

*This Statutory Instrument corrects errors in S.I. 2019/170, S.I. 2019/802, S.I. 2020/1388, S.I. 2020/1462, S.I. 2020/1481 and S.I. 2020/1482 and is being issued free of charge to all known recipients of those Statutory Instruments.*

*Draft Regulations laid before Parliament under paragraph 1(1) of Schedule 7 to the European Union (Withdrawal) Act 2018 for approval by resolution of each House of Parliament.*

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D R A F T   S T A T U T O R Y   I N S T R U M E N T S

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**2022 No.**

**ANIMALS**

**FOOD**

**PLANT HEALTH**

**SEEDS**

**The Animals and Animal Health, Feed and Food, Plants and  
Plant Health (Amendment) Regulations 2022**

*Made* - - - - - **\*\*\***

*Coming into force* - - - *13th December 2022*

The Secretary of State makes the following Regulations in exercise of the powers conferred by section 8(1) of, and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018(a).

In accordance with paragraph 1(1) of Schedule 7 to that Act, a draft of this instrument has been laid before, and approved by resolution of, each House of Parliament.

**PART 1**

**Introductory**

**Citation, commencement and extent**

**1.**—(1) These Regulations may be cited as the Animals and Animal Health, Feed and Food, Plants and Plant Health (Amendment) Regulations 2022 and come into force on 13th December 2022.

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(a) 2018 c. 16. Section 8 was amended by section 27 of the European Union (Withdrawal Agreement) Act 2020 (c. 1). Paragraph 21 of Schedule 7 was amended by paragraph 53 of Schedule 5 to that Act.

(2) The amendments made by Parts 2 to 4 and regulation 21 have the same extent as the provisions amended.

(3) Regulation 20 has the same extent within the United Kingdom as section 29 of the Plant Varieties and Seeds Act 1964.

(4) Part 6 extends to England and Wales, but applies only in England.

(5) Otherwise these Regulations extend to England and Wales, Scotland and Northern Ireland.

## PART 2

### Amendment of Regulation (EU) No 2016/2031

#### **Amendment of Regulation (EU) No 2016/2031**

2. In Regulation (EU) No 2016/2031 of the European Parliament and of the Council on protective measures against pests of plants<sup>(a)</sup>, after Article 105 insert—

##### **“Article 105A Penalties**

1. The appropriate authority may, by regulations, lay down the rules on penalties applicable to infringements of this Regulation or of any EU tertiary legislation<sup>(b)</sup>, or regulations, made under it. The penalties provided for must be effective, proportionate and dissuasive.

2. Regulations under this Article may create offences.

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

(a) summarily, or

(b) either summarily or on indictment.

4. 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).

5. 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).”.

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(a) EUR 2016/2031. Article 18 was amended, and Article 108 was revoked, by S.I. 2020/1482. There are other amending instruments but none is relevant.

(b) “EU tertiary legislation” is defined in section 20(1) of the European Union (Withdrawal) Act 2018.

## PART 3

### Amendment of Regulation (EU) No 2017/625

#### Amendment of Regulation (EU) No 2017/625

3. Regulation (EU) No 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<sup>(a)</sup> is amended in accordance with regulations 4 to 13.

#### Amendment of Article 3

4. In Article 3(3) (definition of “the competent authority”)—

(a) for point (a) substitute—

“(a) the appropriate authority or, as the case may be, the authority designated under or for the purposes of Article 4;”;

(b) omit point (b).

#### Amendment of Article 4

5.—(1) Article 4 (designation of competent authorities) is amended as follows.

(2) For paragraph 1 substitute—

“1. The appropriate authority may—

(a) for each of the areas governed by the rules referred to in Article 1(2), designate any other authority as a competent authority responsible for any of the OCR functions;

(b) modify<sup>(b)</sup> any designation made under point (a).

1A. A designation for the purposes of paragraph 1 above does not prevent the appropriate authority from exercising the relevant functions itself.

1B. The amendments made to Article 3(3) and this Article by the 2022 Regulations do not affect the continued operation of any existing designation.

1C. But the appropriate authority may—

(a) by regulations, revoke any existing designation contained in subordinate legislation (whether made under section 2(2) of the European Communities Act 1972<sup>(c)</sup> or otherwise) conferring responsibility for any of the OCR functions on the appropriate authority which is no longer required in consequence of the amendments made to Article 3(3) and this Article by the 2022 Regulations;

(b) revoke any other existing designation conferring responsibility for any of the OCR functions on the appropriate authority which is no longer required in consequence of the amendments made to those provisions by those Regulations.

1D. In addition, the appropriate authority may—

(a) by regulations, modify any existing designation contained in subordinate legislation (whether made under section 2(2) of the European Communities Act 1972 or

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(a) EUR 2017/625. Articles 3(3), 4(1), 48, 115, 128, 139 and 150 were amended by S.I. 2020/1481. Annex 6 was inserted by S.I. 2020/1481. Annex 6, as it extends to England and Wales, was amended by S.I. 2021/429, 2021/809, 2021/1096, 2021/1443 and 2022/621. Annex 6, as it extends to Scotland, was amended by S.I. 2021/429, 2021/809 and 2022/621 and by S.S.I. 2021/342, 2021/493 and 2022/90.

(b) “Modify” is defined in section 20(1) of the European Union (Withdrawal) Act 2018.

(c) 1972 c. 32.

otherwise) conferring responsibility on any other authority for any of the OCR functions;

- (b) by notice in writing, modify any other existing designation conferring responsibility on any other authority for any of the OCR functions.

1E. Paragraphs 1C and 1D are without prejudice to section 14 of the Interpretation Act 1978<sup>(a)</sup>.

1F. For the purposes of this Article—

- (a) “the 2022 Regulations” means the Animals and Animal Health, Feed and Food, Plants and Plant Health (Amendment) Regulations 2022;
- (b) “existing designation” means a designation conferring responsibility for any of the OCR functions on an authority which—
  - (i) was made for the purposes of this Article before 13th December 2022, and
  - (ii) is effective immediately before that date;
- (c) “the OCR functions” means the organisation or performance of official controls or other official activities in accordance with this Regulation and the rules referred to in Article 1(2).

1G. Paragraph 2 applies where, for the same area—

- (a) two or more authorities are each designated as a competent authority (whether under paragraph 1 or an existing designation), or
- (b) any such authority is permitted to delegate the exercise of specific responsibilities for official controls or other official activities to another public authority.”.

(3) In paragraph 2, for the words from “Where, for” to “other public authorities” substitute “Where this paragraph applies”.

#### **Amendment of Article 48**

6. In Article 48 (animals and goods exempted from official controls at border control posts), in point (g), for “in those delegated acts” substitute “by or in accordance with the regulations”.

#### **Amendment of Article 115**

7. In Article 115 (contingency plans for food and feed)—

- (a) in paragraph 1, for the words from “For the” to “, the” substitute “The”;
- (b) in paragraph 4(a), for the words from “general plan” to “178/2002” substitute “contingency plans”.

#### **Amendment of Article 128**

8. In Article 128 (special measures regarding the entry to Great Britain of certain animals and goods), in paragraph 1, for “must make” substitute “may make”.

#### **Amendment of Article 139**

9. In Article 139 (penalties)—

- (a) in paragraph 1—
  - (i) for “appropriate authorities” substitute “appropriate authority”;
  - (ii) for “shall”, in the first place it occurs, substitute “may, by regulations,”;

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(a) 1978 c. 30.

- (iii) after “Regulation” insert “or of any EU tertiary legislation<sup>(a)</sup>, or regulations, made under this Regulation”;
- (b) in paragraph 2, omit “, in accordance with national law,”;
- (c) after paragraph 2 insert—
  - “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).”.

#### **Amendment of Article 150**

**10.**—(1) Article 150 (transitional measures related to the repeal of Directive 96/23/EC) is amended as follows.

- (2) In paragraph 1—
  - (a) for “14 December 2022 or an earlier date to be determined by” substitute “the date specified in”;
  - (b) omit, in the second place it occurs, “legislation which transposed”.
- (3) In paragraph 2 for “14 December 2022 or an earlier date to be determined by” substitute “the date specified in”.
- (4) For paragraph 3 substitute—
  - “3. The appropriate authority may make regulations specifying—
    - (a) the date for the purposes of paragraph 1;
    - (b) the date for the purposes of paragraph 2.”.

#### **Amendment of Part 1 of Annex 6**

**11.**—(1) Part 1 of Annex 6 (derogations and modifications: introductory) is amended as follows.

- (2) In paragraph 2—
  - (a) in the definition of “relevant goods” for “Article 47(1)(a) to (c)” substitute “Article 47(1)(a) to (d)”;

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(a) “EU tertiary legislation” is defined in section 20(1) of the European Union (Withdrawal) Act 2018.

- (b) in the definition of “territory subject to special transitional import arrangements”, in paragraph (a), for “Article 47(1)(a) and (b)” substitute “Article 47(1)(a), (b) or (d)”.

(3) In paragraph 3—

- (a) the existing text becomes subparagraph (1);

- (b) after subparagraph (1) insert—

“(2) The appropriate authority may by regulations amend Part 2 of this Annex.”.

#### **Amendment of Part 2 of Annex 6: England and Wales**

**12.**—(1) Part 2 of Annex 6 (derogations and modifications: goods entering Great Britain from a relevant third country) as it extends to England and Wales is amended as follows.

(2) In the first paragraph 13, in the inserted Article 56A (prior notification of entry to Great Britain: transitional arrangements), after paragraph 4B insert—

“5. From 13th December 2022, in addition to the requirements specified in paragraphs 3 and 4, operators must give prior notification of the arrival of any goods referred to in point (d) of Article 47(1).”.

(3) Renumber the second paragraph 13 as paragraph 13A.

#### **Amendment of Part 2 of Annex 6: Scotland**

**13.**—(1) Part 2 of Annex 6 (derogations and modifications: goods entering Great Britain from a relevant third country) as it extends to Scotland is amended as follows.

(2) In the first paragraph 13, in the inserted Article 56A (prior notification of entry to Great Britain: transitional arrangements), after paragraph 6 insert—

“7. From 13th December 2022, in addition to the requirements specified in paragraphs 3 and 4, operators must give prior notification of the arrival of any goods referred to in point (d) of Article 47(1).”.

(3) Renumber the second paragraph 13 as paragraph 13A.

## **PART 4**

### **Amendment of other retained EU law**

#### **Amendment of Regulation (EC) No 999/2001**

**14.**—(1) Regulation (EC) No 999/2001 of the European Parliament and of the Council laying down rules for the prevention, control and eradication of certain transmissible spongiform encephalopathies<sup>(a)</sup> is amended as follows.

(2) In Annex 1 (specific definitions), in paragraph 2—

- (a) in point (e), in the definition of “scrapie case”, for “European Union” substitute “national”;

- (b) in point (f), in the definition of “classical scrapie case”, for “European Union” substitute “national”;

- (c) in point (g), in the definition of “atypical scrapie case”, for “European Union” substitute “national”;

- (d) in point (j), in the definition of “classical BSE case”, for “European Union” substitute “national”;

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(a) EUR 2001/999; relevant amending instruments are S.I. 2019/170

- (e) in point (k), in the definition of “atypical BSE case”, for “European Union” substitute “national”.
- (3) In Annex 3, in Chapter A, in Part 4 (monitoring in other animal species), for “Member States” substitute “The appropriate authority”.
- (4) In Annex 4, in Chapter 2 (animal feeding: derogations from the prohibitions in Article 7(1) and Chapter 1), in point (e)—
  - (a) for “Member States” substitute “The appropriate authority”;
  - (b) for “they have” substitute “it has”.
- (5) In Annex 7, in Chapter B (measures following confirmation of the presence of TSE in bovine, ovine and caprine animals)—
  - (a) in point 2.2.2—
    - (i) in the words before point (a), for “Member State” substitute “appropriate authority”;
    - (ii) in option 3, set out in point (d), for “A Member State” substitute “The appropriate authority”;
  - (b) in point 4.5, for “Member State” substitute “appropriate authority”.
- (6) In Annex 8, in Chapter A, in Section A (placing on the market and export: conditions which apply to ovine and caprine animals and semen and embryos thereof)—
  - (a) in the heading to point 2, omit “of an appropriate authority”;
  - (b) in point 2.1(d), for “the whole Member State” substitute “its whole territory”.

#### **Amendment of Council Regulation (EC) No 1/2005**

**15.**—(1) Council Regulation (EC) No 1/2005 on the protection of animals during transport and related operations(a) is amended as follows.

(2) In Article 5(4) (planning obligations for the transport of animals), for the words from “in the form” to the end substitute “in Annex 2”.

(3) In Article 8(2) (keepers), for the words from “in the form” to the end substitute “in Annex 2”.

#### **Amendment of Annex 2 to Commission Decision 2007/777/EC**

**16.**—(1) Part 2 of Annex 2 to Commission Decision No 2007/777/EC laying down the animal and public health conditions and model certificates for imports of certain meat products and treated stomachs, bladders and intestines for human consumption from third countries(b) (third countries from which the introduction of meat products etc. into Great Britain is authorised) is amended as follows.

(2) In footnote d, after “798/2008” insert “, or territories, zones or compartments of those third countries, specified by the Secretary of State, with the consent of the Scottish Ministers (in relation to Scotland) and the Welsh Ministers (in relation to Wales), under Article 3 of that Regulation in a document published for the purposes of that Article.”.

#### **Amendment of Annex 1 to Commission Regulation (EC) No 798/2008**

**17.**—(1) Annex 1 to Commission Regulation (EC) No 798/2008 laying down a list of third countries, territories, zones or compartments from which poultry and poultry products may be imported into and transit through the Community and the veterinary certification requirements(c) (poultry, hatching eggs, day-old chicks etc.: list of third countries, territories, zones or compartments) is amended as follows.

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(a) EUR 2005/1. Article 5(4) and Article 8(2) were amended by S.I. 2019/802.

(b) EUDN 2007/777. Part 2 of Annex 2 was amended by S.I. 2020/1462, 2021/211 and 2022/735.

(c) EUR 2008/798. There are amendments to Part 1 of Annex 1 but none is relevant.

(2) In Part 1, in the table, omit the row for Belarus.

#### **Amendment of Annex 1 to Commission Regulation (EC) No 119/2009**

**18.**—(1) Annex 1 to Commission Regulation (EC) No 119/2009 laying down a list of third countries or parts thereof, for imports into, or transit through, the Community of meat of wild leporidae, of certain wild land mammals and of farmed rabbits and the veterinary certification requirements<sup>(a)</sup> (meat of wild leporidae, of certain wild land mammals and of farmed rabbits) is amended as follows.

(2) In the table, in the final row, in column 1—

- (a) for “or part thereof listed in columns 1 and 3 of the table” substitute “listed”;
- (b) after “206/2010” insert “, or territories or parts of those third countries, specified by the Secretary of State, with the consent of the Scottish Ministers (in relation to Scotland) and the Welsh Ministers (in relation to Wales) under Article 14 of that Regulation in a document published for the purposes of that Article”.

#### **Amendment of Commission Implementing Regulation (EU) 2020/625**

**19.**—(1) Commission Implementing Regulation (EU) 2020/625 amending Commission Implementing Regulation (EU) 2019/1793<sup>(b)</sup> on the temporary increase of official controls and emergency measures governing the entry into the Union of certain goods from certain third countries is amended as follows.

(2) Omit Article 3 (transitional measures).

## **PART 5**

### **Amendment of the Plant Varieties and Seeds Act 1964**

#### **Amendment of section 29 of the Plant Varieties and Seeds Act 1964**

**20.**—(1) Section 29 of the Plant Varieties and Seeds Act 1964<sup>(c)</sup> (extension of Part 2 of the Act to propagating and planting material other than seeds) is amended as follows.

(2) In the heading, after “seed potatoes” insert “, other propagating material and planting material”.

(3) In subsection (1) for “to any other vegetative propagating material”, in both places it occurs, substitute “and any other vegetative propagating material, to vegetative planting material”.

#### **Consequential amendment of the Aquatic Animal Health and Alien Species in Aquaculture, Animals, and Marketing of Seed, Plant and Propagating Material (Legislative Functions and Miscellaneous Provisions) (Amendment) (EU Exit) Regulations 2020**

**21.**—(1) The Aquatic Animal Health and Alien Species in Aquaculture, Animals, and Marketing of Seed, Plant and Propagating Material (Legislative Functions and Miscellaneous Provisions) (Amendment) (EU Exit) Regulations 2020<sup>(d)</sup> are amended as follows.

(2) Omit Part 4 (functions relating to the marketing of seed, plant and plant propagating material).

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(a) EUR 2009/119. Annex 1 was amended by S.I. 2020/1462, 2021/211 and 2022/735.

(b) EUR 625/2020.

(c) 1964 c. 14. Section 29(1) was amended by paragraph 5(4) of Schedule 4 to the European Communities Act 1972 (c. 32).

(d) S.I. 2020/1463.



## PART 6

### Amendment of subordinate legislation

#### **Amendment of the Trade in Animals and Related Products Regulations 2011**

**22.** In regulation 38 of the Trade in Animals and Related Products Regulations 2011(a) (fees) for “enforcement authority” substitute “Secretary of State or the enforcement authority”.

#### **Amendment of the Animal Health (Miscellaneous Fees) (England) Regulations 2018**

**23.** In regulation 2 of the Animal Health (Miscellaneous Fees) (England) Regulations 2018(b) (interpretation), for the definition of “third country” substitute—

““third country” means a country or territory other than the British Islands;”.

	<i>Name</i>
	Parliamentary Under Secretary of State
Date	Department for Environment, Food and Rural Affairs

#### **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations are made in exercise of the powers conferred by section 8 of the European Union (Withdrawal) Act 2018 (c. 16) (“the 2018 Act”) in order to address failures of retained EU law to operate effectively and other deficiencies (in particular under section 8(2)(a), (b), (d), (f) and (g)) arising from the withdrawal of the United Kingdom from the European Union.

#### **Amendment of the Plant Health Regulation**

Part 2 of the Regulations amends Regulation (EU) No 2016/2031 of the European Parliament and of the Council on protective measures against pests of plants (EUR 2016/2031) (“the Plant Health Regulation”).

A new Article 105A is inserted into the Plant Health Regulation to enable the appropriate authority to make regulations putting in place penalties for non-compliance with the Regulation or provision made under it. This provision corrects an error made in regulation 33 of the Plant Health (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1482).

#### **Amendment of the Official Controls Regulation**

Part 3 of the Regulations amends Regulation (EU) No 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”) to correct errors previously made in regulations made under the 2018 Act and also to address deficiencies not previously addressed.

In particular:

- (a) Articles 3 and 4 are amended to ensure the effective identification, and operation of the provisions on the designation of, competent authorities for the purposes of the Official Controls Regulation (this corrects errors made in regulations 3 and 4 of the Official

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(a) S.I. 2011/1197. Regulation 38 was amended by S.I. 2019/1488 and 2020/1462.

(b) S.I. 2018/664, as amended by S.I. 2019/740.

Controls (Animals, Feed and Food, Plant Health etc.) (Amendment) (EU Exit) Regulations 2020 (S.I. 2020/1481);

- (b) Article 139 is amended to ensure that the appropriate authority can, by regulations, put in place penalties for non-compliance with the Regulation or provision made under it;
- (c) Article 150 is amended so that certain provisions of Directive 96/23/EC, rather than provisions of the Official Controls Regulation, continue to apply in Great Britain. The periods for which the provisions of Directive 96/23/EC continue to apply can be ended by the appropriate authority by regulations;
- (d) Annex 6 is amended to enable the appropriate authority to make amendments to that Annex without changing the duration of the transitional staging period, and to bring goods known as High Risk Foods of Non-Animal Origin within the scope of the arrangements made in that Annex.

#### **Amendment of other retained EU legislation**

Part 4 of the Regulations amends other retained EU legislation to correct errors in regulations previously made under the 2018 Act and to address a number of deficiencies not previously addressed.

This Part corrects errors made in regulation 3(5)(c) and (14) of the Animal Welfare (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/802), regulation 2(53) of the Transmissible Spongiform Encephalopathies and Animal By-Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/170) and regulation 20 of the Animals, Aquatic Animal Health, Invasive Alien Species, Plant Propagating Material and Seeds (Amendment) (EU Exit) Regulations 2020 (S.I. 2020/1388).

#### **Amendment of the Plant Varieties and Seeds Act 1964**

Part 5 of the Regulations amends section 29 of the Plant Varieties and Seeds Act 1964 so as to enable the continued functioning of the domestic regime for the marketing of vegetative planting material.

Part 5 of the Regulations also makes a related consequential amendment.

#### **Amendment of subordinate legislation**

Part 6 of these Regulations amends subordinate legislation. Regulation 38 of the Trade in Animals and Related Products Regulations 2011 (S.I. 2011/1197) is amended to correct an error made in the Import of, and Trade in, Animals and Animal Products (Miscellaneous Amendments) (EU Exit) Regulations 2020 (S.I. 2020/1462).

A full 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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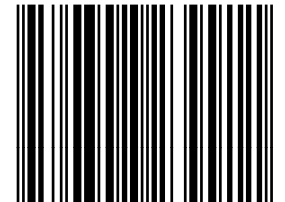
Printed and published in the UK by The Stationery Office Limited under the authority and superintendence of Jeff James, Controller of His Majesty's Stationery Office and King's Printer of Acts of Parliament.



£6.90

<http://www.legislation.gov.uk/id/ukdsi/2022/9780348239911>

ISBN 978-0-34-823991-1



9 780348 239911