

Regulation (EU) 2017/625 of the European Parliament and of the Council of 15 March 2017 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, amending Regulations (EC) No 999/2001, (EC) No 396/2005, (EC) No 1069/2009, (EC) No 1107/2009, (EU) No 1151/2012, (EU) No 652/2014, (EU) 2016/429 and (EU) 2016/2031 of the European Parliament and of the Council, Council Regulations (EC) No 1/2005 and (EC) No 1099/2009 and Council Directives 98/58/EC, 1999/74/EC, 2007/43/EC, 2008/119/EC and 2008/120/EC, and repealing Regulations (EC) No 854/2004 and (EC) No 882/2004 of the European Parliament and of the Council, Council Directives 89/608/EEC, 89/662/EEC, 90/425/EEC, 91/496/EEC, 96/23/EC, 96/93/EC and 97/78/EC and Council Decision 92/438/EEC (Official Controls Regulation) (Text with EEA relevance)

## TITLE VII

### ENFORCEMENT ACTION

#### CHAPTER I

##### *Actions by the competent authorities and penalties*

##### *Article 137*

##### **General obligations of the competent authorities as regards enforcement action**

- 1 When acting in accordance with this Chapter, the competent authorities shall give priority to action to be taken to eliminate or contain risks to human, animal and plant health, animal welfare or, as regards GMOs and plant protection products, also to the environment.
- 2 In case of suspicion of non-compliance, the competent authorities shall perform an investigation in order to confirm or to eliminate that suspicion.
- 3 Where necessary, actions taken in accordance with paragraph 2 shall include:
  - a the performance of intensified official controls on animals, goods and operators for an appropriate period;
  - b the official detention of animals and goods and of any unauthorised substances or products as appropriate.

##### *Article 138*

##### **Actions in the event of established non-compliance**

- 1 Where the non-compliance is established, the competent authorities shall take:
  - a any action necessary to determine the origin and extent of the non-compliance and to establish the operator's responsibilities; and
  - b appropriate measures to ensure that the operator concerned remedies the non-compliance and prevents further occurrences of such non-compliance.

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**Changes to legislation:** There are currently no known outstanding effects for the Regulation (EU) 2017/625 of the European Parliament and of the Council, CHAPTER I. (See end of Document for details)

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When deciding which measures to take, the competent authorities shall take account of the nature of that non-compliance and the operator's past record with regard to compliance.

2 When acting in accordance with paragraph 1 of this Article, competent authorities shall take any measure they deem appropriate to ensure compliance with the rules referred to in Article 1(2), including, but not limited, to the following:

- a order or perform treatments on animals;
- b order the unloading, transfer to another means of transport, holding and care of animals, quarantine periods, the postponement of the slaughter of animals, and, if necessary, order that veterinary assistance be sought;
- c order treatments on goods, the alteration of labels or corrective information to be provided to consumers;
- d restrict or prohibit the placing on the market, the movement, the entry into [<sup>F1</sup>Great Britain] or the export of animals and goods; and prohibit [<sup>F2</sup>, or order their return to, the country of dispatch];
- e order the operator to increase the frequency of own controls;
- f order certain activities of the operator concerned to be subject to increased or systematic official controls;
- g order the recall, withdrawal, removal and destruction of goods, authorising, where appropriate, the use of the goods for purposes other than those for which they were originally intended;
- h order the isolation or closure, for an appropriate period of time, of all or part of the business of the operator concerned, or its establishments, holdings or other premises;
- i order the cessation for an appropriate period of time of all or part of the activities of the operator concerned and, where relevant, of the internet sites it operates or employs;
- j order the suspension or withdrawal of the registration or approval of the establishment, plant, holding or means of transport concerned, of the authorisation of a transporter or of the certificate of competence of the driver;
- k order the slaughter or killing of animals provided that this is the most appropriate measure to safeguard human health as well as animal health and welfare.

3 The competent authorities shall provide the operator concerned, or its representative, with:

- a written notification of their decision concerning the action or measure to be taken in accordance with paragraphs 1 and 2, together with the reasons for that decision; and
- b information on any right of appeal against such decisions and on the applicable procedure and time limits with respect to such right of appeal.

4 All expenditure incurred under this Article shall be borne by the responsible operators.

5 The competent authorities, in the case of issuance of false or misleading official certificates or in the case of abuse of official certificates, shall take appropriate measures, including:

- a the temporary suspension of the certifying officer from its duties;
- b the withdrawal of the authorisation to sign official certificates;
- c any other measure to prevent a reoccurrence of the offences referred to in Article 89(2).

**Changes to legislation:** There are currently no known outstanding effects for the Regulation (EU) 2017/625 of the European Parliament and of the Council, CHAPTER I. (See end of Document for details)

### Textual Amendments

- F1** Words in Art. 138(2)(d) substituted (31.12.2020) by [The Official Controls \(Animals, Feed and Food, Plant Health etc.\) \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1481\)](#), regs. 1, **25(1)(a)** (with reg. 46)
- F2** Words in Art. 138(2)(d) substituted (31.12.2020) by [The Official Controls \(Animals, Feed and Food, Plant Health etc.\) \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1481\)](#), regs. 1, **25(1)(b)** (with reg. 46)

## Article 139

### Penalties

1 <sup>F3</sup>The <sup>F4</sup>[appropriate authority]<sup>F5</sup>] may, by regulations, lay down the rules on penalties applicable to infringements of this Regulation <sup>F6</sup>[or of any EU tertiary legislation, or regulations, made under this Regulation] and take all measures necessary to ensure that they are implemented. The penalties provided for shall be effective, proportionate and dissuasive. <sup>F7</sup>...

<sup>F8</sup>2 The appropriate authority] shall ensure that financial penalties for violations of this Regulation and of the rules referred to in Article 1(2), perpetrated through fraudulent or deceptive practices, reflect <sup>F9</sup>... at least either the economic advantage for the operator or, as appropriate, a percentage of the operator's turnover.

<sup>F10</sup>3 Regulations under this Article may create offences.

4 Regulations may provide for an offence under the regulations to be triable—

- a) summarily, or
- b) either summarily or on indictment.

5 Regulations may provide for an offence under the regulations that is triable either way to be punishable—

- a) on summary conviction in England and Wales, with imprisonment for a term not exceeding three months or a fine (or both);
- b) on summary conviction in Scotland, with imprisonment for a term not exceeding three months or a fine not exceeding the statutory maximum (or both);
- c) on conviction on indictment, with imprisonment for a term not exceeding two years or a fine (or both).

6 Regulations may provide for a summary offence under the regulations to be punishable—

- a) in England and Wales, with imprisonment for a term not exceeding three months or a fine (or both);
- b) in Scotland, with imprisonment for a term not exceeding three months or a fine not exceeding level 5 on the standard scale (or both).]

### Textual Amendments

- F3** Words in Art. 139(1) substituted (31.12.2020) by [The Official Controls \(Animals, Feed and Food, Plant Health etc.\) \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1481\)](#), regs. 1, **25(2)(a)(i)** (with reg. 46)

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- F4** Words in Art. 139(1) substituted (13.12.2022) by The Animals and Animal Health, Feed and Food, Plants and Plant Health (Amendment) Regulations 2022 (S.I. 2022/1315), regs. 1(1), **9(a)(i)**
- F5** Words in Art. 139(1) substituted (13.12.2022) by The Animals and Animal Health, Feed and Food, Plants and Plant Health (Amendment) Regulations 2022 (S.I. 2022/1315), regs. 1(1), **9(a)(ii)**
- F6** Words in Art. 139(1) inserted (13.12.2022) by The Animals and Animal Health, Feed and Food, Plants and Plant Health (Amendment) Regulations 2022 (S.I. 2022/1315), regs. 1(1), **9(a)(iii)**
- F7** Words in Art. 139(1) omitted (31.12.2020) by virtue of The Official Controls (Animals, Feed and Food, Plant Health etc.) (Amendment) (EU Exit) Regulations 2020 (S.I. 2020/1481), regs. 1, **25(2)(a)(ii)** (with reg. 46)
- F8** Words in Art. 139(2) substituted (31.12.2020) by The Official Controls (Animals, Feed and Food, Plant Health etc.) (Amendment) (EU Exit) Regulations 2020 (S.I. 2020/1481), regs. 1, **25(2)(b)** (with reg. 46)
- F9** Words in Art. 139(2) omitted (13.12.2022) by virtue of The Animals and Animal Health, Feed and Food, Plants and Plant Health (Amendment) Regulations 2022 (S.I. 2022/1315), regs. 1(1), **9(b)**
- F10** Art. 139(3)-(6) inserted (13.12.2022) by The Animals and Animal Health, Feed and Food, Plants and Plant Health (Amendment) Regulations 2022 (S.I. 2022/1315), regs. 1(1), **9(c)**

## Article 140

### Reporting of infringements

- 1 <sup>[F11]</sup>The appropriate authority] shall ensure that competent authorities have effective mechanisms to enable reporting of actual or potential infringements of this Regulation.
- 2 The mechanisms referred to in paragraph 1 shall include at least:
  - a procedures for the receipt of reports of infringements and their follow-up;
  - b appropriate protection for persons reporting an infringement against retaliation, discrimination or other types of unfair treatment; and
  - c protection of personal data of the person reporting an infringement in accordance with <sup>[F12]</sup>legislation in force in the relevant constituent territory of Great Britain].

#### Textual Amendments

- F11** Words in Art. 140(1) substituted (31.12.2020) by The Official Controls (Animals, Feed and Food, Plant Health etc.) (Amendment) (EU Exit) Regulations 2020 (S.I. 2020/1481), regs. 1, **25(3)(a)** (with reg. 46)
- F12** Words in Art. 140(2)(c) substituted (31.12.2020) by The Official Controls (Animals, Feed and Food, Plant Health etc.) (Amendment) (EU Exit) Regulations 2020 (S.I. 2020/1481), regs. 1, **25(3)(b)** (with reg. 46)

**Changes to legislation:**

There are currently no known outstanding effects for the Regulation (EU) 2017/625 of the European Parliament and of the Council, CHAPTER I.