

EXPLANATORY MEMORANDUM TO
THE CATTLE IDENTIFICATION (AMENDMENT) REGULATIONS 2017
2017 No. 101

1. Introduction

- 1.1 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.

2. Purpose of the instrument

- 2.1 This instrument amends the Cattle Identification Regulations 2007 to clarify the existing powers of inspectors appointed by the Secretary of State or a local authority for the purposes of the Regulations; and to extend these powers by specifying that inspectors can use reasonable force when needed in the exercise of their powers of entry.
- 2.2 This instrument also amends references to Articles of Regulation (EC) 1760/2000¹ in the Cattle Identification Regulations 2007 to reflect amendments made by Regulation (EU) 653/2014².

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

Other matters of interest to the House of Commons

- 3.2 As this instrument is subject to negative procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

- 4.1 This instrument amends the Cattle Identification Regulations 2007 to set out more precisely the powers of the competent authority for enforcing EU legislation.
- 4.2 Regulations (EC) No 494/98³ and (EC) No 1760/2000 set out the requirements for the identification and registration of bovine animals (cattle, bison and buffalo) in the European Union. These Regulations impose certain sanctions on farmers who fail to comply with the requirements. The Regulations are directly applicable.
- 4.3 The legislation requires the keeper to prove to the competent authority the identity and traceability of any bovine animal(s) found to be unidentifiable on the holding during a

¹ Regulation (EC) No 1760/2000 of the European Parliament and of the Council of 17 July 2000 establishing a system for the identification and registration of bovine animals and regarding the labelling of beef and beef products and repealing Council Regulation (EC) No 820/97

² Regulation (EU) No 653/2014 of the European Parliament and of the Council of 15 May 2014 amending Regulation (EC) No 1760/2000 as regards electronic identification of bovine animals and labelling of beef

³ Regulation (EC) No 494/98 of 27 February 1998 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

Cattle Identification Inspection. If the keeper is unable to prove identification and traceability, the competent authority must impose sanctions proportionate to the gravity of the breach and the risk to the food chain and animal health. Sanctions may include the restriction of animal movements to and from the holding or, where appropriate, the destruction of the animal(s) without compensation.

- 4.4 Regulation (EU) 653/2014 amends Regulation (EC) No 1760/2000 to enable the electronic identification of bovine animals. This instrument amends references to Articles of Regulation (EC) 1760/2000 in the Cattle Identification Regulations 2007 to reflect these amendments.
- 4.5 Regulations (EC) No 494/98 and (EC) No 1760/2000 provide the competent authority with powers of entry (and associated powers) to enforce the removal and destruction of these such animals. These powers are set out in regulations 10 and 12 of the Cattle Identification Regulations 2007. Whilst the wording of the Cattle Identification Regulations 2007 is sufficient for enforcement purposes, this instrument clarifies the extent of the current powers for the avoidance of any doubt. This amendment does not extend or increase existing powers, but clarifies their application.
- 4.6 The Protection of Freedoms Act 2012 and the associated Code of Practice on Powers of Entry published by the Home Office in 2014 stipulate that reasonable force can only be used in the exercise of powers of entry where the statute specifically provides for it. This instrument extends the existing powers of entry in regulation 10 of the Cattle Identification Regulations 2007 to allow reasonable force to be used if needed.

5. Extent and Territorial Application

- 5.1 The extent of this instrument is England and Wales.
- 5.2 The territorial application of this instrument is England.

6. European Convention on Human Rights

- 6.1 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 European Union (EU) set up a system for identification and tracing of bovine animals (cattle, bison and buffalo) in 1998 by the adoption of Regulations of the EU Council and Parliament, and detailed rules laid down by the European Commission. These regulations are directly applicable across all Member States (MS) of the EU.
- 7.2 These regulations aim to ensure full traceability of all bovine animals in the wake of the Bovine Spongiform Encephalopathy (BSE) crisis, thereby stabilising the beef market by maintaining consumer confidence. Within the regime all keepers within each MS must update a national computer database of all new births, imports, movements or deaths of their bovine animals; tag bovine animals within strict time limits using officially approved tags bearing a unique, lifetime identification number; and keep an accurate and up-to-date holding register. This is supported by an annual inspection regime referred to as Cattle Identification Inspections that monitor compliance with EU legislation.
- 7.3 Cattle Identification Inspections are carried out in England by The Rural Payments Agency Inspectorate as the competent authority to ensure compliance with all cattle

identification and registration requirements. Keepers are required to present all animals, their passports and records on the holding for physical inspection.

- 7.4 The Cattle Identification Regulations 2007 are also enforced by local authorities, and local authorities' inspectors can undertake targeted inspections based on local information.
- 7.5 Sanctions are applied when non-compliance is found during inspection. These can include restrictions on the movements of cattle, financial reductions in subsidy claims, and the destruction of any unidentifiable animal(s).
- 7.6 Refusing or obstructing the enforcement process is an offence; however the previous wording within the Regulations was unclear on the powers of entry (and associated powers) that inspectors lawfully have. The amendment to clarify the scope of the existing powers does not add to the powers set out in Regulations (EC) No 494/98, (EC) No 1760/2000 and the Cattle Identification Regulations 2007, but seeks to clarify the scope of the existing powers for the avoidance of any doubt.
- 7.7 Following the enactment of the Protection of Freedoms Act 2012, the Code of Practice of Entry published in 2014 stipulates that reasonable force can only be used in the exercise of powers of entry where the statute specifically provides for it. The powers of entry in The Cattle Identification Regulations 2007 have now been reviewed (specifically as to whether they are effective for operational enforcement in accordance with the above Code of Practice) and a further amendment is made to extend the existing powers of entry to allow reasonable force to be used if needed.

Consolidation

- 7.8 We do not intend to consolidate the Regulations at this stage.

8. Consultation outcome

- 8.1 There has been no formal consultation exercise for this legislative amendment as this is a technical amendment to clarify the competent authorities' existing powers and reflect other legislative changes.

9. Guidance

- 9.1 Guidance to keepers of bovine animals is available on the gov.uk website and will be updated to reflect the change. Guidance to inspectors will be updated.

10. Impact

- 10.1 There is no impact on business, charities or voluntary bodies.
- 10.2 There is no impact on the public sector.
- 10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

- 11.1 The legislation applies to activities that are undertaken by small businesses. Most farmers and agricultural businesses employ less than twenty people. However, there is no impact on their costs.

12. Monitoring & review

- 12.1 The amendment will be reviewed as part of the review of The Cattle Identification Regulations 2007 by 6 April 2018.

13. Contact

- 13.1 Nieves Bottomley at the Department for the Environment, Food and Rural Affairs Tel: 020 8026 3797 or email: Nieves.Bottomley@defra.gsi.gov.uk can answer any queries regarding the instrument.