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STATUTORY INSTRUMENTS

2012 No. 2897

AGRICULTURE

ANIMALS, ENGLAND AND WALES

ANIMAL HEALTH

ANIMAL WELFARE

ENERGY CONSERVATION, ENGLAND AND WALES

ENVIRONMENTAL PROTECTION

FOOD, ENGLAND AND WALES

PUBLIC HEALTH, ENGLAND

The Agriculture, Animals, Environment and Food etc.
(Miscellaneous Amendments) Order 2012

Made - - - - *15th November 2012*

Laid before Parliament *21st November 2012*

Coming into force - - *24th December 2012*

The Secretary of State is designated for the purposes of section 2(2) of the European Communities Act 1972(a) in relation to the common agricultural policy of the European Union and medicinal products(b), measures in the veterinary and phytosanitary fields for the protection of public

(a) 1972 c.68. Section 2(2) was amended by the Legislative and Regulatory Reform Act 2006 (c.51), section 27(1)(a), and the European Union (Amendment) Act 2008 (c.7), Part 1 of the Schedule.

(b) S.I. 1972/1811; the function of the former Minister of Agriculture, Fisheries and Food of making subordinate legislation under section 2(2) was transferred to the Secretary of State by article 2(2) of the Ministry of Agriculture, Fisheries and Food (Dissolution) Order 2002 (S.I. 2002/794).

health(a), food (including drink) including the primary production of food(b), the environment(c) and the environmental aspects of product design(d).

The Secretary of State makes this Order in exercise of the powers conferred by section 2(2) of the European Communities Act 1972(e) and sections 1 and 8(1) of the Animal Health Act 1981(f).

Citation, commencement and extent

1.—(1) This Order may be cited as the Agriculture, Animals, Environment and Food etc. (Miscellaneous Amendments) Order 2012 and comes into force on 24th December 2012.

(2) This Order, except as provided in paragraphs (3) and (4), extends to England and Wales.

(3) Article 43(a) and (c) has the same extent as the Environmental Protection (Controls on Ozone-Depleting Substances) Regulations 2011(g).

(4) Article 46(b) extends to the United Kingdom.

Amendment of the Animals and Animal Products (Examination for Residues and Maximum Residue Limits) Regulations 1997

2. In the Animals and Animal Products (Examination for Residues and Maximum Residue Limits) Regulations 1997(h), in regulation 23 (offences, penalties and enforcement), after paragraph (3) insert—

“(3A) The Secretary of State may delegate to the Director of Public Prosecutions functions in relation to the prosecution of an offence under these Regulations.”.

Amendment of the Seeds (National Lists of Varieties) Regulations 2001

3. In the Seeds (National Lists of Varieties) Regulations 2001(i), in regulation 22 (enforcement)—

(a) re-number the existing provision as paragraph (1); and

(b) after that provision add—

“(2) The Secretary of State may delegate to the Director of Public Prosecutions functions in relation to the prosecution of an offence under these Regulations.”.

(a) S.I. 1999/2027; the function of the former Minister of Agriculture, Fisheries and Food of making subordinate legislation under section 2(2) was transferred to the Secretary of State by article 2(2) of the Ministry of Agriculture, Fisheries and Food (Dissolution) Order 2002.

(b) S.I. 2003/2901.

(c) S.I. 2008/301.

(d) S.I. 2010/1552.

(e) The power of the Secretary of State to make an Order in relation to Wales remains exercisable by virtue of paragraph 5 of Schedule 3 to the Government of Wales Act 2006 (c.32). The power of the Secretary of State to make an Order extending to Scotland remains exercisable by virtue of section 57(1) of the Scotland Act 2008 (c.46). The power of the Secretary of State to make an Order extending to Northern Ireland remains exercisable by virtue of article 3(2) of the European Communities (Designation) (No 3) Order 2000 (S.I. 2000/1812) and article 2(a) of the European Communities (Designation) Order 2008 (S.I. 2008/301).

(f) 1981 c.22. There are amendments to section 8 of the Animal Health Act 1981 which are not relevant to this Order. Functions conferred under that Act on “the Ministers” (as defined in section 86) are now exercisable in relation to England by the Secretary of State. Functions of “the Ministers” in relation to England were transferred, so far as exercisable by the Secretaries of State for Scotland and Wales, to the Minister of Agriculture, Fisheries and Food by the Transfer of Functions (Agriculture and Food) Order 1999 (S.I. 1999/3141). Functions of the Minister of Agriculture, Fisheries and Food were then transferred to the Secretary of State by the Ministry of Agriculture, Fisheries and Food (Dissolution) Order 2002.

(g) S.I. 2011/1543.

(h) S.I. 1997/1729, amended by S.I. 2001/3590 and 2006/755; there are other amending instruments but none is relevant.

(i) S.I. 2001/3510, to which there are amendments not relevant to this Order.

Amendment of the Transport of Animals (Cleansing and Disinfection) (England) (No. 3) Order 2003

4. In the Transport of Animals (Cleansing and Disinfection) (England) (No. 3) Order 2003(a), in article 10 (enforcement), after paragraph (2) add—

“(3) Where the Secretary of State makes a direction under paragraph (2), the Secretary of State may delegate to the Director of Public Prosecutions functions in relation to the prosecution of an offence under section 73 of the Animal Health Act 1981(b) relating to this Order.”.

Amendment of the Disease Control (England) Order 2003

5.—(1) The Disease Control (England) Order 2003(c) is amended as follows.

(2) For article 18 substitute—

“Cross-border movements of animals into England

18.—(1) In this article a “cross-border movement” means the movement of an animal—

- (a) from Scotland into England, where the movement of the animal within Scotland is carried out under the authority of a licence (general or specific) issued by an authority in Scotland which is responsible for issuing licences in relation to the movement of animals; or
- (b) from Wales into England, where the movement of the animal within Wales is carried out under the authority of a licence (general or specific) issued by an authority in Wales which is responsible for issuing licences in relation to the movement of animals.

(2) That part of a cross-border movement which is carried out within England is treated as if it were authorised by a general licence under article 12.

(3) But paragraph (2) does not apply in the case of a cross-border movement by a person specified in a notice under article 13(1)(b), if that notice prohibits movements of animals by that person generally or to premises which are the destination of the cross-border movement in question.”.

(3) In article 22 (enforcement), after paragraph (2) add—

“(3) Where the Secretary of State makes a direction under paragraph (2), the Secretary of State may delegate to the Director of Public Prosecutions functions in relation to the prosecution of an offence under section 73 of the Animal Health Act 1981 relating to this Order.”.

Amendment of the Olive Oil (Marketing Standards) Regulations 2003

6. In the Olive Oil (Marketing Standards) Regulations 2003(d), in regulation 3 (enforcement), after paragraph (1) insert—

“(1A) The Secretary of State may delegate to the Director of Public Prosecutions functions in relation to the prosecution of an offence under these Regulations.”.

(a) S.I. 2003/1724, to which there are amendments not relevant to this Order.

(b) Section 73 has been amended but the amendment is not relevant to this Order.

(c) S.I. 2003/1729, to which there are amendments not relevant to this Order.

(d) S.I. 2003/2577, to which there are amendments not relevant to this Order.

Amendment of the Registration of Establishments (Laying Hens) (England) Regulations 2003

7. In the Registration of Establishments (Laying Hens) (England) Regulations 2003(a), in regulation 10 (enforcement)—

- (a) re-number the existing provision as paragraph (1); and
- (b) after that provision add—

“(2) The Secretary of State may delegate to the Director of Public Prosecutions functions in relation to the prosecution of an offence under these Regulations.”.

Amendment of the Foot-and-Mouth Disease (England) Order 2006

8. In the Foot-and-Mouth Disease (England) Order 2006(b), in article 59 (enforcement), after paragraph (3) add—

“(4) For the purposes of paragraph (2) or where the Secretary of State makes a direction under paragraph (3), the Secretary of State may delegate to the Director of Public Prosecutions functions in relation to the prosecution of an offence under section 73 of the Act relating to this Order.”.

Amendment of the Foot-and-Mouth Disease (Control of Vaccination) (England) Regulations 2006

9. In the Foot-and-Mouth Disease (Control of Vaccination) (England) Regulations 2006(c), in regulation 43 (enforcement), after paragraph (3) add—

“(4) For the purposes of paragraph (2) or where the Secretary of State makes a direction under paragraph (3), the Secretary of State may delegate to the Director of Public Prosecutions functions in relation to the prosecution of an offence under section 73 of the Act(d) relating to these Regulations.”.

Amendment of the Avian Influenza (Preventive Measures) (England) Regulations 2006

10. In the Avian Influenza (Preventive Measures) (England) Regulations 2006(e), in regulation 22 (enforcement), after paragraph (2) add—

“(3) Where the Secretary of State makes a direction under paragraph (2), the Secretary of State may delegate to the Director of Public Prosecutions functions in relation to the prosecution of an offence under section 73 of the Act(f) relating to these Regulations.”.

Amendment of the Avian Influenza and Influenza of Avian Origin in Mammals (England) (No. 2) Order 2006

11. In the Avian Influenza and Influenza of Avian Origin in Mammals (England) (No. 2) Order 2006(g), in article 85 (enforcement), after paragraph (2) add—

“(3) Where the Secretary of State makes a direction under paragraph (2), the Secretary of State may delegate to the Director of Public Prosecutions functions in relation to the prosecution of an offence under section 73 of the Act relating to this Order.”.

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- (a) S.I. 2003/3100.
 - (b) S.I. 2006/182, to which there are amendments not relevant to this Order.
 - (c) S.I. 2006/183, to which there are amendments not relevant to this Order.
 - (d) Section 73 of the Animal Health Act 1981 is applied by regulation 37(1)(g).
 - (e) S.I. 2006/2701, to which there is an amendment not relevant to this Order.
 - (f) Section 73 of the Animal Health Act 1981 is applied by regulation 20(1)(f).
 - (g) S.I. 2006/2702, to which there are amendments not relevant to this Order.

Amendment of the Avian Influenza (Vaccination) (England) Regulations 2006

12. In the Avian Influenza (Vaccination) (England) Regulations 2006(a), in regulation 23 (enforcement), after paragraph (2) add—

“(3) Where the Secretary of State makes a direction under paragraph (2), the Secretary of State may delegate to the Director of Public Prosecutions functions in relation to the prosecution of an offence under section 73 of the Act(b) relating to these Regulations.”.

Revocation of the Salmonella in Turkey Flocks and Slaughter Pigs (Survey Powers) (England) Regulations 2006

13. The Salmonella in Turkey Flocks and Slaughter Pigs (Survey Powers) (England) Regulations 2006(c) are revoked.

Amendment of the Avian Influenza (H5N1 in Poultry) (England) Order 2006

14. In the Avian Influenza (H5N1 in Poultry) (England) Order 2006(d), in article 24 (enforcement), after paragraph (2) add—

“(3) Where the Secretary of State makes a direction under paragraph (2), the Secretary of State may delegate to the Director of Public Prosecutions functions in relation to the prosecution of an offence under section 73 of the Act relating to this Order.”.

Amendment of the Avian Influenza (H5N1 in Wild Birds) (England) Order 2006

15. In the Avian Influenza (H5N1 in Wild Birds) (England) Order 2006(e), in article 25 (enforcement), after paragraph (2) add—

“(3) Where the Secretary of State makes a direction under paragraph (2), the Secretary of State may delegate to the Director of Public Prosecutions functions in relation to the prosecution of an offence under section 73 of the Animal Health Act 1981 relating to this Order.”.

Amendment of the Welfare of Animals (Transport) (England) Order 2006

16. In the Welfare of Animals (Transport) (England) Order 2006(f), in article 29 (enforcement), after paragraph (2) add—

“(3) Where the Secretary of State makes a direction under paragraph (2), the Secretary of State may delegate to the Director of Public Prosecutions functions in relation to the prosecution of an offence under this Order or under section 72 or 73 of the Act relating to this Order.”.

Amendment of the Diseases of Animals (Approved Disinfectants) (England) Order 2007

17. In the Diseases of Animals (Approved Disinfectants) (England) Order 2007(g), in article 12 (enforcement), after paragraph (2) add—

“(3) Where the Secretary of State makes a direction under paragraph (2), the Secretary of State may delegate to the Director of Public Prosecutions functions in relation to the prosecution of an offence under section 73 of the Animal Health Act 1981 relating to this Order.”.

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- (a) S.I. 2006/2703, to which there is an amendment not relevant to this Order.
(b) Section 73 of the Animal Health Act 1981 is applied by regulation 21(1)(f).
(c) S.I. 2006/2821.
(d) S.I. 2006/3247, to which there are amendments not relevant to this Order.
(e) S.I. 2006/3249, to which there are amendments not relevant to this Order.
(f) S.I. 2006/3260.
(g) S.I. 2007/448, to which there is an amendment not relevant to this Order.

Amendment of the Cattle Identification Regulations 2007

18. In the Cattle Identification Regulations 2007(a)—

(a) in regulation 2 (interpretation), in paragraph (1), after the definition of “cattle passport” insert—

““Commission Regulation (EC) No 494/98” means Commission Regulation (EC) No 494/98 laying down detailed rules for the implementation of Council Regulation (EC) No 820/97 as regards the application of minimum administrative sanctions in the framework of the system for the identification and registration of bovine animals(b);”;

(b) in regulation 10 (powers of inspectors), for paragraph (1)(c) substitute—

“(c) Commission Regulation (EC) No 494/98;”;

(c) in regulation 12 (slaughter of unmarked animals), omit “the veterinary authority and”; and

(d) in regulation 16 (enforcement), after paragraph (2) add—

“(3) Where the Secretary of State makes a direction under paragraph (2), the Secretary of State may delegate to the Director of Public Prosecutions functions in relation to the prosecution of an offence under these Regulations.”.

Amendment of the Tuberculosis (England) Order 2007

19. In the Tuberculosis (England) Order 2007(c), in article 23 (enforcement), after paragraph (2) add—

“(3) Where the Secretary of State makes a direction under paragraph (2), the Secretary of State may delegate to the Director of Public Prosecutions functions in relation to the prosecution of an offence under section 73 of the Act relating to this Order.”.

Amendment of the Welfare of Farmed Animals (England) Regulations 2007

20. In the Welfare of Farmed Animals (England) Regulations 2007(d), in regulation 8 (prosecutions), after paragraph (2) add—

“(3) Where the Secretary of State makes a direction under paragraph (2), the Secretary of State may delegate to the Director of Public Prosecutions functions in relation to the prosecution of an offence under these Regulations.”.

Amendment of the Zoonoses (Monitoring) (England) Regulations 2007

21. In the Zoonoses (Monitoring) (England) Regulations 2007(e), in regulation 8 (enforcement), after paragraph (2) add—

“(3) Where the Secretary of State makes a direction under paragraph (2), the Secretary of State may delegate to the Director of Public Prosecutions functions in relation to the prosecution of an offence under these Regulations.”.

Amendment of the Control of Salmonella in Poultry Order 2007

22.—(1) The Control of Salmonella in Poultry Order 2007(f) is amended as follows.

(2) In article 2 (interpretation), after the definition of “chick” insert—

(a) S.I. 2007/529, to which there are amendments not relevant to this Order.
(b) OJ No L 60, 28.2.1998, p.78, amended by Commission Regulation (EU) No 1053/2010 (OJ No L 303, 19.11.2010, p.1).
(c) S.I. 2007/740, to which there are amendments not relevant to this Order.
(d) S.I. 2007/2078, to which there are amendments not relevant to this Order.
(e) S.I. 2007/2399.
(f) S.I. 2007/3574.

““Commission Regulation (EU) No 200/2010” means Commission Regulation (EU) No 200/2010 implementing Regulation (EC) No 2160/2003 as regards a Union target for the reduction of the prevalence of *Salmonella* serotypes in adult breeding flocks of *Gallus gallus*(a);

“Commission Regulation (EU) No 517/2011” means Commission Regulation (EU) No 517/2011 implementing Regulation (EC) No 2160/2003 as regards a Union target for the reduction of the prevalence of certain *Salmonella* serotypes in laying hens of *Gallus gallus* and amending Regulation (EC) No 2160/2003 and Commission Regulation (EU) No 200/2010(b);”.

(3) In article 3 (competent authority), for paragraphs (a) and (b) (but not the “and” at the end) substitute—

“(a) Commission Regulation (EU) No 200/2010;

(b) Commission Regulation (EU) No 517/2011;”.

(4) In article 13 (enforcement), after paragraph (2) add—

“(3) Where the Secretary of State makes a direction under paragraph (2), the Secretary of State may delegate to the Director of Public Prosecutions functions in relation to the prosecution of an offence under section 73 of the Animal Health Act 1981 relating to this Order.”.

(5) In the Schedule—

(a) in paragraph 8 (method of sampling during the laying period)—

(i) for “Commission Regulation (EC) No 1003/2005” substitute “Commission Regulation (EU) No 200/2010”, and

(ii) for “Commission Regulation (EC) No 1168/2006” substitute “Commission Regulation (EU) No 517/2011”; and

(b) in paragraph 12 (duties on the person in charge of a laboratory)—

(i) in sub-paragraph (3)(a), for “3.1.2 of the Annex to Commission Regulation (EC) No 1003/2005” substitute “3.1.3 of the Annex to Commission Regulation (EU) No 200/2010”,

(ii) in sub-paragraph (3)(b), for “3.1.3” substitute “3.1.4”, and

(iii) in sub-paragraph (4)(a), for “Commission Regulation (EC) No 1168/2006” substitute “Commission Regulation (EU) No 517/2011”.

Amendment of the Products of Animal Origin (Disease Control) (England) Regulations 2008

23. In the Products of Animal Origin (Disease Control) (England) Regulations 2008(c), in regulation 24 (enforcement)—

(a) re-number the existing provision as paragraph (1); and

(b) after that provision add—

“(2) For the purposes of paragraph (1)(a) or where the Secretary of State makes a direction under paragraph (1)(b), the Secretary of State may delegate to the Director of Public Prosecutions functions in relation to the prosecution of an offence under section 73 of the Act(d) relating to these Regulations.”.

Amendment of the Specified Animal Pathogens Order 2008

24. In the Specified Animal Pathogens Order 2008(e), in article 11 (enforcement)—

(a) OJ No L 61, 11.3.2010, p.1, amended by Commission Regulation (EU) No 517/2011 (OJ No L 138, 26.5.2011, p.45).

(b) OJ No L 138, 26.5.2011, p.45.

(c) S.I. 2008/465, to which there are amendments not relevant to this Order.

(d) Section 73 of the Animal Health Act 1981 is applied by regulation 21(1)(c).

(e) S.I. 2008/944, to which there are amendments not relevant to this Order.

- (a) re-number the existing provision as paragraph (1); and
- (b) after that provision add—
 - “(2) The Secretary of State may delegate to the Director of Public Prosecutions functions in relation to the prosecution of an offence under section 73 of the Animal Health Act 1981 relating to this Order.”.

Amendment of the Bluetongue Regulations 2008

- 25.** In the Bluetongue Regulations 2008(a)—
- (a) in regulation 27 (enforcement), after paragraph (2) add—
 - “(3) Where the Secretary of State makes a direction under paragraph (2), the Secretary of State may delegate to the Director of Public Prosecutions functions in relation to the prosecution of an offence under these Regulations.”; and
 - (b) in regulation 30(4) (publication of first review report), for “the end of” to the end substitute “24th August 2017”.

Amendment of the Environmental Damage (Prevention and Remediation) Regulations 2009

- 26.** In the Environmental Damage (Prevention and Remediation) Regulations 2009(b), in regulation 12 (enforcement), after paragraph (2) add—
- “(3) The Secretary of State may delegate to the Director of Public Prosecutions functions in relation to the prosecution of an offence under these Regulations.”.

Amendment of the Ozone-Depleting Substances (Qualifications) Regulations 2009

- 27.** In the Ozone-Depleting Substances (Qualifications) Regulations 2009(c), in regulation 7 (enforcement and authorised persons), after paragraph (4) insert—
- “(4A) Where the Secretary of State makes a direction under paragraph (4), the Secretary of State may delegate to the Director of Public Prosecutions functions in relation to the prosecution of an offence under these Regulations.”.

Amendment of the Control of Salmonella in Broiler Flocks Order 2009

- 28.** In the Control of Salmonella in Broiler Flocks Order 2009(d)—
- (a) in article 2 (interpretation), after the definition of “broiler flock” insert—
 - ““Commission Regulation (EU) No 200/2012” means Commission Regulation (EU) No 200/2012 concerning a Union target for the reduction of *Salmonella enteritidis* and *Salmonella typhimurium* in flocks of broilers, as provided for in Regulation (EC) No 2160/2003(e);”;
 - (b) in article 3 (competent authority), for paragraph (a) (but not the “and” at the end) substitute—
 - “(a) Commission Regulation (EU) No 200/2012;”;
 - (c) in article 5 (sampling), in paragraph (1)—
 - (i) for “Regulation (EC) No 646/2007” substitute “Commission Regulation (EU) No 200/2012”,
 - (ii) for “3.1” substitute “2.2.4”, and

(a) S.I. 2008/962, amended by S.I. 2012/1977; there are other amending instruments but neither is relevant.
 (b) S.I. 2009/153, to which there are amendments not relevant to this Order.
 (c) S.I. 2009/216, to which there are amendments not relevant to this Order.
 (d) S.I. 2009/260.
 (e) OJ No L 71, 9.3.2012, p.31.

- (iii) for ““express post”” substitute ““express mail””;
- (d) in article 8 (duties of the person in charge of a laboratory), for “Regulation (EC) No 646/2007” substitute “Commission Regulation (EU) No 200/2012”; and
- (e) in article 14 (enforcement), after paragraph (2) add—

“(3) Where the Secretary of State makes a direction under paragraph (2), the Secretary of State may delegate to the Director of Public Prosecutions functions in relation to the prosecution of an offence under section 73 of the Animal Health Act 1981 relating to this Order.”.

Amendment of the Fluorinated Greenhouse Gases Regulations 2009

29. In the Fluorinated Greenhouse Gases Regulations 2009(a), in regulation 56 (enforcement), after paragraph (2) insert—

“(2A) Where the Secretary of State makes a direction under paragraph (2), the Secretary of State may delegate to the Director of Public Prosecutions functions in relation to the prosecution of an offence under these Regulations.”.

Amendment of the Swine Vesicular Disease Regulations 2009

30. In the Swine Vesicular Disease Regulations 2009(b), in regulation 45 (enforcement), after paragraph (2) add—

“(3) Where the Secretary of State makes a direction under paragraph (2), the Secretary of State may delegate to the Director of Public Prosecutions functions in relation to the prosecution of an offence under these Regulations.”.

Amendment of the Eggs and Chicks (England) Regulations 2009

31. In the Eggs and Chicks (England) Regulations 2009(c), in regulation 17 (enforcement), after paragraph (3) insert—

“(3A) The Secretary of State may delegate to the Director of Public Prosecutions functions in relation to the prosecution of an offence under these Regulations.”.

Amendment of the Sheep and Goats (Records, Identification and Movement) (England) Order 2009

32. In the Sheep and Goats (Records, Identification and Movement) (England) Order 2009(d), in article 41 (enforcement), after paragraph (2) add—

“(3) Where the Secretary of State makes a direction under paragraph (2), the Secretary of State may delegate to the Director of Public Prosecutions functions in relation to the prosecution of an offence under section 73 of the Animal Health Act 1981 relating to this Order.”.

Amendment of the Control of Salmonella in Turkey Flocks Order 2009

33. In the Control of Salmonella in Turkey Flocks Order 2009(e)—

- (a) in article 2 (interpretation), omit paragraph (2)(b);
- (b) in article 3 (competent authority), omit paragraph (b); and
- (c) in article 13 (enforcement), after paragraph (2) add—

(a) S.I. 2009/261, to which there are amendments not relevant to this Order.
(b) S.I. 2009/1299, to which there are amendments not relevant to this Order.
(c) S.I. 2009/2163, to which there are amendments not relevant to this Order.
(d) S.I. 2009/3219.
(e) S.I. 2009/3271.

“(3) Where the Secretary of State makes a direction under paragraph (2), the Secretary of State may delegate to the Director of Public Prosecutions functions in relation to the prosecution of an offence under section 73 of the Animal Health Act 1981 relating to this Order.”.

Amendment of the Agriculture (Cross compliance) (No. 2) Regulations 2009

34.—(1) The Agriculture (Cross compliance) (No. 2) Regulations 2009^(a) are amended as follows.

(2) In regulation 5 (competent control authorities), after paragraph (4) add—

“(5) The Secretary of State may delegate to the Director of Public Prosecutions functions in relation to the prosecution of an offence under these Regulations.”.

(3) In Schedule 1 (standards of good agricultural and environmental condition)—

(a) for paragraph 3(2) (disapplication of prohibition on overgrazing and unsuitable supplementary feeding) substitute—

“(2) Sub-paragraph (1) does not apply to the extent that the Secretary of State has, for reasons relating to the benefit of the environment, given a claimant written permission to do anything that would otherwise be prohibited by that sub-paragraph.”;

(b) in paragraph 5 (management of land not in agricultural production)—

(i) after sub-paragraph (4) insert—

“(4A) Sub-paragraph (4) does not apply to the extent that the Secretary of State has, for reasons relating to the benefit of the environment, given the claimant written permission not to do anything the claimant would otherwise be required to do by that sub-paragraph.”, and

(ii) for sub-paragraph (10) (disapplication of certain provisions relating to management of land not in agricultural production) substitute—

“(10) Sub-paragraphs (5), (6) and (7) do not apply to the extent that the Secretary of State has, for reasons relating to the benefit of the environment, given the claimant or person (as the case may be) written permission to do anything that would otherwise be prohibited by any of those sub-paragraphs.”; and

(c) for paragraph 6(2) (disapplication of obligation to take all reasonable steps to prevent the spread of specified weeds) substitute—

“(2) Sub-paragraph (1) does not apply to the extent that the Secretary of State has, for reasons relating to the benefit of the environment, given the claimant written permission not to take all such reasonable steps in relation to any of the weeds listed.”.

Amendment of the Poultry Compartments (England) Order 2010

35. In the Poultry Compartments (England) Order 2010^(b), in article 4(1)(a)—

(a) for “certified” substitute “approved”; and

(b) for “certification” substitute “approval”.

Amendment of the Animal Gatherings Order 2010

36. In the Animal Gatherings Order 2010^(c), in article 13 (enforcement), after paragraph (2) add—

“(3) Where the Secretary of State makes a direction under paragraph (2), the Secretary of State may delegate to the Director of Public Prosecutions functions in relation to the

(a) S.I. 2009/3365, amended by S.I. 2010/2941 and 2012/66.

(b) S.I. 2010/108.

(c) S.I. 2010/460, to which there is an amendment not relevant to this Order.

prosecution of an offence under section 73 of the Animal Health Act 1981 relating to this Order.”.

Amendment of the Transmissible Spongiform Encephalopathies (England) Regulations 2010

37. In the Transmissible Spongiform Encephalopathies (England) Regulations 2010(a), in regulation 20 (enforcement), after paragraph (4) add—

“(5) For the purposes of paragraph (1) or where the Secretary of State makes a direction under paragraph (4), the Secretary of State may delegate to the Director of Public Prosecutions functions in relation to the prosecution of an offence under these Regulations.”.

Amendment of the Beef and Veal Labelling Regulations 2010

38. In the Beef and Veal Labelling Regulations 2010(b), in regulation 3 (the enforcement authorities), after paragraph (2) add—

“(3) The Secretary of State may delegate to the Director of Public Prosecutions functions in relation to the prosecution of an offence under these Regulations.”.

Amendment of the Poultrymeat (England) Regulations 2011

39.—(1) The Poultrymeat (England) Regulations 2011(c) are amended as follows.

(2) In regulation 9 (enforcement), after paragraph (4) insert—

“(4A) The Secretary of State may delegate to the Director of Public Prosecutions functions in relation to the prosecution of an offence under these Regulations.”.

(3) In regulation 11 (powers of entry)—

(a) in paragraph (1), for “enter any premises” substitute “, on giving reasonable notice, enter premises (except premises used wholly or mainly as a private dwellinghouse)”;

(b) after paragraph (1) insert—

“(1A) The requirement to give notice does not apply—

(a) where reasonable efforts to agree an appointment have failed;

(b) where an authorised officer reasonably believes that giving notice would defeat the object of the entry;

(c) where an officer has a reasonable suspicion of a breach of these Regulations; or

(d) in an emergency.”;

(c) omit paragraph (4); and

(d) in paragraph (12)(a), for “one month” substitute “three months”.

Amendment of the Animal By-Products (Enforcement) (England) Regulations 2011

40. In the Animal By-Products (Enforcement) (England) Regulations 2011(d), in regulation 21 (enforcement authority), after paragraph (2) insert—

“(2A) For the purposes of paragraph (1)(c) or where the Secretary of State makes a direction under paragraph (2), the Secretary of State may delegate to the Director of Public Prosecutions functions in relation to the prosecution of an offence under these Regulations.”.

(a) S.I. 2010/801, to which there are amendments not relevant to this Order.

(b) S.I. 2010/983.

(c) S.I. 2011/452.

(d) S.I. 2011/881, to which there are amendments not relevant to this Order.

Amendment of the Trade in Animals and Related Products Regulations 2011

41. In the Trade in Animals and Related Products Regulations 2011(a), in regulation 32 (enforcement), after paragraph (5) insert—

“(5A) For the purposes of paragraph (1)(a) or where the Secretary of State makes a direction under paragraph (5), the Secretary of State may delegate to the Director of Public Prosecutions functions in relation to the prosecution of an offence under these Regulations.”.

Amendment of the Energy Information Regulations 2011

42. In the Energy Information Regulations 2011(b), in regulation 4 (enforcement), after paragraph (3) add—

“(4) The Secretary of State may delegate to the Director of Public Prosecutions functions in relation to the prosecution of an offence under these Regulations.”.

Amendment of the Environmental Protection (Controls on Ozone-Depleting Substances) Regulations 2011

43. In the Environmental Protection (Controls on Ozone-Depleting Substances) Regulations 2011(c)—

(a) in regulation 2 (interpretation), after the definition of “the EU Regulation” insert—

““marine area” has the meaning given in paragraph 1(1) of Schedule 1;”;

(b) in regulation 7 (enforcement), after paragraph (2) insert—

“(2A) Where the Secretary of State makes a direction under paragraph (2), the Secretary of State may delegate to the Director of Public Prosecutions functions in relation to the prosecution of an offence under these Regulations.”; and

(c) in regulation 8(3) (powers of enforcing authorities and persons authorised by them), for “offshore area” substitute “marine area”.

Amendment of the Pigs (Records, Identification and Movement) Order 2011

44. In the Pigs (Records, Identification and Movement) Order 2011(d), in article 25 (enforcement), after paragraph (2) insert—

“(2A) Where the Secretary of State makes a direction under paragraph (2), the Secretary of State may delegate to the Director of Public Prosecutions functions in relation to the prosecution of an offence under section 73 of the Animal Health Act 1981 relating to this Order.”.

Amendment of the Non-Commercial Movement of Pet Animals Order 2011

45. In the Non-Commercial Movement of Pet Animals Order 2011(e), in article 13 (enforcement authority), after paragraph (2) add—

“(3) Where the Secretary of State makes a direction under paragraph (2), the Secretary of State may delegate to the Director of Public Prosecutions functions in relation to the prosecution of an offence under this Order.”.

(a) S.I. 2011/1197.

(b) S.I. 2011/1524, to which there is an amendment not relevant to this Order.

(c) S.I. 2011/1543.

(d) S.I. 2011/2154.

(e) S.I. 2011/2883.

Amendment of the Wine Regulations 2011

46. In the Wine Regulations 2011(a)—

- (a) in regulation 3 (official functions and enforcement), after paragraph (8) insert—

“(8A) The Secretary of State may delegate to the Director of Public Prosecutions functions in relation to the prosecution of an offence under these Regulations.”; and
- (b) in regulation 9 (warrant), in paragraph (1), for “the authorised officer” substitute “an authorised officer”.

David Heath
Minister of State

15th November 2012

Department for Environment, Food and Rural Affairs

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes amendments to several enactments which fall within the policy responsibility of the Department for Environment, Food and Rural Affairs.

Articles 2 to 12, 14 to 34 and 36 to 46 amend the enactments to provide that the Secretary of State may delegate the prosecution of offences under the enactments to the Director of Public Prosecutions.

The Order makes further amendments as follows.

Article 5 amends the Disease Control (England) Order 2003 (S.I. 2003/1729) to clarify the position with respect to movements of animals into England from Scotland or Wales.

Article 13 revokes the Salmonella in Turkey Flocks and Slaughter Pigs (Survey Powers) (England) Regulations 2006 (S.I. 2006/2821).

Article 18 amends the Cattle Identification Regulations 2007 (S.I. 2007/529) to update references to EU legislation.

Article 22 amends the Control of Salmonella in Poultry Order 2007 (S.I. 2007/3574) to update references to EU legislation.

Article 25 amends the Bluetongue Regulations 2008 (S.I. 2008/962), correcting an error referred to in the 10th Report of Session 2012-13 of the Joint Committee on Statutory Instruments (HL Paper 60; HC 135-x, published on 13th November 2012). The amendment is to the date by which the Secretary of State must publish the first report reviewing the Regulations.

Article 28 amends the Control of Salmonella in Broiler Flocks Order 2009 (S.I. 2009/260) to update references to EU legislation.

Article 33 amends the Control of Salmonella in Turkey Flocks Order 2009 (S.I. 2009/3271) to correct references to EU legislation.

Article 34 amends the Agriculture (Cross compliance) (No. 2) Regulations 2009 (S.I. 2009/3365), correcting errors referred to in the 42nd Report of Session 2010-12 of the Joint Committee on Statutory Instruments (HL Paper 271; HC 354-xlii, published on 13th March 2012). It amends certain provisions relating to the standard of good agricultural condition which apply as minimum requirements for the purposes of Article 6 of, and Annex 3 to, Council Regulation (EC) No 73/2009 establishing common rules for direct support schemes for farmers under the common

(a) S.I. 2011/2936.

agricultural policy and establishing certain support schemes for farmers (OJ No L 30, 31.1.2009, p.16). The amendments are to the exemptions that the Secretary of State may give from the rules on overgrazing and unsuitable supplementary feeding, the management of land not in agricultural production and the control of weeds.

Article 35 amends the Poultry Compartments (England) Order 2010 (S.I. 2010/108) to change references in article 4(1)(a) to “certified” and “certification”. In so doing, it corrects errors referred to in the 10th Report of Session 2009-10 of the Joint Committee on Statutory Instruments (HL Paper 87; HC 3-x, published on 16th March 2010).

Article 39 amends the Poultrymeat (England) Regulations 2011 (S.I. 2011/452) to modify the powers of entry for officers to enforce those Regulations.

Article 43 amends the Environmental Protection (Controls on Ozone-Depleting Substances) Regulations 2011 (S.I. 2011/1543), correcting errors referred to in the 29th Report of Session 2010-12 of the Joint Committee on Statutory Instruments (HL Paper 205; HC 354-xxvix, published on 25th October 2011). Regulation 8(3) is amended so that it provides that the powers described in that regulation are extended to the marine area, not offshore area, and a definition of “marine area” is inserted into regulation 2.

Article 46 amends the Wine Regulations 2011 (S.I. 2011/2936) to clarify which officers may enter premises to enforce those Regulations. This corrects an error referred to in the 41st Report of Session 2010-12 of the Joint Committee on Statutory Instruments (HL Paper 268; HC 354-xli, published on 6th March 2012).

The Reports of the Joint Committee on Statutory Instruments referred to in this Note are available on Parliament’s website at www.parliament.uk.

No impact assessment has been prepared for this instrument as no impact on the private or voluntary sectors is foreseen.

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This Statutory Instrument has been made partly in consequence of defects in S.I. 2010/108, 2011/1543, 2011/2936, 2012/66 and 2012/1977, and is being issued free of charge to all known recipients of those Statutory Instruments.

STATUTORY INSTRUMENTS

2012 No. 2897

AGRICULTURE

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