

**EXPLANATORY MEMORANDUM TO**  
**THE OFFICIAL CONTROLS (TEMPORARY MEASURES) (CORONAVIRUS)**  
**(AMENDMENT) (NO. 2) REGULATIONS 2021**

**2021 No. 681**

**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 will extend legislation which allows competent authorities in Great Britain (“GB”) to adopt new, and maintain existing, temporary measures related to official controls conducted to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products while addressing disruptions arising from the Covid-19 (“coronavirus”) pandemic. It will extend current powers allowing control authorities that carry out official controls and official activities to authorise, within strict parameters, natural persons to undertake official controls and official activities under their instruction by any available means of communication; to allow control authorities to conduct checks on electronically submitted documents, and such checks away from the border; and to allow control authorities to conduct meetings with operators by using remote communication.

**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 GB.  
4.2 The territorial application of this instrument is GB.

**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 This instrument will amend Commission Implementing Regulation (EU) 2020/466 (“the EU Regulation”), which has become retained direct EU law under the European

Union (Withdrawal) Act 2018 (“the Act”), to extend the period of application of availability of existing easements in the system of official controls in operation in Great Britain, beyond the existing expiry date of 1st July 2021 to 31st December 2021. It is a continuation of the SI: The Official Controls (Temporary Measures) (Coronavirus) (Amendment) Regulations 2021, which allowed easements to continue beyond the original end date of 1st February 2021 to 1st July 2021.

## **7. Policy background**

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

- 7.1 Powers to adopt temporary measures related to official controls and official activities in Great Britain have been in place throughout 2020 and 2021 to address disruptions to official controls arising from the coronavirus outbreak. As disruption is likely to continue throughout 2021, this instrument is being introduced using powers in Article 141 of Regulation (EU) 2017/625, to extend the applicability of Regulation 2020/466 in Great Britain until 31st December 2021.
- 7.2 The instrument will extend current powers allowing competent authorities to adopt new and maintain existing, temporary measures. This includes options to allow control authorities that carry out official controls and official activities to authorise, within strict parameters, natural persons to undertake official controls and official activities under their instruction by any available means of communication; to allow control authorities to carry out checks on electronically submitted documents rather than hard copies, also away from the border; and to allow control authorities to conduct meetings with operators through the use of remote technology.

## **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 nor trigger the statement requirements under the European Union (Withdrawal) Act.

## **9. Consolidation**

- 9.1 There are no plans to consolidate this legislation.

## **10. Consultation outcome**

- 10.1 Under the enabling powers for this instrument, consultation is required before making new regulations. The Secretary of State must consult such bodies or persons as appear to the Secretary of State to be representative of the interests likely to be substantially affected by these regulations. In order to meet these requirements, stakeholders including Port Health Authorities, the Animal and Plant Health Agency (Plant Health Inspectorate and Centre for International Trade), other plant health stakeholders, the Food Standards Agency and Food Standards Scotland were consulted. Respondents to the consultation were supportive of this instrument.
- 10.2 This instrument was produced in consultation with Scottish and Welsh governments.

## **11. Guidance**

- 11.1 Guidance can be found on the relevant competent authority's website.

## **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 because this instrument introduces only temporary measures, and therefore one is not required.

## **13. Regulating small business**

- 13.1 The legislation applies equally to all sizes of importing businesses.
- 13.2 No specific action is proposed to minimise regulatory burdens on small businesses as this instrument introduces easements which minimise regulatory burden.

## **14. Monitoring & review**

- 14.1 This instrument will be reviewed ahead of its expiration on 31st December 2021 to determine whether it continues to be necessary, or if an extension is required. The duration of this easement will depend on the degree of disruption caused by the pandemic.
- 14.2 The policy which is adopted under this instrument will be monitored and assessed on an ongoing basis and amended if necessary.
- 14.3 This instrument does not include a statutory review clause because the period of the application of the EU Regulation that these Regulations amend is extended only to 31st December 2021, and because it does not impose any additional regulatory impact on business or the voluntary sector.

## **15. Contact**

- 15.1 Johanna Asmussen at the Department for Environment, Food and Rural Affairs. Telephone: 0208 026 7073 or email: johanna.asmussen@defra.gov.uk can be contacted with any queries regarding this 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 Benyon, the Parliamentary Under Secretary of State for Rural Affairs and Biosecurity, at the Department for Environment, Food and Rural Affairs can confirm that this Explanatory Memorandum meets the required standard.