

2024 No. 416

ANIMALS, ENGLAND

FOOD, ENGLAND

PLANT HEALTH, ENGLAND

**The Official Controls (Location of Border Control Posts)
(England) Regulations 2024**

Made - - - - at 8.41 a.m. on 22nd March 2024

Laid before Parliament at 2.30 p.m. on 22nd March 2024

Coming into force - - 13th April 2024

The Secretary of State makes these Regulations in exercise of the powers conferred by Articles 64(2) and 144(6) of Regulation (EU) 2017/625 of the European Parliament and of the Council on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products^(a).

In accordance with Article 144(7) of Regulation (EU) 2017/625, before making these Regulations, the Secretary of State has consulted such bodies and persons as appear to the Secretary of State to be representative of the interests likely to be substantially affected by these Regulations and such other bodies or persons as the Secretary of State considers appropriate.

Citation, commencement, extent and application

- 1.—(1) These Regulations—
- (a) may be cited as the Official Controls (Location of Border Control Posts) (England) Regulations 2024; and
 - (b) come into force on 13th April 2024.
- (2) These Regulations extend to England and Wales but only apply in relation to England.

Amendments to Commission Delegated Regulation (EU) 2019/1012

2.—(1) Commission Delegated Regulation (EU) 2019/1012 supplementing Regulation (EU) 2017/625 of the European Parliament and of the Council by derogating from the rules on the

(a) EUR 2017/625. Article 64 is amended, and Article 144 substituted, by S.I. 2020/1481. Article 3(2A) to (2C) contains a definition of “the appropriate authority”.

designation of control points and from the minimum requirements for border control posts^(a) is amended as follows.

(2) In Article 3 (border control posts situated at a distance other than in the immediate vicinity of the point of entry into Great Britain)—

(a) in paragraph 1—

(i) in point (a), for “paragraph 2”, substitute “paragraphs 2 and 2A”;

(ii) in point (b)—

(aa) for “conditions”, substitute “condition”;

(bb) for “are”, substitute “is”;

(b) for paragraph 2, substitute—

“2. The geographical constraints referred to in paragraph 1(a) shall be such as to prevent or restrict the efficient performance of official controls and other official activities if the border control post were located in the immediate vicinity of the point of entry, having regard to—

(a) the nature and volume of official controls and other official activities which will be carried out at the border control post; and

(b) the need to avoid any unacceptable adverse impact on the visual or natural amenity, environment, ecology or local character of the area surrounding the point of entry.

2A. The geographical constraints referred to in paragraph 1(a) shall consist of one or more of the following—

(a) the natural geographical configuration of the point of entry or the surrounding area imposes major constraints on the transportation system;

(b) the density of existing buildings and other structures at the point of entry or in the surrounding area, or the existing infrastructure at the point of entry or in the surrounding area, imposes major constraints on the transportation system;

(c) the point of entry is subject to recurrent floods in certain periods of the year;

(d) the point of entry comprises or contains maritime wharves surrounded by cliffs;

(e) entry is by way of rail transport which makes it necessary to locate the border control post—

(i) at the first station stop; or

(ii) other than in the immediate vicinity of the first station stop if point (a), (b), (c), (f) or (g) applied in relation to locating the border control post at the first station stop as it applies in relation to locating the border control post at the point of entry (with references to “the point of entry” read as references to “the first station stop”);

(f) there is no suitable land reasonably available to enable the border control post and its facilities to be located in the immediate vicinity of the point of entry;

(g) there is a need to conserve or protect the visual or natural amenity, environment, ecology or local character of the area surrounding the point of entry.”;

(c) for paragraph 3, substitute—

“3. Where a competent authority decides to designate one or more border control posts referred to in paragraph 1, the competent authority must be satisfied that the person who will be responsible for operating the border control post will put in place adequate measures to manage any risk to human, animal or plant health or, as regards GMOs and plant protection products, any such risk or risk to the environment, arising from the location of the border control post.”;

(a) EUR 2019/1012, which is amended by S.I. 2020/1631.

(d) after paragraph 4, insert—

“5. The competent authority must, when deciding whether to designate a border control post referred to in paragraph 1, have regard to the following—

- (a) the distance of the border control post from the point of entry;
- (b) the amount of time it would be expected to take to move a consignment from the point of entry to the border control post;
- (c) the availability of suitable land for the border control post and its facilities;
- (d) the nature and volume of official controls and other official activities which will be carried out at the border control post;
- (e) the impact of the border control post on the surrounding area, including in respect of visual or natural amenity, environment, ecology, local character and infrastructure;
- (f) whether there is suitable existing infrastructure to enable the border control post to operate effectively;
- (g) the costs and economic impacts of the location of the border control post;
- (h) any other considerations that the competent authority considers to be relevant;

and the competent authority may, if applicable, have regard to the desirability of designating a single border control post for more than one point of entry in a given area, provided that the condition in paragraph 1(a) is fulfilled in respect of each such point of entry.”.

Douglas-Miller

Parliamentary Under Secretary of State

At 8.41 a.m. on 22nd March 2024

Department for Environment, Food and Rural Affairs

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend Commission Delegated Regulation (EU) 2019/1012 supplementing Regulation (EU) 2017/625 of the European Parliament and of the Council by derogating from the rules on the designation of control points and from the minimum requirements for border control posts (EUR 2019/1012) (“the 2019 Regulation”).

“Border control post” is defined in Article 3(38) of Regulation (EU) 2017/625 of the European Parliament and of the Council on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products (EUR 2017/625) (“the Official Controls Regulation”). The amendments relate to the conditions under which a border control post may, by way of derogation from Article 64(1) of the Official Controls Regulation, be located at a distance away from the immediate vicinity of a point of entry into England.

Regulation 2 amends Article 3(2) of the 2019 Regulation and inserts a new Article 3(2A) to amend the categories of what may be considered “geographical constraints” for these purposes. The conditions in Article 3(3) of the 2019 Regulation, which must be met for the derogation from Article 64(1) of the Official Controls Regulation to be applied, are amended. A new Article 3(5), listing the considerations that the competent authority must have regard to when deciding whether to designate a border control post under the derogation, is also inserted.

The Regulations apply in relation to England only.

An impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen.

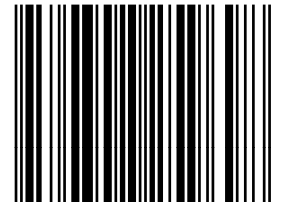
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