the EU. These changes aim to maintain the existing import regime and therefore there should be no direct impact on businesses.
- 7.2 This instrument has provision to allow existing forms of model certificates to continue to be used for transitional purposes for such period as is published by the appropriate authority. It also removes relevant model certificates and documentation from the legislation to be published elsewhere, to allow improvements or corrections to model certificates to be made without requiring amendments to legislation in future. The amendments also introduce amendments to the domestic powers to recover fees in relation to any activity relating to imports of animals and animal products from the EU.
- 7.3 This instrument is necessary to ensure that movement of pet animals, circus animals and equines, and trade in animal products including meat, will continue with minimum disruption, whilst maintaining biosecurity and welfare standards, following the UK’s withdrawal from the EU. The amendments to directly applicable EU Regulations and Decisions made by this instrument are technical in nature.

7.4 Currently, the UK has access to the ‘EU Pet Travel Scheme’ which allows UK-based owners of pet dogs, cats and ferrets to travel with their pets with the minimum disruption within the EU, and between EU Member States and certain listed third countries, subject to compliance with the applicable health and documentary requirements. This instrument replicates the existing scheme for non-commercial movements of relevant pet animals into the UK, so that such movements can continue in the same way as they do now, as far as possible. Current levels of protection of the UK from rabies and the *Echinococcus multilocularis* tapeworm are maintained after EU Exit by retaining the requirements for non-commercial pet movements and continuing current entry requirements. Further matters regarding the non-commercial movement of pets are being addressed by an EU Exit Day 1 project within Defra.

7.5 The amendments are made in accordance with the Withdrawal Act to ensure no legislative hindrance to movement of pet animals, circus animals and equines, and trade in animal products including meat with the EU and listed third countries on day 1 after the UK leaves the EU.

## **8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union**

8.1 This instrument is being made using the power in section 8 of the European Union (Withdrawal Act) 2018 in order to address failures of retained EU law to operate effectively or other deficiencies of the retained EU law arising from the withdrawal of the United Kingdom from the European Union. In accordance with the requirements of that Act the Minister has made the relevant statements as detailed in Part 2 of the Annex to this explanatory memorandum.

## **9. Consolidation**

9.1 Not applicable.

## **10. Consultation outcome**

10.1 The amendments in the legislation are technical in nature. There are no policy changes, hence no public consultation was undertaken.

## **11. Guidance**

11.1 As no policy changes are being made by the amendments included in the instrument, no guidance specifically related to this instrument is required. However, the need for guidance on the general aspects of future trade in this subject matter after the UK’s withdrawal from the EU will be considered in due course.

## **12. Impact**

12.1 There is no, or no significant, impact on business, charities or voluntary bodies.

12.2 There is no, or no significant, impact on the public sector.

12.3 An Impact Assessment has not been prepared for this instrument as it relates to the maintenance of existing regulatory standards and will not introduce new policy.

## **13. Regulating small business**

13.1 The legislation applies to activities that are undertaken by small businesses.

13.2 To minimise the impact of the requirements on small businesses (employing up to 50 people), the approach taken is that the amendments contained within this instrument will maintain the status quo and will not introduce any policy changes.

#### **14. Monitoring & review**

14.1 The approach to monitoring of this legislation is that it will take place in the course of normal departmental business.

14.2 As this instrument is made under the EU Withdrawal Act 2018, no review clause is required.

#### **15. Contact**

15.1 Sam Beckett or Louise Hill at the Department for Food Environment and Rural Affairs Telephone: 02078955283 or 02082258967 or email: [Samuel.Beckett@defra.gov.uk](mailto:Samuel.Beckett@defra.gov.uk) or [Louise.Hill@defra.gov.uk](mailto:Louise.Hill@defra.gov.uk)

15.2 Sarah Sheridan, Deputy Director for Animal and Plant Health at the Department for Food Environment and Rural Affairs, can confirm that this explanatory memorandum meets the required standard.

15.3 Lord Gardiner of Kimble, the Parliamentary Under Secretary of State at the Department for Environment Food and Rural Affairs, can confirm that this explanatory memorandum meets the required standard.

# Annex 1

## Statements under the European Union (Withdrawal) Act 2018

### Part 1

#### Table of Statements under the 2018 Act

This table sets out the statements that may be required under the 2018 Act.

Statement	Where the requirement sits	To whom it applies	What it requires
Sifting	Paragraphs 3(3), 3(7) and 17(3) and 17(7) of Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 23(1) to make a Negative SI	Explain why the instrument should be subject to the negative procedure and, if applicable, why they disagree with the recommendation(s) of the SLSC/ESIC.
Appropriate-ness	Sub-paragraph (2) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2	A statement that the SI does no more than is appropriate.
Good Reasons	Sub-paragraph (3) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2	Explain the good reasons for making the instrument and that what is being done is a reasonable course of action.
Equalities	Sub-paragraphs (4) and (5) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2	Explain what, if any, amendment, repeals or revocations are being made to the Equalities Acts 2006 and 2010 and legislation made under them.  State that the Minister has had due regard to the need to eliminate discrimination and other conduct prohibited under the Equality Act 2010.
Explanations	Sub-paragraph (6) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2 In addition to the statutory obligation the Government has made a political commitment to include these statements alongside all EUWA SIs	Explain the instrument, identify the relevant law before exit day, explain the instrument's effect on retained EU law and give information about the purpose of the instrument, e.g., whether minor or technical changes only are intended to the EU retained law.
Criminal offences	Sub-paragraphs (3) and (7) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1), 9, and 23(1) or jointly exercising	Set out the 'good reasons' for creating a criminal offence, and the penalty attached.

		powers in Schedule 2 to create a criminal offence	
Sub-delegation	Paragraph 30, Schedule 7	Ministers of the Crown exercising sections 10(1), 12 and part 1 of Schedule 4 to create a legislative power exercisable not by a Minister of the Crown or a Devolved Authority by Statutory Instrument.	State why it is appropriate to create such a sub-delegated power.
Urgency	Paragraph 34, Schedule 7	Ministers of the Crown using the urgent procedure in paragraphs 4 or 14, Schedule 7.	Statement of the reasons for the Minister's opinion that the SI is urgent.
Explanations where amending regulations under s.2(2) ECA 1972	Paragraph 13, Schedule 8	Anybody making an SI after exit day under powers outside the European Union (Withdrawal) Act 2018 which modifies subordinate legislation made under s.2(2) ECA 1972.	Statement explaining the good reasons for modifying the instrument made under s.2(2) ECA 1972, identifying the relevant law before exit day, and explaining the instrument's effect on retained EU law.
Scrutiny statement where amending regulations under s.2(2) ECA 1972	Paragraph 16, Schedule 8	Anybody making an SI after exit day under powers outside the European Union (Withdrawal) Act 2018 which modifies subordinate legislation made under s.2(2) ECA 1972.	Statement setting out: a) the steps which the relevant authority has taken to make the draft instrument published in accordance with paragraph 16(2), Schedule 8 available to each House of Parliament, b) containing information about the relevant authority's response to— (i) any recommendations made by a committee of either House of Parliament about the published draft instrument, and (ii) any other representations made to the relevant authority about the published draft instrument, and, c) containing any other information that the relevant authority considers appropriate in relation to the scrutiny of the instrument or draft instrument which is to be laid.

## **Part 2**

### **Statements required when using enabling powers under the European Union (Withdrawal) 2018 Act**

#### **1. Appropriateness statement**

1.1 The Parliamentary Under Secretary of State at the Department for Environment, Food and Rural Affairs, Lord Gardiner of Kimble, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In my view the Import of and Trade in Animals and Animal Products (Amendment etc.) (EU Exit) Regulations 2019 does no more than is appropriate”.

1.2 This is the case because it relates to maintenance of existing regulatory standards and will not introduce any new policy.

#### **2. Good reasons**

2.1 The Parliamentary Under Secretary of State at the Department for Environment, Food and Rural Affairs, Lord Gardiner of Kimble, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In my view there are good reasons for the provisions in this instrument, and I have concluded they are a reasonable course of action”.

2.2 These are: ensuring that the retained EU law regarding imports and trade in animals, products of animal origin (including meat) and germplasm, and the movement of pet and circus animals and equines, continues to function correctly once the UK has left the EU and ensuring that high biosecurity and welfare standards are maintained after exit day.

#### **3. Equalities**

3.1 The Parliamentary Under Secretary of State at the Department for Environment, Food and Rural Affairs, Lord Gardiner of Kimble, has made the following statement:

“The instrument does not amend, repeal or revoke a provision or provisions in the Equality Act 2006 or the Equality Act 2010 or subordinate legislation made under those Acts”.

3.2 The Parliamentary Under Secretary of State at the Department for Environment, Food and Rural Affairs, Lord Gardiner of Kimble has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In relation to the instrument, I, Lord Gardiner of Kimble, have had due regard to the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010.”

3.3 Little or no impact on equalities is expected.

#### **4. Explanations**

4.1 The explanations statement has been made in section 2 of the main body of this explanatory memorandum.

## **5. Legislative sub-delegation**

5.1 The Parliamentary Under Secretary of State at the Department for Environment, Food and Rural Affairs, Lord Gardiner of Kimble, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In my view it is appropriate to create a relevant sub-delegated power in the Import of and Trade in Animals and Animal Products (Amendment etc.) (EU Exit) Regulations 2019.”

5.2 This is appropriate because: it enables the Minister to publish and amend health certificates and certain lists, rather than retaining them in legislation, so that they can be amended and improved quickly in future. As the contents of the certificates and lists reflect the legislation for imports, substantive changes would still require the usual parliamentary oversight.

## **Annex 2**

### **Legislation amended by the Import of and Trade in Animals and Animal Products (Amendment etc.) (EU Exit) Regulations 2019**

1. Commission Decision 93/352 laying down derogations from the conditions of approval for border inspection posts located in ports where fish is landed
2. Commission Decision 94/360/EC on the reduced frequency of physical checks of consignments of certain products to be implemented from third countries
3. Commission Decision 97/152/EC concerning the information to be entered in the computerized file of consignments of animals or animal products from third countries which are re-dispatched
4. Commission Decision 97/794/EC laying down certain detailed rules for the application of Council Directive 91/496/EEC as regards veterinary checks on live animals to be imported from third countries
5. Commission Decision 2000/571/EC laying down the methods of veterinary checks for products from third countries destined for introduction into free zones, free warehouses, customs warehouses or operators supplying cross border means of sea transport
6. Commission Decision 2000/572/EC laying down the animal and public health and veterinary certification conditions for imports of meat preparations from third countries and repealing Decision 97/29/EC.
7. Commission Decision 2001/812/EC laying down the requirements for the approval of border inspection posts responsible for veterinary checks on products introduced into the Community from third countries
8. Commission Decision 2003/459/EC on certain protection measures with regard to monkey pox virus
9. Commission Decision 2003/467/EC establishing the official tuberculosis, brucellosis, and enzootic-bovine-leukosis-free status of certain Member States and regions of Member States as regards bovine herds
10. Commission Decision 2003/779/EC laying down animal health requirements and the veterinary certification for the import of animal casings from third countries
11. Commission Regulation (EC) No 136/2004 laying down procedures for veterinary checks at Community border inspection posts on products imported from third countries
12. Commission Regulation (EC) No 282/2004 introducing a document for the declaration of, and veterinary checks on, animals from third countries entering the Community
13. Commission Regulation No (EC) 1739/2005 laying down animal health requirements for the movement of circus animals between Member States
14. Commission Decision 2006/168/EC establishing the animal health and veterinary certification requirements for imports into the Community of bovine embryos
15. Commission Decision 2007/25/EC as regards certain protection measures in relation to highly pathogenic avian influenza and movements of pet birds accompanying their owners into the Community
16. Commission Decision 2007/240/EC laying down new veterinary certificates for importing live animals, semen, embryos, ova and products of animal origin into the Community
17. Commission Decision 2007/275/EC concerning lists of animals and products to be subject to controls at border inspection posts
18. Commission Decision 2007/777/EC laying down the animal and public health conditions and model certificates for imports of certain meat products and treated stomachs, bladders and intestines for human consumption from third countries
19. Commission Decision 2008/185/EC on additional guarantees in intra-Community trade of pigs relating to Aujeszky's disease and criteria to provide information on this disease



20. Commission Decision 2008/636/EC establishing the list of third countries from which Member States authorise imports of ova and embryos of the porcine species
21. Commission Regulation (EC) No 798/2008 laying down a list of third countries, territories, zones or compartments from which poultry and poultry products may be imported into and transit through the Community and the veterinary certification requirements
22. Commission Regulation (EC) No 1251/2008 implementing Council Directive 2006/88/EC as regards conditions and certification requirements for the placing on the market and the import into the Community of aquaculture animals and products thereof and laying down a list of vector species.
23. Commission Regulation (EC) No 119/2009 laying down a list of third countries or parts thereof, for imports into, or transit through the Community of meat of wild Leporidae, of certain wild land mammals and of farmed rabbits and the veterinary certification requirements
24. Commission Regulation (EC) No 206/2009 on the introduction into the Community of personal consignments of products of animal origin
25. Commission Decision 2009/712/EC implementing Council Directive 2008/73/EC as regards Internet-based information pages containing lists of establishments and laboratories approved by Member States in accordance with Community veterinary and zootechnical legislation
26. Commission Decision 2009/821/EC drawing up a list of approved border inspection posts, laying down certain rules on the inspections carried out by Commission veterinary experts and laying down the veterinary units in Traces
27. Commission Regulation (EU) No 206/2010 laying down lists of third countries, territories or parts thereof authorised for the introduction into the European Union of certain animals and fresh meat and the veterinary certification requirements
28. Commission Decision 2010/470/EU laying down model health certificates for trade within the Union in semen, ova and embryos of animals of the equine, ovine and caprine species and in ova and embryos of animals of the porcine species
29. Commission Decision 2010/472/EU on imports of semen, ova and embryos of animals of the ovine and caprine species
30. Commission Regulation (EU) No 605/2010 laying down animal and public health and veterinary certification conditions for the introduction into the European Union of raw milk, dairy products, colostrum and colostrum-based products intended for human consumption
31. Commission Decision 2011/163/EU on the approval of plans submitted by third countries in accordance with Article 29 of Council Directive 96/23/EC
32. Commission Implementing Decision 2011/215/EU implementing Council Directive 97/78/EC as regards transshipment at the border inspection post of introduction of consignments of products intended for import into the Union or for third countries
33. Commission Implementing Decision 2011/630/EU on imports into the Union of semen of domestic animals of the bovine species
34. Commission Regulation (EU) No 28/2012 laying down requirements for the certification for imports into and transit through the Union of certain composite products
35. Commission Implementing Decision 2012/137/EU on imports into the Union of semen of domestic animals of the porcine species
36. Commission Implementing Regulation (EU) No 139/2013 laying down animal health conditions for imports of certain birds into the Union and the quarantine conditions thereof
37. Commission Implementing Decision 2013/519/EU laying down the list of territories and third countries authorised for imports of dogs, cats and ferrets and the model health certificate for such imports
38. Regulation (EU) No 576/2013 on the non-commercial movement of pet animals
39. Commission Implementing Regulation (EU) No 577/2013 on the model identification documents for the non-commercial movement of dogs, cats and ferrets, the establishment of lists of territories and third countries and the format, layout and language requirements of the declarations attesting compliance with certain conditions provided for in Regulation (EU) No 576/2013
40. Commission Implementing Regulation EU No 743/2013 introducing protective measures on imports of bivalve molluscs from Turkey intended for human consumption
41. Commission Implementing Decision 2013/764/EU concerning animal health control measures relating to classical swine fever in certain Member States

42. **Commission Implementing Regulation (EU) No 636/2014 on a model certificate for the trade of unskinned large wild game**
43. **Commission Decision 2015/1901/EU laying down certification rules and a model health certificate for importation into the Union of consignments of live animals and of animal products from New Zealand**
44. **Commission Implementing Decision (EU) 2018/320 on certain animal health protection measures for intra-Union trade in salamanders and the introduction into the Union of such animals in relation to the fungus *Batrachochytrium salamandrivorans***
45. **Commission Implementing Regulation (EU) 2018/659 on the conditions for the entry into the Union of live equidae and of semen, ova and embryos of equidae**
46. **Commission Delegated Regulation (EU) 2018/772 of 21 November 2017 supplementing Regulation (EU) No 576/2013 with regard to preventive health measures for the control of *Echinococcus multilocularis* infection in dogs.**