

EXPLANATORY MEMORANDUM TO
THE ANIMALS AND ANIMAL PRODUCTS (IMPORT AND EXPORT)
(ENGLAND) (AMENDMENT) REGULATIONS 2007

2007 No. 3

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.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. **Description**

- 2.1 The Animals and Animal Products (Import and Export) Regulations 2006 (“The AAP Regulations”) (SI 2006 No. 1471) regulate intra-Community trade in live animals and products (namely, semen, ova and embryos) and imports from third countries of live animals.

- 2.2 The Animals and Animal Products (Import and Export) (England) (Amendment) Regulations 2007 amend the AAP Regulations to extend the EU ban on imports of captive birds from third countries for the second time.

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

- 3.1 There is urgency to the extension of the ban on the import of captive birds from third countries and the Department regrets that it has been necessary to break the 21-day rule in this case. The Department explains its reasons for doing so in paragraphs 7.4 and 7.5 (‘Urgency’) below.

4. **Legislative Background**

- 4.1 The AAP Regulations were made under section 2(2) of the European Communities Act 1972, and in respect of charges made by the Secretary of State, under section 56(1) and (2) of the Finance Act 1973. In outline, they implement Directive 90/425/EEC relating to intra-Community trade in live animals and animal products (semen, ova and embryos) and Directive 91/496/EEC relating to imports of live animals from non-EU countries.

- 4.2 The AAP Regulations lists at Schedule 7 specific EU legislation governing imports from third countries of various animals . At regulation 16 of the AAP Regulations, such imports are prohibited

unless they comply with Council Directive 91/496/EC and the EU legislation set out in Schedule 7.

- 4.3 Regulation 16(4) of the AAP Regulations, as amended by SI 2006/2126, postponed these provisions in the case of captive birds (other than pets) so that their import is prohibited until 1st January 2007.

5. Territorial Extent and Application

- 5.1 These Regulations apply to England. Similar legislation will be introduced in Scotland, Wales and Northern Ireland as soon as their procedures will allow.

6. European Convention on Human Rights

- 6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

- 7.1 The objective of Directives 90/425/EEC and 91/496/EEC and the related legislation implemented through the Regulations is to protect the health of animals within the European Community.

Implementation of measures relating to the regime for imports of captive birds

- 7.2 The Explanatory Memorandum for the AAP Regulations gave details of how Commission Decision 2000/666/EC was implemented in the Animals and Animal Products (Import and Export) (England) Regulations 2006. The Decision lays down the animal health import conditions, including quarantine requirements, for the import of captive birds (a class which excludes pet birds and poultry and birds destined for certain approved institutes and zoos). It also permitted imports from specified countries subject to import and quarantine conditions. This Decision was implemented by Part 3 of the AAP Regulations, together with paragraph 3 of Part I and paragraph 6 of Part II of Schedule 7, and Schedule 8.
- 7.3 A ban on imports of captive birds was introduced by the European Commission on 28 October 2005 in response to the avian influenza risks posed by third countries' imports following the findings of high pathogen Avian Influenza at a quarantine facility in the UK. The ban was set out in Commission Decision 2005/760/EC, was adopted on 27 October 2005 and has been maintained in light of the epidemiological situation and the increased incidence of Avian Influenza in certain parts of the world. The ban was due to expire on 31 December 2006 and has now been extended to 31 March 2007 by virtue of a Commission Decision which extends the application of Commission Decision 2005/760/EC accordingly.

Urgency

- 7.4 The import ban is an established, if temporary, EU-wide protective measure intended to address the risks to animal health and public health posed by the highly pathogenic avian influenza H5N1 which is known to be present in many exporting countries and which is likely to be present but undetected in others. The Department considers that it is in the interests of animal health in England and the rest of the UK that imports via England are not permitted to resume, and it is also mindful of the UK's obligations as a Member State to give effect to Community law. The Department intended to arrange for the extension of the ban to 1 April 2007 before the previous one expired on 1 January 2007. However this was not possible, due to the delay in receiving the notification details of the Decision from the EU Commission.
- 7.5 The timing (and therefore breach of the 21-day rule) has been determined by EU legislative processes. The vote referred to above to adopt the measure implemented in Regulation 2(3) of the current SI was taken in Standing Committee on 1 December 2006, and formally adopted on 22 December 2006, leaving only 9 days before the provision came into force. The Department has on 3 January received official notification from the UK Permanent Representation that the Decision has been made.

8. Impact

- 8.1 A Regulatory Impact Assessment (RIA) was prepared for the Animals and Animal Products (Import and Export) Regulations 2000.
- 8.2 A Regulatory Impact Assessment has not been prepared for this specific set of Regulations because of the urgency required to give effect to the extension of the import ban in relation to captive birds
- 8.3. A full consultation was carried out earlier in 2006 to introduce further changes to the import arrangements for captive birds which will likely come into force in 2007, if and when, the import ban referred to above is lifted. A copy of that consultation document is available from Defra, Area 407, 1A Page Street, London, SW1P 4PQ.

9. Contact

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