

## **POLICY NOTE**

### **THE OFFICIAL CONTROLS (AGRICULTURE ETC.) (SCOTLAND) REGULATIONS 2019**

**SSI 2019/412**

The above instrument was made in exercise of the powers conferred by section 2(2) of the European Communities Act 1972. The instrument is subject to negative procedure.

#### **Purpose of the instrument**

These Regulations implement Regulation (EU) 2017/625 in respect of official controls and other official activities on genetically modified organisms, animals, animal by-products and derived products. They repeal and replace the Official Controls (Animals, Feed and Food) (Scotland) Regulations 2007.

#### **Policy Objectives**

These Regulations partly implement 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 feed and food law, rules on animal health and welfare and plant health and plant protection products (the “2017 EU Regulation”).

The 2017 EU Regulation replaces the previous EU Official Controls Regulation (Regulation (EC) No 882/2004), and applies from 14 December 2019. It is directly applicable in Scotland.

These Regulations provide for the performance and enforcement of official controls under the 2017 EU Regulation in respect of genetically modified organisms, animals, animal by-products and derived products with the aim of protecting animal welfare and preventing risks to animal and human health. Separate measures will make provision in respect of official controls relating to feed and food, pesticides, organic products and plant health.

These Regulations will ensure that enforcement powers are in place to implement the new Regulation in Scotland in respect of the animal health, animal welfare and GMO policy areas, which are the responsibility of the Scottish Government.

The 2017 EU Regulation sets out a framework of requirements for the competent authorities in member States to be responsible for organising and performing official controls and other official activities to verify compliance with agri-food chain legislation. It extends the scope of the controls in the 2004 EU Regulation to cover plant health and animal by-products legislation (and other matters such as genetically modified organisms, plant protection products and organic products) in order to introduce a more consistent approach to official controls along the entire agri-food chain.

In addition, the 2017 EU Regulation provides for a number of enabling powers that will allow the EU Commission to set out in tertiary EU legislation more detailed rules for the performance of official controls and other official activities.

Most of the provisions of the 2017 EU Regulation simplify and extend existing EU requirements, and aim to introduce a more risk-based approach to controls. Therefore, existing

enforcement arrangements in the UK are generally already in line with the new requirements, and the measures in these Regulations are similar to those in the Official Controls (Animals, Feed and Food) (Scotland) Regulations 2007 (which are revoked).

These Regulations therefore help secure the anticipated benefits of a more efficient, effective and proportionate system of official controls.

More specifically, effective implementation and enforcement of the 2017 EU Regulation will improve biosecurity, the prevention and spread of animal diseases and the humane treatment of animals. It will also raise standards of food safety and consumer protection.

The Regulations designate the competent and designated authorities that will carry out official controls and other official activities in Scotland (mainly the Scottish Ministers and local authorities, with Foods Standards Scotland also playing a major part in the food and feed sectors).

They provide for the disclosure of information between designated and competent authorities and other member States for the purpose of applying these Regulations and the 2017 EU Regulation.

They provide for the right of an operator whose animals or goods are subject to sampling and analysis, to a second expert opinion at the operator's own expense.

They provide powers of entry for auditors carrying out audits and provide for the Scottish Ministers to be able to require the audit of designated authorities, and to appoint Food Standards Scotland to carry out such audits.

There is provision to recover expenses incurred by authorities when carrying out enforcement activities.

They provide appropriate powers of entry and enforcement to auditors and inspectors who perform official controls.

Part 5 of these Regulations makes the necessary consequential amendments to existing 'official controls' legislation, by in particular revising and updating references to EU legislation repealed or amended by the 2017 EU Regulation. The Trade in Animals and Related Product (Scotland) Regulations 2012 are substantially amended to take account of changes relating to import procedures.

These Regulations revoke and replace the Official Controls (Animals, Food and Feed) (Scotland) Regulations 2007.

## **Consultation**

The Regulations make no significant changes to current official control practices, and therefore no consultation has been undertaken.

## **Financial Effects**

No business and regulatory impact assessment has been prepared for these Regulations as no additional impact upon business, charities or voluntary bodies is foreseen.

Scottish Government  
Rural and Environment Directorate

3 December 2019