

EXPLANATORY MEMORANDUM TO
THE OFFICIAL CONTROLS (TEMPORARY MEASURES) (CORONAVIRUS)
(AMENDMENT) REGULATIONS 2021

2021 No. 78

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.
- 1.2 This Memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

- 2.1 This instrument will allow competent authorities in Great Britain to carry out electronic document checks on some imported goods, for a temporary period, including at locations other than a Border Control Post, instead of checking hard copies. This measure aims to prevent disruption to the system of official controls due to Covid-19 (“coronavirus”). 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 allow easements to the system of official controls in Great Britain to continue beyond the existing end date of 1st February 2021 to 1st July 2021. It also reinstates a provision, previously in the EU Regulation, permitting appropriately authorised persons to carry out checks under the supervision of the competent authority. The precise list of goods and documents to which these easements apply will be published as soon as possible [online](#).

3. Matters of special interest to Parliament

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

- 3.1 This instrument will come into force on 31st January 2021, breaching the 21-day convention. This is necessary in order to avoid disruption of our border control system caused by the recent significant escalation of the coronavirus pandemic, to ensure there is no gap between the application of the EU Regulation (expiring on 1st February) and the extension of the period of application under these Regulations.
- 3.2 The power to make this amendment only became available at the end of the Transition Period, following its transfer from the Commission to the appropriate authority. It has left a limited window between 1st and 31st January to make the regulations, which also required consent from the devolved administrations for the Secretary of State to exercise the power.

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)

- 3.3 As this 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.

5. European Convention on Human Rights

- 5.1 As this 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 the EU Regulation to extend the date of its application from 1st February 2021 to 1st July 2021. It also reinstates Article 3 of the EU Regulation, which would, exceptionally, permit appropriately authorised persons to carry out checks under the supervision of the competent authority. The precise list of goods and documents to which these easements apply will be published online in accordance with Article 2 of the EU Regulation (as amended by the Official Controls (Animals, Feed and Food, Plant Health etc.) (Amendment) (EU Exit) Regulations 2020 (S.I. 2020/1481)).

7. Policy background

What is being done and why?

- 7.1 Temporary imports easements have been in place in 2020 to accommodate serious disruptions to the official control systems in Great Britain resulting from the coronavirus outbreak. As this disruption is likely to continue into 2021, we are introducing this instrument using powers in Article 141 of the Official Controls Regulation (EU) 2017/625 to provide a legal basis for the continuation of certain easements until 1st July 2021.
- 7.2 This instrument will allow competent authorities carrying out checks on imported goods to accept e-documents for some third country imports, with originals having to follow as soon as technically possible. It will also reinstate Article 3 of the EU Regulation as originally enacted to enable checks to be carried out by appropriately authorised, trained and qualified natural persons under the supervision of the competent authority. The latter easement was previously discontinued due to the revocation of Article 3 by amending EU legislation. These modifications to the system of official controls during the coronavirus pandemic will enable some border staff to work remotely, using electronic handling of documentation

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 2018.

9. Consolidation

- 9.1 Consolidation is not required.

10. Consultation outcome

- 10.1 Lead Official Veterinarians at select Border Control Posts were consulted on the draft legal text and no concerns have been raised.

11. Guidance

- 11.1 Guidance will continue to be published online at the Animal and Plant Health Agency (“APHA”) Vet Gateway website. Please see <http://apha.defra.gov.uk/official-vets/Guidance/bip/ovs-notes.htm>

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. In order to avoid disruption in the system of official controls, this Regulation allows operators to initially submit electronic copies of documents, rather than hard copies.
- 13.3 The details of the categories of imports and the documents to which the easements permitted by this legislation will appear on <http://apha.defra.gov.uk/official-vets/Guidance/bip/ovs-notes.htm> as soon as possible.

14. Monitoring & review

- 14.1 The instrument will be reviewed ahead of its expiration on 1st July 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 continuing pandemic.
- 14.2 The policy which is adopted as a result of this instrument will be monitored and assessed on an ongoing basis and amended if necessary. Any changes to the policy will be published on: <http://apha.defra.gov.uk/official-vets/Guidance/bip/ovs-notes.htm>
- 14.3 These Regulations do not include a statutory review clause because the period of the application of the EU Regulation is extended only to 1st July 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 Gardiner of Kimble, 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.