

EXPLANATORY MEMORANDUM TO
THE OFFICIAL CONTROLS (EXEMPTIONS FROM CONTROLS AT BORDER CONTROL POSTS) (AMENDMENT) REGULATIONS 2021

2021 No. 453

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 Command of Her Majesty.

2. Purpose of the instrument

- 2.1 This instrument exercises powers in the Official Controls Regulation (EUR 2017/625) to extend the exemption of categories of animals from undergoing official controls at border control posts. Invertebrates intended for scientific purposes are already exempted from the requirement for official controls to be carried out at border control posts. This instrument will extend the exemption to other types of animals (please refer to section 7.2) used for scientific purposes.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

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 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

4. Extent and Territorial Application

- 4.1 The territorial extent of this instrument is Great Britain.
- 4.2 The territorial application of this instrument is Great Britain. The instrument makes amendments to the Trade in Animals and Related Products Regulations 2011 (S.I. 2011/1197), which only apply in England. This part of the instrument will therefore only apply in England. The instrument makes amendments to the Trade in Animals and Related Products (Scotland) Regulations 2012 (S.S.I. 2012/177), which only apply in Scotland. This part of the instrument will therefore only apply in Scotland.

5. European Convention on Human Rights

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

6. Legislative Context

- 6.1 The Official Controls Regulation (EUR 2017/625) – which forms part of retained EU law under the European Union (Withdrawal) Act 2018 subject to amendments made

by legislation including the Official Controls (Animals, Feed and Food, Plant Health etc.) (Amendment) (EU Exit) Regulations 2020 (S.I. 2020/1481) – generally requires checks on live animals entering Great Britain to be carried out at border control posts unless they fall under an exemption under retained or domestic legislation.

- 6.2 Article 48 of the Official Controls Regulation makes provision for derogations from the requirement for checks to be carried out at a border control post to be made in regulations for certain categories of animals or goods. This includes animals and goods intended for scientific purposes. The European Commission had already exercised this power, and the legislation it adopted now also forms part of retained EU law; Commission Delegated Regulation (EUR 2019/2122). The Regulation provides an exemption for invertebrate animals intended for scientific purposes from the requirement to be subject to official controls at a border control post.
- 6.3 This instrument uses the powers in Article 48 to amend Commission Delegated Regulation 2019/2122 to broaden the scope of the exemption, so that it would also apply to animals listed in Schedule 2 to the Animals (Scientific Procedures) Act 1986 (c. 14). Corresponding amendments will also be made by this instrument to the legislation which enforces the Official Controls Regulation in England, the Trade in Animals and Related Products Regulations 2011 (S.I. 2011/1197), and which enforces the Official Controls Regulation in Scotland, the Trade in Animals and Related Products (Scotland) Regulations 2012 (S.S.I. 2012/177).

7. Policy background

What is being done and why?

- 7.1 This will enable animals which are needed for scientific research to have a safe entry into Great Britain through their main routes (from EU or via transit through EU). Without this instrument, very low animal health risk animals, which have previously entered Great Britain with only licences, certification, or commercial documents (depending on species), would be required to enter Great Britain at a Border Control Post for inspection, even though no animal health risks are required to be managed, which is both disproportionate and costly in terms of time and resources for British importers of these species.
- 7.2 The effects of the amendment will be for the exemption to cover animals listed in Schedule 2 to the Animals (Scientific Procedures) Act 1986 (with the exception of Zebra Fish, which are excluded); and invertebrate animals (with the exception of aquatic molluscs and aquatic crustaceans, which are excluded). With regard to educational activities, the exemption does not apply to vertebrate animals; or bees.

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

- 8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act

9. Consolidation

- 9.1 Consolidation is not required.

10. Consultation outcome

- 10.1 We have spoken to stakeholders from the sector, including a leading company, and the Membership Organisation for the sector, EARA, and the response to the proposed legislation was very favourable.
- 10.2 The instrument was produced in consultation with the Scottish and Welsh governments.

11. Guidance

- 11.1 Guidance is not required for this instrument because it allows current practice to continue and does not impose any additional regulatory impact on business or the voluntary sector.

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 because no, or no significant, impact on the private, voluntary or public sectors is foreseen.

13. Regulating small business

- 13.1 The legislation does not apply to activities that are undertaken by small businesses.

14. Monitoring & review

- 14.1 The regulation does not include a statutory review clause because it does not impose any additional regulatory impact on business or the voluntary sector.

15. Contact

- 15.1 Melanie Southan at the Department for Environment, Food and Rural Affairs
Telephone: 020 8225 7641 or email: melanie.southan@defra.gov.uk can be contacted with any queries regarding the instrument.
- 15.2 Peter Jinks, Deputy Director for SPS and Imports, at the Department for Environment, Food and Rural Affairs can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Lord Gardiner of Kimble at the Department for Environment, Food and Rural Affairs can confirm that this Explanatory Memorandum meets the required standard.