

EXPLANATORY MEMORANDUM TO
THE ANIMALS AND ANIMAL PRODUCTS (IMPORT AND EXPORT) (ENGLAND)
(AMENDMENT) REGULATIONS 2006

2006 No. 2126

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.

This Memorandum contains information for the Joint Committee on Statutory Instruments

2. **Description**

- 2.1 The Animals and Animal Products (Import and Export) Regulations 2006 (“The AAP Regulations”) (SI 2006 No. 1471) regulate intra-Community trade in live animals and products (namely, semen, ova and embryos) and imports from third countries of live animals.

- 2.2 The Animals and Animal Products (Import and Export) (England) (Amendment) Regulations 2006 amend the AAP Regulations to extend the EU ban on imports of captive birds from third countries. The Regulations also make minor amendments to the AAP Regulations.

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

- 3.1. There is urgency to the extension of the ban on the import of captive birds from third countries and the Department regrets that it has been necessary to break the 21- day rule in this case. The Department explains its reasons for doing so in paragraphs 7.5 and 7.6 (‘Urgency’) below.

- 3.2 Other amendments made by these Regulations are minor and do not break the 21-day rule.

4. **Legislative Background**

- 4.1 The AAP Regulations were made under section 2(2) of the European Communities Act 1972, and in respect of charges made by the Secretary of State, under section 56(1) and (2) of the Finance Act 1973. In outline, they implement Directive 90/425/EEC relating to intra-Community trade in live animals and animal products (semen, ova and embryos) and Directive 91/496/EEC relating to imports of live animals from non-EU countries.

- 4.2 In relation to imports from third countries, the AAP Regulations permit the import of animals from non-EU countries subject to compliance with Council Directive 91/496/EC and the EU legislation set out in Schedule 7.

- 4.3 By regulation 16(4) of the AAP Regulations, these provisions were postponed in the case of captive birds (other than pets), until 1st August 2006.

5. Extent

These Regulations apply to England. Similar legislation will be introduced in Scotland, Wales and Northern Ireland as soon as their procedures will allow.

6. European Convention on Human Rights

The Secretary of State, David Miliband, makes these Regulations in exercise of the powers conferred on him. As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy Background

- 7.1 The objective of Directives 90/425/EEC and 91/496/EEC and the related legislation implemented through the Regulations is to protect the health of animals within the European Community.

Implementation of measures relating to the regime for imports of captive birds

- 7.2 The Explanatory Memorandum for the AAP Regulations gave details of how Commission Decision 2000/666/EC was implemented in the Animals and Animal Products (Import and Export) (England) Regulations 2006. The Decision lays down the animal health import conditions, including quarantine requirements, for the import of captive birds (a class which excludes pet birds and poultry and birds destined for certain approved institutes and zoos). It also permitted imports from specified countries subject to import and quarantine conditions. This Decision was implemented by Part 3 of the AAP Regulations, together with paragraph 3 of Part I and paragraph 6 of Part II of Schedule 7, and Schedule 8.
- 7.3 A ban on imports of captive birds was introduced by the European Commission on 28 October 2005 in response to the avian influenza risks posed by third countries' imports following the findings of high pathogen Avian Influenza at a quarantine facility in the UK. The ban was set out in Commission Decision 2005/760/EC, was adopted on 27 October 2005 and has been maintained in light of the epidemiological situation and the increased incidence of Avian Influenza in certain parts of the world. On 4 July last, the EU Standing Committee on the Food Chain and Animal Health voted to extend the ban until the end of 31st December 2006.
- 7.4 The import ban is implemented by regulation 16(4) of the AAP Regulations which postpones until 1 August 2006 the application of the import provisions in relation to captive birds. These Regulations amend regulation 16(4) by changing the date from 1 August 2006 to 1 January 2007 so as to give effect to Commission Decision 2006/522/EC.

Urgency

- 7.5 The import ban is an established, if temporary, EU-wide protective measure intended to address the risks to animal health and public health posed by the highly pathogenic avian influenza H5N1 which is known to be present in many exporting countries and which is likely to be present but undetected in others. The Department considers that it is in the interests of animal health in England and the rest of the UK that imports via England are not permitted to resume, and it is also mindful of the UK's obligations as a Member State to give effect to Community

law. The Department therefore wishes to ensure that the extension of the ban to 1 January 2007 is in place before the current one expires on 1 August next.

- 7.6 The timing (and therefore breach of the 21-day rule) has been determined by EU legislative processes. The vote referred to above to adopt the measure implemented in Regulation 2(3) of the current SI was taken in Standing Committee on 4 July last, and formally adopted on 25 July last, leaving only 6 days before the provision came into force. To meet the policy objective ensuring the ban stays in place with no break and our obligation to implement EU law, it has been necessary therefore to truncate the time in respect only of regulation 2(3). The Department apologises.

Other

- 7.7 Minor textual amendments have also been made to regulation 1(3) of the AAP Regulations to correct cross-references to another paragraph in that regulation, and to regulation 21(3) to amend 'veterinarian' to 'veterinary' (describing a 'veterinary inspector'). Regulation 19(9) has also been amended to limit to a veterinary inspector powers to take samples, inspect quarantine centres, facilities and their equipment, and conduct clinical veterinary examinations as required under Commission Decision 2000/666/EC.

8. Impact

- 8.1. A Regulatory Impact Assessment (RIA) was prepared for the Animals and Animal Products (Import and Export) Regulations 2000, the predecessor to the current Animals and Animal Products (Import and Export) (England) Regulations 2006. No regulatory impact assessment has been prepared for current amending Regulations–

- because of the urgency required to give effect to the extension of the import ban in relation to captive birds, and
- because the other amendments have no impact on business.

A full consultation is underway which will introduce further changes to the import arrangements later in the year. A copy of that consultation document is available from the Avian Quarantine and Implementation Team, Defra, Area 411, 1A Page Street, London, SW1P 4PQ, by email quarantine.consultation@defra.gsi.gov.uk or via the Defra website-

<http://defraweb/corporate/consult/avian-quarantine/index.htm>

9. Contact

Amanda Furlonger
International Animal Health Division
Telephone: 020 7904 6358
e-mail: amanda.j.furlonger@defra.gsi.gov.uk