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AGRICULTURE

ANIMALS, ENGLAND AND WALES

PLANT HEALTH, ENGLAND

**The Official Controls (Animals, Feed and Food, Plant Health
Fees etc.) Regulations 2019**

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To be laid before Parliament

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

The Secretary of State makes the following Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972, and, with the consent of Treasury, in exercise of powers conferred by section 56(1) of the Finance Act 1973^(c).

PART 1
General

Citation, extent, application and commencement

1.—(1) These Regulations may be cited as the Official Controls (Animals, Feed and Food, Plant Health Fees etc.) Regulations 2019, and come into force on 14th December 2019.

(2) These Regulations extend to England and Wales only, with the exception of Parts 2 to 4 and regulation 30 (and this Part so far as it relates to those provisions), which extend to the United Kingdom as regards Article 1(2)(i) (organic production and labelling of organic products) and Article 1(2)(j) (use and labelling of protected designations of origin, protected geographical indications and traditional specialities guaranteed).

(3) These Regulations apply—

- (a) as regards Parts 2 to 4 and regulation 30 (and this Part so far as it relates to those provisions), in relation to the United Kingdom, but only in so far as those provisions apply in relation to organic production and labelling of organic products and use and labelling of protected designations of origin, protected geographical indications and traditional specialities guaranteed;
- (b) as regards regulation 25 (and this regulation so far as it relates to that regulation), in relation to England and Wales;
- (c) otherwise, in relation to England only.

Interpretation

2.—(1) In these Regulations—

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- (a) S.I. 1999/2027.
 - (b) 1972 c. 68. section 2(2) was amended by section 27(1)(a) of the Legislative and Regulatory Reform Act 2006 (c. 51), and Part 1 of the Schedule to the European Union (Amendment) Act 2008 (c. 7), and prospectively repealed by section 1 of the European Union (Withdrawal) Act 2018 (c. 16) with effect from exit day (see section 20 of that Act). Despite the transfer to the Scottish Ministers of functions in relation to observing and implementing obligations under EU law, so far as exercisable within devolved competence, the Secretary of State retains power to exercise functions for the purposes specified in section 2(2) of the European Communities Act 1972 as regards Scotland by virtue of section 57(1) of the Scotland Act 1998 (c. 46). In relation to Wales, the Secretary of State retains a power to make subordinate legislation for the purpose of implementing any EU obligation of the United Kingdom in relation to Wales, by virtue of paragraph 5 of Schedule 3 to that Act (c. 32).
 - (c) 1973 c. 51; section 56(1) was amended by S.I. 2011/1043, and prospectively amended by paragraph 17 of Schedule 8 to the European Union (Withdrawal) Act 2018 (c. 16) from a date and time to be appointed.

“the Agency” means the Food Standards Agency;

“audit” means an audit of a competent authority carried out for the purposes of Article 6 of the EU Regulation in relation to relevant legislation;

“auditor” means a person carrying out an audit on behalf of a competent authority;

“designated authority” means an authority designated by the Secretary of State under regulation 3;

“the EU Official Controls Regulations” means the EU Regulation and the Implementing Regulations and Delegated Regulations made under it;

“the EU Regulation” means Regulation (EU) 2017/625 of the European Parliament and of the Council of 15th March 2017 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(a);

“enforcement officer” means an officer authorised by the Secretary of State or a designated authority to enforce the EU Official Controls Regulations and these Regulations;

“the Feed and Food Regulations” means the Official Feed and Food Controls (England) Regulations 2009(b);

“food authority”, in relation to any relevant legislation, has the same meaning as it has in that relevant legislation;

“inspector”, in relation to any relevant legislation, means an inspector, veterinary inspector, or other officer authorised by the Secretary of State or other designated authority to act under that relevant legislation;

“local authority” means—

(a) in England, a county council, a district council, a London borough council, the Common Council of the City of London or the Council of the Isles of Scilly;

(b) in Scotland, a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994(c);

(c) in Northern Ireland, a district council within the meaning of the Interpretation Act (Northern Ireland) 1954(d); and

(d) in Wales, a county council or county borough council;

“official auxiliary” means a representative of the Secretary of State appropriately trained and acting under the responsibility or supervision of an official veterinarian to perform certain official controls or certain tasks related to other official activities;

“official controls” means the activities referred to in Article 2(1) other than those listed in Article 1(4);

“official veterinarian” means a veterinarian appointed by the Secretary of State and appropriately qualified to carry out official controls and other official activities for the verification of compliance with the rules referred to in Article 1(2);

“other official activities” means has the meaning given by Article 2(2);

“premises” includes any means of transport;

“relevant legislation” means European and domestic legislation governing the areas listed in sub-paragraphs (a), (c) to (e), (f), (i) and (j) of Article 1(2), with the exception of food and food safety, feed and feed safety legislation in so far as—

(a) such legislation is defined as “relevant feed law” or “relevant food law” in the Feed and Food Regulations;

(a) OJ No. L 95, 7.4.2017, p.1, amended by Commission Delegated Regulation (EU) 2019/478 (OJ No. L 82, 25.3.2019, p.4).
(b) S.I. 2009/3255, amended by S.I. 2011/136 and 1043, 2013/264 and 2996, 2014/2748, 2015/255 and 454, 2018/731 and 1275, 2019/683 and 1476, and (prospectively) by 2019/665.
(c) 1994 c. 39 – see section 44.
(d) 1954 c. 33.

- (b) such legislation involves substances the use or presence of which on crops to produce or process food or feed may result in residues of those substances in food or feed; or
- (c) it relates to feed additives or medicated feedingstuffs.

(2) In the definition of “relevant legislation” in paragraph (1)—

- (a) “medicated feedingstuffs” means any mixture of feed with a veterinary medicinal product having properties for treating or preventing disease, restoring, correcting or modifying physiological functions in animals, or products and feed or feeds which are ready-prepared for marketing and intended to be fed to animals without further processing; and
- (b) “zootechnical additives” means feed additives in the categories mentioned in Article 6.1(d) and (e) of Regulation (EC) No 1831/2003 of the European Parliament and of the Council on additives for use in animal nutrition^(a), with the exception of those belonging to the functional groups listed in paragraph 4(a), (b) and (c) of Annex 1 to that Regulation.

(3) Unless otherwise provided in this regulation, terms used in these Regulations have the same meaning as they have in the EU Regulation.

(4) Unless the context otherwise requires, any reference in these Regulations to an “Article” or Title is to an Article or Title of the EU Regulation.

Designations for the purposes of Article 4

3.—(1) The Agency is designated as the competent authority for the purposes of Article 4 in relation to welfare requirements of animals, to the extent that it is designated as the competent authority mentioned in regulation 4(1) of the Welfare of Animals at the Time of Killing (England) Regulations 2015^(b).

(2) In any other case, the Secretary of State is designated as the competent authority for the purposes of Article 4 —

- (a) in England, in relation to the areas governed by the relevant legislation;
- (b) in the United Kingdom, in relation to the areas referred to in Article 1(2)(i) (organic production and labelling of organic products) and Article 1(2)(j) (use and labelling of protected designations of origin, protected geographical indications and traditional specialities guaranteed).

(3) Local authorities and local food authorities (including any that are enforcement authorities under any relevant legislation) are designated authorities in relation to functions of enforcement and execution (other than prosecution) which they exercise under relevant legislation.

(4) The Secretary of State may confer on one or more organic control authorities certain responsibilities related to official controls or other official activities.

(5) Any designated authority must draw up written records (on paper or in electronic form) of official controls and other official activities that they perform, and such records must contain—

- (a) a description of the purpose of the relevant official controls and other official activities;
- (b) the control methods applied;
- (c) the outcome; and
- (d) where appropriate, any action required by the designated authority.

(6) Where non-compliance has been identified by any designated authority through the application of official controls, it must promptly inform the business operator of the non-compliance.

(a) OJ No. L 268, 18.10.2003, p.29, last amended by Regulation (EU) 2019/1381 (OJ No. L231, 6.9.2019, p.1).

(b) S.I. 2015/1782, to which there are amendments not relevant to these Regulations.

Exchange of information

4. The Secretary of State and any other designated authorities may disclose information to each other and to other competent authorities in the United Kingdom and other member States for the purposes of applying these Regulations and the EU Official Controls Regulations.

PART 2

Audits and official controls

Powers of auditors

5.—(1) An auditor may exercise the powers in this regulation and carry out an audit in accordance with the EU Official Controls Regulations if so authorised—

- (a) in relation to carrying out an audit of the activities of a designated authority, by the designated authority; or
- (b) in relation to carrying out an audit pursuant to regulation 6(2), by the Secretary of State.

(2) For the purposes of carrying out an audit, an auditor may enter premises to which an inspector has a power of entry under relevant legislation (“audit premises”) as if the auditor were an inspector meeting the criteria for gaining such entry under that relevant legislation.

(3) An auditor exercising a power of entry may be accompanied by any person whose assistance is reasonably required by the auditor.

(4) An auditor may request such information from any person at any premises that is subject to an audit as may reasonably be required for purposes of the audit, and may inspect such records as may reasonably be required for those purposes.

(5) An auditor may make or require copies of such records.

(6) When exercising the powers conferred by this regulation, an auditor must, upon request, produce evidence of authorisation under these Regulations.

(7) This regulation does not apply where an auditor undertakes an audit in accordance with regulation 7 on behalf of the Agency.

Powers of the Secretary of State in relation to audits of designated authorities

6.—(1) The Secretary of State may make a written request to a designated authority to provide information by a specified date about any audits it has carried out or undergone or which it plans to carry out or undergo.

(2) The Secretary of State may require an auditor to carry out an audit of a designated authority.

(3) The designated authority must provide such assistance to that auditor as may reasonably be required in order for the auditor to carry out the audit effectively.

Powers of the Agency undertaking audits on behalf of the Secretary of State

7.—(1) Where the Secretary of State arranges for the Agency to undertake an audit, the audit provisions of the Feed and Food Regulations apply as if—

- (a) the undertaking of the audit were a purpose referred to in regulations 8(1) and 9(1) of the Feed and Food Regulations; and
- (b) the competent authority concerned were an enforcement authority to which regulations 8 and 9 of the Feed and Food Regulations applied.

(2) For the purposes of paragraph (1), the audit provisions of the Feed and Food Regulations are—

- (a) regulations 8 and 9(1) to (8) and (10), as read with regulation 10 of those regulations; and
- (b) regulation 11 of those regulations.

(3) Where the Agency undertakes an audit, regulations 17(2), (4) and (5)(c), 18(2) to (9), 19 to 21, 45 to 47, 49 and 50 of the Feed and Food Regulations apply as if the audit were undertaken under those Regulations and enforced or undertaken thereunder by the Agency.

PART 3

Assistance and co-operation under Title IV and recovery of expenses

Duties of designated authorities

8. A designated authority must notify the Secretary of State if it considers that it is unable to undertake action required in any individual case under Title IV (administrative assistance and cooperation) and must provide such information to the Secretary of State as may reasonably be requested.

Facilitating assistance and co-operation

9.—(1) For the purposes of assisting a competent authority of another member State as provided for in Article 104, or enabling the Secretary of State or a designated authority to do so, an inspector exercising powers under relevant legislation to enter premises or to inspect records may—

- (a) be accompanied by authorised officers of a competent authority of another country;
- (b) show records to such accompanying authorised officers; and
- (c) make copies for them, or require copies to be made for them, of the records.

(2) For the purposes of facilitating a visit by an inspection team as provided for in Article 108, an inspector may be accompanied by representatives of the EU Commission when exercising powers under relevant legislation to enter premises and inspect records.

(3) Any person may be required to provide an enforcement officer with such assistance, information or facilities as the officer may reasonably require for the purpose of the execution or enforcement of these Regulations or the EU Official Controls Regulations.

Recovery of expenses

10.—(1) Any expenses incurred by the Secretary of State or a designated authority in carrying out enforcement activities under these Regulations, or measures under Articles 66, 67, 69 or 138, may be recovered from the relevant business operator, and such expenses must be paid on written demand.

- (2) Any sum owing under these Regulations and unpaid may be recovered—
- (a) as a civil debt;
 - (b) under an order of the court, on such terms as the court may order.

PART 4

Enforcement and penalties

Enforcement and prosecution

11.—(1) Enforcement of these Regulations and the EU Official Controls Regulations is the responsibility of the competent authority or a designated authority.

(2) The Secretary of State may as regards England direct, in relation to cases of a particular description or to a particular case, that these Regulations are to be enforced by the Secretary of State instead of a designated authority.

(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.

(4) The Scottish Ministers may as regards Scotland direct, in relation to cases of a particular description or to a particular case, that these Regulations are to be enforced by the Scottish Ministers instead of a designated authority.

(5) The Welsh Ministers may in relation to Wales direct, in relation to cases of a particular description or to a particular case, that these Regulations are to be enforced by the Welsh Ministers instead of a designated authority.

(6) The Department for Agriculture, Environment and Rural Affairs may as regards Northern Ireland direct, in relation to cases of a particular description or to a particular case, that these Regulations are to be enforced by that Department instead of a designated authority.

Powers of enforcement officers

12.—(1) An enforcement officer may—

- (a) make any enquiries, observe any activity or process, and take photographs;
- (b) inspect any article, container, plant, equipment or records of any class which appear to the enforcement officer to be relevant for the purposes of the investigation, and make or require copies of such records and remove such records as may reasonably be required;
- (c) mark any item for identification purposes;
- (d) require the production of any label, document or record (in whatever form it is held);
- (e) inspect and take a copy of, or take a copy of an extract from, any label, document or record;
- (f) have access to, and inspect and check the data on, and operation of, any computer;
- (g) if the enforcement officer has reason to believe that a person is in contravention of these Regulations or the EU Official Controls Regulations, and that the data may be relevant to the contravention, seize and detain any computer equipment for the purpose of copying the data or, where it has not been possible to carry out adequate inspection on the premises, of further inspection;
- (h) if the enforcement officer has reason to believe that a person is in contravention of these Regulations or the EU Official Controls Regulations, and that certain records may be relevant to the contravention, seize and detain the records.

(2) An enforcement officer must—

- (a) produce evidence of authorisation when requested to do so;
- (b) as soon as reasonably possible—
 - (i) provide to the person appearing to be responsible for any records removed from any premises a written receipt identifying those records; and
 - (ii) after deciding that they are no longer required, return anything removed, apart from records or other things to be used as evidence in court proceedings.

Powers of entry

13.—(1) An enforcement officer may enter any premises (except any premises used wholly or mainly as a private dwelling) during normal working hours without prior notice, if the officer believes that it is necessary for the purpose of official controls or other official activities under these Regulations or the EU Official Controls Regulations.

(2) In circumstances where an enforcement officer is carrying out routine verification checks, notice must be provided before exercising a power of entry to premises during normal working hours.

(3) The requirement to give notice in paragraph (2) does not apply—

- (a) where reasonable efforts to agree an appointment have failed;
- (b) where the enforcement officer reasonably believes that giving notice would defeat the object of the entry, including any situation in which notice is not required under Article 9(4); or
- (c) where the enforcement officer has a reasonable suspicion that any provision of these Regulations or the EU Official Controls Regulations has been contravened.

(4) An enforcement officer must, if requested to do so, produce a duly authenticated authorisation document.

(5) A justice of the peace, lay magistrate, sherriff or summary sherriff (as appropriate) may sign a warrant (or in Northern Ireland, a sworn complaint) to permit an enforcement officer to enter any premises, including a dwelling-house, if necessary by reasonable force, if the person to whom the application for a warrant is made is satisfied on sworn information in writing—

- (a) that there are reasonable grounds to enter those premises for the purpose of enforcing these Regulations or the EU Official Controls Regulations, and
- (b) that one or more of the conditions in paragraph (6) are met.

(6) The conditions are—

- (a) that entry to the premises has been, or is likely to be, refused, and notice of the intention to apply for a warrant has been given to the occupier;
- (b) that asking for admission to the premises, or giving such a notice, would defeat the object of the entry;
- (c) that entry is required urgently;
- (d) that the premises are unoccupied or the occupier is temporarily absent.

(7) A warrant is valid for 30 days from the date of signature.

(8) An enforcement officer entering any premises which are unoccupied or from which the occupier is temporarily absent must leave them as effectively secured against unauthorised entry as they were before entry.

(9) An enforcement officer may—

- (a) be accompanied by such other persons, up to a maximum of three, as the enforcement officer considers necessary;
- (b) bring onto the premises such equipment as the enforcement officer considers necessary.

Offences and penalties

14.—(1) A person is guilty of an offence if without reasonable excuse that person obstructs or causes or permits to be obstructed—

- (a) an auditor;
- (b) an inspector;
- (c) any person who accompanies a relevant auditor or relevant inspector; or
- (d) an enforcement officer.

(2) For the purposes of paragraph (1), obstruction includes failure by any person—

- (a) to produce records or provide reasonable facilities for copying records; or
- (b) to provide relevant information when requested.

(3) A person is guilty of an offence if without reasonable excuse that person supplies information which, in any material particular, is false or misleading.

(4) A person guilty of an offence under this regulation is liable on summary conviction—

- (a) in England and Wales, to a fine;
- (b) in Scotland, to a fine not exceeding level 5 on the standard scale; or
- (c) in Northern Ireland, to a fine not exceeding level 5 on the standard scale.

Offences by bodies corporate

15.—(1) If an offence under regulation 14 is committed by a body corporate, Scottish partnership or other unincorporated association and is shown to have been committed with the consent or connivance of an officer, or to be attributable to the neglect of such officer, that officer as well as the body corporate, Scottish partnership or other unincorporated association is guilty of the offence and liable to be proceeded against and punished accordingly.

(2) If the affairs of a body corporate are managed by its members, paragraph (1) applies in relation to the acts and defaults of a member in connection with functions of management as if that person were a director of the body.

(3) “Officer” means—

(a) in relation to a body corporate—

(i) a director, member of the committee of management, chief executive, manager, secretary or other similar officer of the body, or a person purporting to act in any such capacity;

(ii) where the affairs of the body are managed by its members, a member;

(b) in relation to a Scottish partnership, a partner;

(c) in relation to an unincorporated association other than a Scottish partnership, a person who is concerned in the management or control of the association.

Time limits for prosecution

16. A prosecution for an offence under this Part may begin no later than the earlier of the expiry of—

(a) three years from the commission of the offence; or

(b) one year from its discovery by the prosecuting authority.

PART 5

Consequential amendments to secondary legislation relating to animals, food and trade in England

Amendment to the Coffee Extracts and Chicory Extracts (England) Regulations 2000

17. In regulation 7(3) of the Coffee Extracts and Chicory Extracts (England) Regulations 2000^(a), for “Regulation (EC) No 882/2004 of the European Parliament and of the Council on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules”, substitute “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 food and feed law, rules on animal health and welfare, plant health and plant protection products^(b)”.

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

18.—(1) The Foot-and-Mouth Disease (England) Order 2006^(c) is amended as follows.

(2) In regulation 2(1)—

(a) in the definition of “health marked”, for the words “required by” to the end, substitute “as defined in Article 3(51) of Regulation (EU) 2017/625 of the European Parliament and of

^(a) S.I. 2000/3323; the relevant amending instrument is S.I. 2018/575.

^(b) OJ No. L 95, 7.4.2017, p.1, amended by Commission Delegated Regulation (EU) 2019/478 (OJ No. L 82, 25.3.2019, p.4).

^(c) S.I. 2006/182, to which there are amendments not relevant to these Regulations.

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”;

- (b) in the definition of “slaughterhouse”, in paragraph (a), for the words “under” to “rules” substitute “in accordance with 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 food and feed law, rules on animal health and welfare, plant health and plant protection products(a)”.

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

19.—(1) The Foot-and-Mouth Disease (Control of Vaccination) (England) Regulations 2006(b) are amended as follows.

(2) In regulation 2(1)—

- (a) in the definition of “health marked”, for the words “required by” to the end substitute “as defined in Article 3(51) of 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 food and feed law, rules on animal health and welfare, plant health and plant protection products”;
- (b) in the definition of “slaughterhouse”, in paragraph (c), for the words “under” to “rules”, substitute “in accordance with 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 food and feed law, rules on animal health and welfare, plant health and plant protection products”.

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

20.—(1) The Avian Influenza (H5N1 in Poultry) (England) Order 2006(c) is amended as follows.

(2) In regulation 11(2)(b)(ii), for the words “Chapter VIII” to the end, substitute “Article 18 of 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 food and feed law, rules on animal health and welfare, plant health and plant protection products(d)”.

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

21.—(1) The Avian Influenza (H5N1 in Wild Birds) (England) Order 2006(e) is amended as follows.

(2) In Schedule 1, in Part 3, in paragraph 9(2) (a), for the words “Sections I, II and III, and Chapters V” to the end substitute “Article 18 of 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 food and feed law, rules on animal health and welfare, plant health and plant protection products(f)”.

(a) OJ No. L 95, 7.4.2017, p.1, amended by Commission Delegated Regulation (EU) 2019/478 (OJ No. L 82, 25.3.2019, p.4).

(b) S.I. 2006/183, to which there are amendments not relevant to these Regulations.

(c) S.I. 2006/3247, to which there are amendments not relevant to these Regulations.

(d) OJ No. L 95, 7.4.2017, p.1, amended by Commission Delegated Regulation (EU) 2019/478 (OJ No. L 82, 25.3.2019, p.4).

(e) S.I. 2006/3249, to which there are amendments not relevant to these Regulations.

(f) OJ No. L 95, 7.4.2017, p.1, amended by Commission Delegated Regulation (EU) 2019/478 (OJ No. L 82, 25.3.2019, p.4).

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

22. In article 20(2) of the Welfare of Animals (Transport) (England) Order 2006(a), omit sub-paragraph (j).

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

23.—(1) The Welfare of Farmed Animals (England) Regulations 2007(b) are amended as follows.

(2) In Schedule 5A—

(a) in paragraph 1—

(i) in the definition of “official veterinarian”, for “Regulation 854/2004” substitute “Regulation (EU) 2017/625”;

(ii) omit the definition of “Regulation 854/2004”; and

(iii) at the end insert—

““Regulation (EU) 2017/625” means 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 food and feed law, rules on animal health and welfare, plant health and plant protection products(c).”;

(b) in paragraph 15(1), for “Regulation 854/2004”, substitute “Regulation (EU) 2017/625”.

Amendment to the Natural Mineral Water, Spring Water and Bottled Drinking Water (England) Regulations 2007

24. Schedule 12 to the Natural Mineral Water, Spring Water and Bottled Drinking Water (England) Regulations 2007(d) is amended as follows—

(a) in Part 1, in paragraph 1—

(i) omit the definition of “Regulation 882/2004”; and

(ii) before the definition of “sample”, insert—

““Regulation (EU) 2017/625” means 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 food and feed law, rules on animal health and welfare, plant health and plant protection products;”;

(b) in Part 2—

(i) in paragraph 5(1), for sub-paragraph (b) substitute—

“(b) Article 9 of Regulation (EU) 2017/625.”;

(ii) in paragraph 14—

(aa) in sub-paragraph (a), for paragraph (ii) substitute—

“(ii) Article 29 of Regulation (EU) 2017/625, and”;

(bb) for sub-paragraph (b) substitute—

“(b) the food authority notifies the Secretary of State, in advance of the proposed delegation, of the tasks that are being delegated to a delegated body.”.

(a) S.I. 2006/3260, to which there are amendments not relevant to these Regulations.

(b) S.I. 2007/2078; the relevant amending instrument is S.I. 2010/3033. .

(c) OJ No. L 95, 7.4.2017, p.1, amended by Commission Delegated Regulation (EU) 2019/478 (OJ No. L 82, 25.3.2019, p.4).

(d) S.I. 2007/2785; the relevant amending instruments are S.I.2018/352 and 2019/526.

Amendment to the Aquatic Animal Health (England and Wales) Regulations 2009

25. Regulation 19 of the Aquatic Animal Health (England and Wales) Regulations 2009(a) is amended as follows—

- (a) in paragraph (3), for “inspection” substitute “control”; and
- (b) in paragraph 4, for subparagraph (a), substitute—
 - “(a) “border control post” has the meaning given by Article 3(38) of the 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 food and feed law, rules on animal health and welfare, plant health and plant protection products(b);”.

Amendment to the Trade in Animals and Related Products Regulations 2011

26.—(1) The Trade in Animals and Related Products Regulations 2011(c) are amended as follows.

(2) In regulation 2—

- (a) in paragraph (1)—
 - (i) for the definition of “genetic material” substitute—

““genetic material” means any germinal product that includes semen, oocytes and embryos intended for artificial reproduction and hatching eggs;”;
 - (ii) after the definition of “genetic material” insert—

““health certificate” in these Regulations includes the equivalent of a health certificate in electronic form;

“importer” means the natural or legal person who presents animals or products for importation from outside the United Kingdom;

“intensified official controls” means those controls carried out in accordance with Article 65(4);

“official controls” means activities performed in accordance with Article 2(1) of the EU Regulation;

“premises” includes any place, vehicle, trailer, container, stall, moveable structure, ship or aircraft;”;
 - (iii) for the definition of “product” substitute—

““product” means—

 - (a) any product of animal origin, germinal product, animal by-product, derived product or hay or straw subject to official controls at border control posts; and
 - (b) any composite product listed in Commission Decision 2007/275 concerning lists of animals and products to be subject to official controls at border inspection posts(d);”;
- (b) after paragraph (2), insert—

“(3) In these Regulations—

 - (a) “the EU Regulation” is a reference to 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 food and feed law, rules on animal health and welfare, plant health and plant protection products(e);

(a) S.I. 2009/463; to which there are amendments not relevant to these Regulations.

(b) OJ No. L 95, 7.4.2017, p.1, amended by Commission Delegated Regulation (EU) 2019/478 (OJ No. L 82, 25.3.2019, p.4).

(c) S.I. 2011/1197, amended by S.I. 2012/2897, 2013/2996, 2014/3158, 2018/575 and 1037, 2019/526 and 782.

(d) OJ No. L 116, 4.5.2007, p.9.

(e) OJ No. L 95, 7.4.2017, p.1, amended by Commission Delegated Regulation (EU) 2019/478 (OJ No. L 82, 25.3.2019, p.4).

- (b) “Regulation (EU) No. 2016/1012” is a reference to Regulation (EU) No. 2016/1012 on zootechnical and genealogical conditions for the breeding, trade in and entry into the Union of purebred breeding animals, hybrid breeding pigs and the germinal products thereof^(a);
 - (c) any reference to a “border inspection post” is to be read as a reference to a “border control post” as defined in regulation 11; and
 - (d) any reference to a “CVED” is to be read as a reference to a “CHED” as defined in regulation 10.”.
- (3) In regulation 3(2), for the definition of “pet animal” substitute—
- ““pet animal” has the same meaning as in Article 4(11) of Regulation (EU) 2016/429 on transmissible animal diseases^(b)”;
- (4) In regulation 4, after “with” insert “the Faroe Islands, Greenland,”.
- (5) In regulation 5—
- (a) for the heading substitute—
- “Movement of animals or genetic material to or from member States”;**
- (b) for paragraph (1) substitute—
- “(1) No animal or genetic material may be sent to or brought from a member State unless it is accompanied by an original health certificate.
- (1A) No animal product may be sent to or brought from a member State unless it is accompanied by a relevant document.”.
- (6) In regulation 6(1), for the words “or genetic material to another” substitute “, animal product or genetic material to a”.
- (7) In regulation 7—
- (a) for the heading substitute—
- “Notification of movement of animals and genetic material to and from member States”**,
- (b) in paragraph (1)—
- (i) for “another” substitute “a”; and
 - (ii) for the words “24 hours” to the end, substitute “one working day before the expected arrival of the consignment”;
- (c) in paragraph (2), for “another” substitute “a”.
- (8) In regulation 9, for the words “specified” to the end substitute “subject to official controls at border control posts”.
- (9) For regulation 10, and the heading to that regulation, substitute—

“Meaning and use of Common Health Entry Document “CHED”

10.—(1) A “Common Health Entry Document” (“CHED”) means a document, or an electronic equivalent, in the format specified in Commission Implementing Regulation (EU) 2019/1715 laying down rules for the functioning of the information management system for official controls and its system components^(c).

(2) Where the imported consignment is required to be accompanied by a CHED to the premises of final destination, the operator responsible for the consignment must complete the relevant parts of the document prior to the physical arrival of the consignment.

(a) OJ No. L 171, 29.6.2016, p.66.
 (b) OJ No. L 84, 31.3.2016, p.1.
 (c) OJ No. L 261, 14.10.2019, p.37.

(3) The cases where and conditions under which the use of a CHED is required are specified in` Commission Delegated Regulation (EU) 2019/1602 supplementing Regulation (EU) 2017/625 of the European Parliament and of the Council concerning the Common Health Entry Document accompanying consignments of animals and goods to their destination^(a).

(4) Where a CHED is required, the operator responsible for the consignment must comply with the provisions of Article 56 of the EU Regulation.

(5) An electronic equivalent refers to a CHED capable of being produced at any time by the person responsible for the consignment ”.

(10) For regulation 11 and the heading to that regulation, substitute—

“Border Control Posts

11.—(1) A border control post is a place, together with the facilities contained at that place, that has been designated by the Secretary of State in accordance with Article 59 and listed by the European Commission in accordance with Article 60 for the performance of the official controls set out in Article 47(1) of the EU Regulation.

(2) If at any time the relevant authority is of the opinion that any part of the inspection facilities at the border control post no longer complies with the requirements for approval, the relevant authority may, in accordance with Articles 61 to 63 of the EU Regulation, serve a notice on the operator—

- (a) specifying the breach;
- (b) providing a time limit within which the conditions must be complied with; and
- (c) prohibiting the use of that part of the facilities until the conditions of the approval are complied with.

(3) If the notice is not complied with, the Secretary of State may suspend the approval in relation to that part of the inspection facilities.

(4) If the operator of a border control post is determined by the relevant authority to be in serious breach of the requirements relating to the performance of official controls for any of the categories of animal or product for which it has been designated, or the conditions of the approval, or if the operation of the border control post creates a risk to human or animal health or animal welfare, the Secretary of State must suspend the approval of the border control post and order its activities to cease for all, or specified, categories of animal or product, and must inform the Commission of the suspension and the reason.

(5) In paragraph (2), “the relevant authority” means—

- (a) in relation to animals, the Secretary of State; or
- (b) in relation to products, the district council.”.

(11) In regulation 12, for paragraph (4) substitute—

“(4) If the approval for the border control post permits the importation of any fishery products, aquatic invertebrates, live bivalve molluscs, live enchinoderms, live tunicates and live marine gastropods intended for human consumption, the district council may appoint suitably trained environmental health officers or other persons who are appropriately trained to perform official controls or certain tasks related to other official activities, to be official fish inspectors for that post in relation to such products, and any such official fish inspector has all the powers of an official veterinary surgeon in relation to those products.”.

(12) Regulation 14 is amended as follows—

(a) for paragraph (1) substitute—

“(1) The person responsible for a consignment of animals or products must notify the border control post of destination of the expected date of its arrival at the border control

(a) OJ No. L 250, 30.9.2019, p.6.

post at least one working day before it is due to arrive; but where the person can provide evidence of a logistical constraint preventing such notification, that requirement may be satisfied by notification of its expected time of arrival at least four hours in advance.”;

(b) omit paragraph (2);

(c) for paragraph (4) substitute—

“(4) In the case of a transshipment of products from one border control post to another, the person responsible for the consignment must notify the official veterinary surgeon at the border control post of destination of—

- (a) the estimated time of arrival;
- (b) the border control post at which the transshipment will be checked;
- (c) the identification and location of the consignment; and
- (d) the estimated time of departure.”.

(13) For regulation 15 substitute—

“**15.**—(1) When the consignment has been unloaded, the person responsible for the consignment must with reasonable expedition arrange for it, together with the documentation specified for that consignment in the relevant legislation listed in Schedule 1, to be presented at the border control post inspection facilities to enable official controls in accordance with—

- (a) Chapter 5 of the EU Regulation, together with relevant implementing and delegated acts; and
- (b) the checks required by Article 37(1) of Regulation (EU) 2016/1012.

(2) Any operator responsible for the consignment must ensure that the consignment is presented for official controls at the border control post at a reasonable time during the working day.

(3) The competent authority must carry out all necessary official controls specified in paragraph (1) and may only issue a CHED permitting entry if—

- (a) the consignment complies with the requirements relating to it in the relevant instrument listed in Schedule 1;
- (b) the importation is not prohibited under paragraph (4); and
- (c) the correct fee for the checks has been or will be paid.

(4) In the case of live animals, the official veterinary surgeon must not issue a CHED permitting entry if—

- (a) the animals are from a territory or part of a territory of a third country not included in the lists drawn up in accordance with legislation of the European Union for the species concerned, or from which imports are prohibited under that legislation;
- (b) the animals are suffering from or are suspected to be suffering from or infected by a contagious disease or a disease presenting a risk to human or animal health;
- (c) the exporting third country has not complied with the requirements provided for in legislation of the European Union;
- (d) the animals are not in a fit state to continue their journey; or
- (e) the veterinary certificate or document accompanying the animals does not meet the requirements of legislation of the European Union relating to importation.

(5) If there are no legislative requirements relating to the consignment, the official veterinary surgeon must not issue a CHED unless the importation has been authorised in writing under this paragraph by—

- (a) the Food Standards Agency, for any product for which only public health requirements apply; or
- (b) the Secretary of State, for any other product.

(6) An authorisation under paragraph (5)(a) may only be granted if the Agency is satisfied that the consignment does not pose a risk to human health.

(7) An authorisation under paragraph (5)(b) may only be granted if the Secretary of State is satisfied that the consignment does not pose a risk to the animal health status of the United Kingdom.

(8) The official veterinary surgeon must retain evidence of authorisation or refusal of a consignment for a period of three years from the date of the importation.”.

(14) For regulation 16, and the heading to that regulation, substitute—

“Removal from the border control post

16.—(1) No person may remove a consignment from the border control post unless it is accompanied by a CHED issued by the official veterinary surgeon, or the official fish inspector (as appropriate) in the case of a consignment of fish, and the movement is in accordance with that document.

(2) The person transporting it from the border control post must ensure that the document accompanies the consignment and must transport it directly to the destination specified therein.

(3) These requirements do not apply if the consignment is removed from the border control post under the authority of the relevant official veterinary surgeon or fish inspector (as appropriate).

(4) In the case of live animals, the person responsible for the transport to the final destination must be in possession of the appropriate transport authorisation in accordance with Article 4 of Council Regulation (EC) 1/2005 on the protection of animals during transport and related operations^(a) inside the vehicle.

(5) In this regulation, requirements for a consignment to be “accompanied by a CHED” (and cognate expressions), in relation to a CHED in electronic form, refer to the CHED being capable of being produced at any time by the person responsible for the consignment.”.

(15) For regulation 17, and the heading to that regulation, substitute—

“Supervision and monitoring consignments

17. Where a consignment is required to be taken under supervision from a border control post to a specific destination in the United Kingdom or a member State —

(a) the movement must be under customs supervision if this is specified in the CHED; and

(b) on arrival, the occupier of the destination premises must immediately notify the Secretary of State of its arrival.”.

(16) In regulation 18—

(a) for paragraph (3) substitute—

“(3) Products that arrive at a border control post for an ultimate destination outside the United Kingdom, and which are subject to animal health check requirements in the relevant legislation listed in Schedule 1, may be taken directly from the border control post to the destination outside the United Kingdom without a CHED, so long as the products do not remain for more than three days at an airport border control post or 30 days at a sea port border control post;”;

(b) after paragraph (3) insert—

(a) OJ No. L 3, 5.1.2005, p.1.

“(3A) Products that are not subject to import check requirements, and which arrive at a border control post for an ultimate destination outside the United Kingdom, may be taken directly from the border control post to their destination without a CHED, so long as the products do not remain at the border control post for more than 90 days.”.

(17) In regulation 19, for paragraphs (b) and (c) substitute—

- “(b) removed from a border control post without a CHED or the authority of the official veterinary surgeon or official fish inspector (as the case may be) at the post; or
- (c) transported from the border control post to a destination other than that specified in the entry document.”.

(18) For regulation 20 substitute—

“**20.**—(1) This regulation applies in relation to any consignment of a product if the checks at a border control post show that the consignment does not comply with the rules referred to in Article 1(2) of the EU Regulation.

(2) The official veterinary surgeon or the official fish inspector (as appropriate) must, after consultation with the importer or the importer’s representative, place the consignment under detention and refuse its entry into the United Kingdom.

(3) The official veterinary surgeon or the official fish inspector (as appropriate) may order the person responsible for the consignment—

- (a) to subject the consignment to special treatment in accordance with Article 71(1) and (2) or to any other measure necessary to ensure compliance with the rules referred to in Article 1(2) of the EU Regulation, and, where appropriate and provided there is no risk to human or animal health, allocate the consignment for purposes other than those for which it was originally intended;
- (b) where health conditions permit, to require the person in charge of the consignment to re-dispatch the product in accordance with Article 72 of the EU Regulation from the same border control post to a destination outside the European Union agreed with the person responsible for the consignment, using the same means of transport, within a maximum time limit of 60 days from arrival at the border control post; or
- (c) if the person responsible for the consignment gives immediate agreement, re-dispatch is impossible or the 60-day time limit has elapsed, to destroy the products.

(4) The official veterinary surgeon or official fish inspector (as appropriate) may exceptionally authorise destruction, re-dispatch, special treatment, or any other measure that may be taken in respect of a consignment to be taken in respect of a part of the consignment only, provided that the action taken—

- (a) is such as to ensure compliance;
- (b) does not pose a risk to human or animal health; and
- (c) does not disrupt official control operations.

(5) Pending re-dispatch or confirmation of the reasons for rejection, the person responsible for the consignment must, at that person’s own expense, store the consignment under the supervision of the enforcement authority.

(6) If a consignment of products is seized at a place other than a border control post under regulation 19, the enforcement authority must order that such consignment be retained or recalled, and placed under official detention without delay, and paragraphs (2) and (3) of this regulation apply.

(7) The importer or the importer’s representative is liable for the costs incurred in any measures taken under paragraphs (2) to (6), but is entitled to payment of a sum equal to the value of the product after deduction of these costs.

(8) The importer or the importer’s representative may immediately, and within one working day after notification of the non-compliance, make written representations to the Secretary of State regarding any decision taken under this regulation, and any such

representations must be considered and a written response must be given by the Secretary of State within one working day of receiving such representations.”.

(19) For regulation 21 substitute—

“**21.** If the official controls at the border control post indicate that the consignment is likely to constitute a danger to animal or human health, the official veterinary surgeon or the official fish inspector (as the case may be) must immediately place the consignment under official detention and order that the person responsible for the consignment destroy it or arrange special treatment in accordance with Article 71 of the EU Regulation at that person’s expense.”.

(20) For regulation 22 substitute—

“**22.**—(1) If the official veterinary surgeon or official fish inspector (as appropriate) suspects that products entering the United Kingdom from a particular third country, part of a third country or establishment in a third country have been the subject of serious contraventions of any import requirement, or contraventions that form part of a series, or where those checks reveal that maximum residue levels have been exceeded, this regulation applies to the next ten consignments, or a net weight of 300 tonnes, whichever is the lowest, imported from that third country, or (as the case may be) the particular part of a third country or establishment to which the suspicion relates.

(2) If the official veterinary surgeon or official fish inspector (as appropriate) has reason to suspect fraudulent or deceptive practices by an operator responsible for a consignment, the Secretary of State may apply intensified official controls.

(3) The official veterinary surgeon or official fish inspector (as appropriate) must carry out a physical check on the suspected non-compliant consignment and take appropriate measures in accordance with Section 3 of Chapter 5 of Title II.

(4) The person responsible for the consignment must lodge with the official veterinary surgeon a deposit or guarantee sufficient to assure payment of all charges, including the taking of samples, and tests or analysis.”.

(21) For regulation 23 substitute—

“**23.**—(1) If the checks at a border control post show that an animal does not comply with the rules referred to in Article 1(2) of the EU Regulation relating to that animal, or where such checks reveal an irregularity, the official veterinary surgeon must initially place the animal under detention, isolation or quarantine, as appropriate, where it must be kept, cared for or treated under appropriate conditions pending further official decision on the fate of the animal.

(2) Unless immediate action is necessary in order to respond to a risk to human or animal health or animal welfare or to the environment, the official veterinary surgeon may, after consultation with the importer or the importer’s representative, order the person responsible for the consignment—

- (a) to shelter, feed and water and, if necessary, treat the animal;
- (b) if necessary, to place it in quarantine or isolate it for so long as is necessary to ensure that there is no risk to human or animal health; or
- (c) to re-dispatch the animal in accordance with Article 72 of the EU Regulation without delay.

(3) If re-dispatch is impossible, in particular for welfare reasons, the official veterinary surgeon may order the importer or the importer’s representative to arrange for the slaughter of the animal to spare any avoidable pain, distress or suffering.

(4) If an animal is seized under regulation 19 at a place other than a border control post, the enforcement authority must order the consignment to be retained or recalled, and placed under official detention without delay, and paragraphs (1) and (2) apply.

(5) The official veterinary surgeon may exceptionally authorise partial destruction, re-dispatch, special treatment, or any other measure that may be taken in respect of a

consignment of animals to be taken in respect of a part of any such consignment, provided that such action—

- (a) is such as to ensure compliance with the import check requirements of the EU Regulation and any relevant Implementing Regulations and Delegated Regulations made under it;
- (b) does not pose a risk to human or animal health; and
- (c) does not disrupt official control operations.

(6) The importer or the importer’s representative is liable for the costs incurred in these measures but is entitled to payment of a sum equal to the slaughter value of the animal after deduction of these costs.”.

(22) In regulation 27—

- (a) in the heading, after “of”, insert “animals and”;
- (b) for paragraph (1) substitute—

“(1) An official veterinary surgeon at a border control post must authorise the re-importation of consignments of the categories of animals and products referred to in points (a) and (b) of Article 47(1) originating from, and returning to, the Union following a refusal of entry by a third country, provided that—

- (a) animals and germinal products that have been authorised in advance by the competent authority comply with the relevant animal health and animal welfare requirements;
- (b) products of animal origin and composite products comply with animal and public health requirements relating to consignments of products for human consumption originating in and returning to the Union following a refusal of entry by a third country; and
- (c) animal by-products comply with the animal health requirements laid down in Annex 14 to Commission Regulation (EU)142/2011 for the entry of consignments of animal by-products originating from and returning to, the Union following refusal of entry by a third country(a).”.

(c) after paragraph (1) insert—

“(1A) In paragraph (1), “Commission Regulation (EU) 142/2011” means Commission Regulation (EU) 142/2011 implementing Regulation (EC) No 1069/2009 of the European Parliament and of the Council laying down health rules as regards animal by-products and derived products not intended for human consumption and implementing Council Directive 97/78/EC as regards certain samples and items exempt from veterinary checks at the border under that Directive.”.

(23) For regulation 29 substitute—

“**29.**—(1) Where the Secretary of State or the Food Standards Agency—

- (a) has reasonable grounds for suspecting the existence of a disease, zoonosis, phenomenon or circumstance in a country outside the United Kingdom such that animals or products originating from the whole or part of the country concerned are liable to pose risk to human or animal health, or
- (b) is of the opinion that there is serious non-compliance with official control rules under the EU Regulation in relation to imports from the European Union, or equivalent official control rules in countries other than a member State,

the Secretary of State or the Agency may publish a written declaration of the special measures necessary in order to contain the risk to human or animal health or the risk of non-compliant animals or products entering the United Kingdom.

(a) OJ No. L 54, 26.2.2011, p.1, last amended by Commission Regulation 2019/1177, OJ L 185, 11.7.2019, p.26.

- (2) The special measures that Secretary of State or the Agency may require include—
- (a) suspension of entry of any animal or product originating in or dispatched from the whole or part of the country concerned;
 - (b) imposition of conditions requiring that any animals or products—
 - (i) prior to dispatch, or on arrival, are made the subject of specific treatment or controls;
 - (ii) be accompanied by an official certificate, an official attestation, or any other evidence (in any format that may be specified) that any import from the European Union complies with established official control rules under the EU Regulation and any relevant Implementing Regulations and Delegated Regulations made under it or equivalent rules in other countries;
 - (c) such other measures as the Secretary of State or the Agency considers necessary to contain the risk.
- (3) The declaration must be published in such manner as the Secretary of State or the Food Standards Agency (as the case may be) thinks fit and may be amended or revoked by further declaration at any time.
- (4) No person may import anything into the United Kingdom in breach of any measures mentioned in any such declaration.”.
- (24) In regulation 31, after paragraph (2) insert—
- “(3) Where the Common Council of the City of London is acting as a local authority or a port health authority, that Council is the enforcement authority for live animal imports in all London Boroughs and within the Heathrow Airport border control post.”.
- (25) In regulation 32—
- (a) in paragraph (1)(a), after “Secretary of State” insert “other than at the Heathrow Airport border control post in cases where, in relation to animals, these Regulations are jointly enforced by the Secretary of State and the Common Council of the City of London”;
 - (b) in paragraph (2)—
 - (i) in the opening words, for “inspection post, in relation to animals”, substitute “control post, in relation to animals (other than in relation to aquatic animals)”;
 - (ii) at the end of sub-paragraph (a), insert “where the Council is acting as a local authority or a port health authority”;
 - (c) after paragraph (2) insert—

“(2A) Outside a border control post, official controls in relation to aquatic animals are enforced by the Secretary of State.”;
 - (d) in paragraph (4), for “Articles 37 and 38 of Council Regulation (EEC) No 2913/92 laying down the Community Customs Code” substitute “Article 134 of Council Regulation (EU) No 952/2013 laying down the Union Customs Code(a)”;
 - (e) for paragraph (6) substitute—

“(6) Where a customs officer exercising a statutory function at any place under customs supervision discovers any animal or product suspected of being non-compliant, that officer must detain it and notify such detention to an authorised officer of the relevant enforcement authority.”.
- (26) For regulation 33 substitute—
- “**33.**—(1) An authorised officer of the Secretary of State or an enforcement agency may at any reasonable hour during normal working hours without prior notice enter any

(a) OJ No. L 269, 10.10.2013, p.1, last amended by Regulation 2019/632 of the European Parliament and of the Council (OJ No. L 111, 25.4.2019, p.54).

premises (except any premises used wholly or mainly as a private dwelling) if the officer believes that it is necessary to enter for the purpose of enforcing these Regulations.

(2) An authorised officer must, if requested to do so, produce a duly authenticated authorisation document.

(3) A justice of the peace may sign a warrant to permit an enforcement officer to enter any premises, including a dwelling-house, if the justice on sworn information in writing is satisfied—

- (a) that there are reasonable grounds to enter those premises for the purpose of enforcing these Regulations; and
- (b) that one or more of the conditions in paragraph (4) are met.

(4) The conditions are—

- (a) that entry to the premises has been, or is likely to be, refused, and notice of the intention to apply for a warrant has been given to the occupier;
- (b) that asking for admission to the premises, or giving such a notice, would defeat the object of the entry;
- (c) that entry is required urgently;
- (d) that the premises are unoccupied or the occupier is temporarily absent.

(5) A warrant is valid for 30 days from the date of signature by the justice of the peace.

(6) An authorised officer entering any premises which are unoccupied or from which the occupier is temporarily absent must leave them as effectively secured against unauthorised entry as they were before entry.

(7) An authorised officer may—

- (a) be accompanied by such other persons (up to a maximum of three) as the officer considers necessary;
- (b) bring onto the premises such equipment as the officer considers necessary.”.

(27) In regulation 34, after paragraph (g) insert—

- “(h) require the slaughter of any imported animal which is non-compliant with import or animal welfare requirements in these Regulations or the EU Regulation or any Implementing Regulations and Delegated Regulations made under it, or suspected by the Secretary of State of posing a risk to animal or human health;
- (i) require the quarantine of any imported animal that is suspected by the Secretary of State of posing a risk to animal or human health. ”.

(28) For regulation 35, and the heading to that regulation, substitute—

“Importation of animals or products constituting a risk to animal or public health

35.—(1) If imported animals or products are suspected by the Secretary of State of constituting a serious risk to human or animal health or animal welfare, or, in a case of suspected non-compliance, the animals or products come from a region contaminated by an epizootic disease, an authorised officer of the Secretary of State may require—

- (a) an investigation in order to confirm or eliminate that suspicion;
- (b) an investigation into the extent of any suspected non-compliance and to establish the import operator’s responsibilities;
- (c) intensified official controls on consignments of animals or products from a particular region until such imports are no longer regarded by the officer as constituting such health risk;
- (d) the official detention of any of the animals or products;
- (e) appropriate measures to ensure that the person responsible for the animals or products remedies the non-compliance and prevents further occurrences of such non-compliance.

(2) In a case within paragraph (1)(a), the importer must assist the officer with establishing the region of origin.

(3) Where the Secretary of State is satisfied that imported animals or products constitute a risk to animal or public health, an authorised officer of the Secretary of State may, following written notice, take any reasonable action to ensure compliance with any rules laid down in accordance with Article 1(2) of the EU Regulation, including—

- (a) taking samples for testing and ordering or performing veterinary treatments on animals;
- (b) ordering the unloading of animals and their transfer via another means of transport to a specified holding for a specified quarantine period (whether or not involving the postponement of the slaughter of animals);
- (c) the slaughter or killing of animals, provided that this is the most appropriate measure to safeguard human health as well as animal health and welfare;
- (d) restricting or prohibiting the placing on the market, the movement or the export of the animal or product, or requiring its return to the country of dispatch;
- (e) ordering the importer to increase the frequency and thoroughness of systematic checks and controls before importing further animals or goods from the same region;
- (f) ordering the isolation or closure, for an appropriate period of time, of all or part of a business operation (including any related internet and on-line sales of products that may constitute a risk to animal or human health) affected by the importation of an animal or product that constitutes a risk to animal or human health;
- (g) the recall, withdrawal, removal or destruction of products;
- (h) the treatment of products for human consumption, the alteration of labels or the provision of corrective information to consumers;
- (i) the temporary suspension or withdrawal of the registration or approval of an affected establishment, plant, holding or means of transport concerned, or of an authorisation of a transporter;
- (j) the use of the products for purposes other than those for which they were originally intended.

(4) An authorised officer of the Secretary of State must provide an affected business operator, or its representative, with—

- (a) written notification of the decision concerning the action or measure to be taken in accordance with this regulation, together with the reasons for that decision; and
- (b) information on any right of review against such decision in accordance with regulation 35A.

(5) All expenditure incurred as a result of actions taken by or on behalf of the Secretary of State under this regulation is to be borne by the responsible operator.

(6) In the case of the issue of false or misleading official certificates in England, or where there is evidence of abuse of official certificates, an authorised officer of the Secretary of State may take appropriate measures, including—

- (a) the temporary suspension of the certifying officer from certifying any certificates related to any relevant trade;
- (b) the withdrawal of the authorisation of a person to sign official certificates;
- (c) any other measure believed by the officer to be necessary to prevent a reoccurrence of any non-compliance or abuse.”.

(29) After regulation 35 insert—

“Review of decisions by an appointed person

35A.—(1) Any person aggrieved by a decision made under these Regulations, other than any decision referred to in regulations 20 or 23, may request a review of that decision by a person appointed by the Secretary of State (“the appointed person”).

(2) Within 21 days of the appointment of the appointed person, written representations may be made by the aggrieved person to the appointed person.

(3) The appointed person must consider any written representations made when reviewing the disputed decision and must report in writing to the Secretary of State within 21 days from the expiry of the period in paragraph (2) with a recommended course of action resulting from the review.

(4) The Secretary of State must consider the report of the appointed person and promptly notify the owner of the outcome of the review and provide a copy of the report of the appointed person.

(5) A review, or right of review, does not affect the obligation on the designated authority to take prompt action to eliminate or contain the risks to human or animal health.”.

(30) In regulation 36, after the words “these Regulations”, in each place where they occur, insert “or the EU Regulation”.

(31) For regulation 38, substitute—

“**38.** The Secretary of State must charge a fee in relation to any official control activity in accordance with the charging provisions contained in Chapter 6, Title 2 of the EU Regulation, and such fee is payable by the operator responsible for the consignment or its representative.”.

(32) In regulation 39, in the first entry of the table—

(i) for “regulation 5(1)” substitute “regulation 5(1) and (1A)”; and

(ii) in the second column, for the description of the offence substitute—

“Movements without correct accompanying document”.

(33) For regulation 42 substitute—

“**42.** A person guilty of any offence under these Regulations is liable on summary conviction to a fine.”.

(34) In regulation 43, for paragraph (2) substitute—

“(2) In carrying out the review the Secretary of State must, so far as is reasonable, have regard to how member States implement the provisions of the EU Regulation and Regulation (EU) No 2016/1012.”.

(35) In Schedule 1—

(a) omit the entries in both columns relating to—

(i) Council Directive 96/23/EC on measures to monitor certain substances and residues thereof in live animals and animal products and repealing Directives 85/358/EEC and 86/469/EEC and Decisions 89/187/EEC and 91/664/EEC;

(ii) Commission Regulation (EC) No 136/2004 laying down procedures for veterinary checks at Community border inspection posts on products imported from third countries;

(iii) Regulation (EC) No 854/2004 of the European Parliament and the Council laying down specific hygiene rules for the organisation of official controls on products of animal origin intended for human consumption;

(iv) Regulation (EC) No 882/2004 of the European Parliament and of the Council on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules; and

- (v) Regulation (EC) No 767/2009 of the European Parliament and of the Council of 13 July 2009 on the placing on the market and use of feed;
- (b) after the item ‘Regulation (EU) 2016/1012’, in the first column insert—
 - “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 food and feed law, rules on animal health and welfare, plant health and plant protection products and the Implementing Regulations and Delegated Regulations made under it”;
- (c) in the second column, in relation to the entry inserted by sub-paragraph (b), insert—
 - “Official controls and other official activities”.

(36) In Schedule 2—

- (a) in the heading to Part 1, for “between” substitute “with”;
- (b) in paragraph 2—
 - (i) omit sub-paragraph (1);
 - (ii) for sub-paragraph (2) substitute—
 - “(2) No person may transport cattle, pigs, sheep or goats to a member State unless authorised by the Secretary of State in accordance with Article 11 of the Council Regulation (EC) No 1/2005 on the protection of animals during transport and related operations(a).”;
- (c) in paragraph 3, for “between” substitute “to or from”;
- (d) in paragraph 3, at the end insert “and are exempt from the requirement in regulation 7(2) to provide one working day’s notice to the Secretary of State in advance of the intended arrival of the consignment”;
- (e) in paragraphs 4 and 5(4), for “between” substitute “with”;
- (f) in paragraph 5(4), after “ova” insert “, semen”;
- (g) in paragraph 7, for “another member State, or brought into England from another”, substitute “a member State, or brought into England from a”;
- (h) in paragraph 9(1), after the words “authority for”, insert “the import of certain birds and quarantine conditions for the purposes of”;
- (i) in paragraph 10, for the words “Commission Decision” to “registered horses”, substitute “Commission Implementing Regulation (EU) 2018/659 on the conditions for the entry into the Union of live equidae and of semen, ova and embryos of equidae(b)”;
- (j) for paragraph 11, and the heading to that paragraph, substitute—

“Ship supply

11.—(1) A product that does not comply with import requirements and is sent from a border control post to a ship must be accompanied by the relevant health certificate relating to that product, and the master of the vessel must confirm delivery of the product by signing a certificate which must accompany the consignment to its place of destination.

(2) Within 15 days of completion of delivery of products on board the vessel, the operator responsible for the delivery, or the representative of the master of the vessel, must send the official certificate signed by the master of the vessel (or send by electronic means and systems) to the competent authorities of the border control post of entry or the approved Customs warehouse.”;

- (k) omit paragraph 12.

(37) In Schedule 3—

(a) OJ No. L 3, 5.1.2005, p.1.
 (b) OJ No. L 110, 30.4.2018, p.1.

- (a) for paragraph 2 (Case 1: Personal imports and small consignments) substitute—
 - “(2) Products referred to in Article 7 and Article 10 of the Commission Delegated Regulation adopted in accordance with Articles 48(d) and (e) of the EU Regulation(a).”;
- (b) in paragraph 4 (Case 3)—
 - (i) for the heading substitute “**Research and diagnostic samples**”,
 - (ii) for sub-paragraphs (1) to (4) substitute—
 - “(1) Research and diagnostic samples as defined in point (38) of Annex 1 to Regulation (EU) No 142/2011(b) are exempt from veterinary checks at the border control post, provided that they have been authorised in advance by the Secretary of State and the consignment is sent directly from the point of entry to the authorised user.
 - (2) In relation to such samples arriving in the United Kingdom and destined for a member State—
 - (a) the importer or importer’s representative must present research and diagnostic samples at a border control post of entry; and
 - (b) the competent authority of the border control post must inform the competent authority of the member State of destination of the arrival of the samples.”;
- (c) in the heading to paragraph 5, for “another” substitute “a”;
- (d) in paragraph 5, for “another”, in the first place where it occurs, substitute “a”;
- (e) after paragraph 7, insert—

“Case 7: Invertebrate animals intended for scientific purposes

1.—(1) Invertebrate animals intended for scientific purposes such as research, educational activities or research related to product development activities are exempt from official controls at border control posts, other than controls carried out in accordance with Article 15(2) of Regulation (EU) No 1143/2014(c), provided that—

- (a) they comply with all requisite animal health requirements;
- (b) they have been authorised by the Secretary of State;
- (c) when the activities relating to the scientific purposes have been carried out, they and any products derived from them, with the exception of any portions used for the scientific purposes, must be disposed of or re-dispatched to the third country of origin.

(2) Paragraph (1) does not apply to honey bees (*Apis mellifera*), bumble bees (*Bombus* spp), molluscs belonging to the phylum Mollusca or crustaceans belonging to the subphylum Crustacea.”.

Amendment to the Veterinary Medicines Regulations 2013

27. The Veterinary Medicines Regulations 2013(d) are amended as follows—

- (a) in regulation 2(2)—
 - (i) omit the definition of “Regulation (EC) No 882/2004”; and
 - (ii) after the definition of Regulation (EC) No 1831/2003 insert—
 - ““Regulation (EU) 2017/625” means Regulation (EU) 2017/625 of the European Parliament and of the Council on official controls and other official activities performed to

(a) The Commission Delegated Regulation was adopted in Brussels on 10.10.2019 under reference C(2019) 7007 final, but the instrument has not yet been published in the Official Journal.
 (b) OJ No. L 54, 26.2.2011, p.1, last amended by OJ L. 185, 11.7.2019, p.26.
 (c) OJ No. L. 317, 4.11.2014, p.35.
 (d) S.I. 2013/2033, to which there are amendments not relevant to these Regulations.

ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products(a);”;

(b) in regulation 45(3)(c), for “Regulation (EC) No 882/2004” substitute “Regulation (EU) 2017/625”;

(c) for regulation 46(3)(f) substitute—

“(f) “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 food and feed law, rules on animal health and welfare, plant health and plant protection products;”;

(d) in Schedule 5—

(i) in the Contents, in item 4, for “Regulation (EC) No 882/2004” substitute “Regulation (EU) 2017/625”, and

(ii) in paragraph 4, and the heading to that paragraph, for “Regulation (EC) No 882/2004” substitute “Regulation (EU) 2017/625”.

Amendment to the Welfare of Animals at the Time of Killing (England) Regulations 2015

28.—(1) The Welfare of Animals at the Time of Killing (England) Regulations 2015(b) are amended as follows.

(2) In regulation 4(1)(c)(iii), for “Article 22(1)” substitute “Article 138 (actions in the event of established non-compliance) of 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 food and feed law, rules on animal health and welfare, plant health and plant protection products(c)”.

Amendment to the Environment, Food and Rural Affairs (Miscellaneous Amendments) (England) Regulations 2018

29. Regulation 38 of the Environment, Food and Rural Affairs (Miscellaneous Amendments) (England) Regulations 2018(d) is revoked.

Amendment to the Quality Schemes (Agricultural Products and Foodstuffs) Regulations 2018

30. The Quality Schemes (Agricultural Products and Foodstuffs) Regulations 2018(e) are amended as follows—

(a) in regulation 2—

(i) omit the definition of “Regulation 882/2004”; and

(ii) after the definition of Regulation 668/2014, insert—

““Regulation (EU) 2017/625” means 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 food and feed law, rules on animal health and welfare, plant health and plant protection products;” and

(b) in regulation 5(2)(a), for “Regulation 882/2004” substitute “Regulation (EU) 2017/625”.

(a) OJ No. L 95, 7.4.2017, p.1, amended by Commission Delegated Regulation (EU) 2019/478 (OJ No. L 82, 25.3.2019, p.4).

(b) S.I. 2015/1782, to which there are amendments not relevant to these Regulations.

(c) OJ No. L 95, 7.4.2017, p.1, amended by Commission Delegated Regulation (EU) 2019/478 (OJ No. L 82, 25.3.2019, p.4).

(d) S.I. 2018/575.

(e) S.I. 2018/1275, to which there are amendments not relevant to these Regulations.

Amendment to the Carcase Classification and Price Reporting (England) Regulations 2018

31. In regulation 2(1) of the Carcase Classification and Price Reporting (England) Regulations 2018(a), in the definition of “bovine carcase”, for the words “provided for in Article 5(2)” to the end substitute “as defined in Article 3(51) of 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 food and feed law, rules on animal health and welfare, plant health and plant protection products(b)”.

Amendment to the Transmissible Spongiform Encephalopathies (England) Regulations 2018

32.—(1) The Transmissible Spongiform Encephalopathies (England) Regulations 2018(c) are amended as follows.

(2) In regulation 2—

- (a) number the first paragraph as paragraph (1);
- (b) in the definition of “cutting plant”, for “under Article 31(2) of Regulation (EC) No 882/2004” substitute “Article 148(3) of Regulation (EU) 2017/625”;
- (c) in the definition of “slaughterhouse”, for “under Article 31(2) of Regulation (EC) No 882/2004” substitute “Article 148(3) of Regulation (EU) 2017/625”; and
- (d) for paragraph (2) substitute—

“(2) “Regulation (EU) 2017/625” means 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 food and feed law, rules on animal health and welfare, plant health and plant protection products(d);”.

PART 6

Amendments to secondary legislation relating to plant health fees in England

The Plant Health (Export Certification) (England) Order 2004

33. In the Plant Health (Export Certification) (England) Order 2004(e)—

- (a) in article 3(2)(a), for “of the services listed in the first column of Schedule 3” substitute “services”;
- (b) omit article 4;
- (c) omit Schedule 3.

The Plant Health (Export Certification) (Forestry) (Great Britain) Order 2004

34. In the Plant Health (Export Certification) (Forestry) (Great Britain) Order 2004(f)—

- (a) in article 3(2)(a), for “of the services listed in the first column of Schedule 3” substitute “services”;
- (b) omit article 4;
- (c) omit Schedule 3.

(a) S.I. 2018/1164.

(b) OJ No. L 95, 7.4.2017, p.1, amended by Commission Delegated Regulation (EU) 2019/478 (OJ No. L 82, 25.3.2019, p.4).

(c) S.I. 2018/731, amended by S.I. 2018/942, and 2018/1120.

(d) OJ No. L 95, 7.4.2017, p.1, amended by Commission Delegated Regulation (EU) 2019/478 (OJ No. L 82, 25.3.2019, p.4).

(e) S.I. 2004/1404, amended by S.I. 2005/3480, 2014/609, 2015/382, 2018/286, 2019/1257.

(f) S.I. 2004/1684, amended by S.I. 2013/755 (W. 90), 2019/734.

The Plant Health (Wood Packaging Material Marking) (Forestry) Order 2006

35. In the Plant Health (Wood Packaging Material Marking) (Forestry) Order 2006(a)—

- (a) omit article 7;
- (b) omit Schedule 1.

The Plant Health (Fees) (Forestry) (England and Scotland) Regulations 2015

36.—(1) The Plant Health (Fees) (Forestry) (England and Scotland) Regulations 2015(b) are amended as follows.

(2) After regulation 1 insert—

“Interpretation: England

1A.—(1) In these Regulations, insofar as they apply in relation to England—

“approved place of inspection” has the meaning given in article 3 of the Order;

“controlled consignment” means a consignment which—

- (a) is introduced into England from a third country; and
- (b) consists of, or includes—
 - (i) isolated bark of a type that is described in the lists of the Phytosanitary Conditions Regulation that apply for the purposes of Articles 72(1) and 74(1) of the EU Plant Health Regulation, or in a decision adopted before 14th December 2019 by the European Commission pursuant to Article 16(3) of Council Directive 2000/29/EC on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community(c); or
 - (ii) wood of a type that is described in the lists or a decision mentioned in paragraph (i), other than wood packaging material which is actually in use in the transport of objects of all kinds;

“the EU Plant Health Regulation” means Regulation (EU) 2016/2031 of the European Parliament and of the Council on protective measures against pests of plants(d);

“licence” means an authorisation for the purposes of any derogation described in Article 8(1) or 48(1) of the EU Plant Health Regulation;

“the Phytosanitary Conditions Regulation” means the implementing act adopted by the European Commission pursuant to Articles 5(2), 32(3), 37(2) and (4), 40(2), 41(2), 53(2), 54(2), 72(1), 73, 74(2), 79(2) and 80(2) of the EU Plant Health Regulation;

“plant passport authority” means an authorisation described in Article 89(1) of the EU Plant Health Regulation;

“the Order” means the Plant Health (Forestry) Order 2005(e);

“remedial notice” means a notice served under article 31(1) or (4) of the Order;

“remedial work” means any steps taken by a person for the purposes of complying with a remedial notice, or by an inspector under article 32(1) of the Order;

“WPM authorisation” means an authorisation described in Article 98(1) of the EU Plant Health Regulation.

(a) S.I. 2006/2695, amended by S.I. 2013/755 (W. 90), 2019/734.

(b) S.I. 2015/350, amended by S.I. 2019/734.

(c) OJ No. L 169, 10.7.2000, p.1, last amended by Commission Implementing Directive (EU) 2019/523 (OJ No. L 86, 28.3.2019, p.41).

(d) OJ No. L 317, 23.11.2016, p.4, amended by Regulation (EU) 2017/625 of the European Parliament and of the Council (OJ No. L 95, 7.4.2017, p.1).

(e) S.I. 2005/2517; relevant amending instruments are S.I. 2013/755 (W. 90), 2014/2420, 2019/734.

(2) Words and expressions which are not defined in these Regulations and which appear in the EU Plant Health Regulation or in 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 food and feed law, rules on animal health and welfare, plant health and plant protection products(a) have the same meaning in these Regulations as they have in the EU instrument in question.”.

(3) In regulation 2, in the heading, at the end insert “: **Scotland**”.

(4) In regulation 3—

(a) after paragraph (5) insert—

“(5A) The fee payable in connection with an application to the Forestry Commissioners for a phytosanitary certificate for export or phytosanitary certificate for re-export is the fee specified in Schedule 4A.

(5B) The fee payable in connection with an application to the Forestry Commissioners for a WPM authorisation is the fee specified in Schedule 4B.”.

37. After Schedule 4 insert—

“SCHEDULE 4A

Regulation 3(5A)

Fees in connection with an application for a phytosanitary certificate for export or phytosanitary certificate for re-export: England

<i>(1)</i> <i>Service</i>	<i>(2)</i> <i>Fee</i>
The consideration of an application, including the issue, where appropriate, of a phytosanitary certificate for export or a phytosanitary certificate for re-export	£15.00
The examination or testing of wood, wood products, isolated bark or used forestry machinery and associated activities (including travelling and office time):	
(a) up to and including the first hour;	£27.00
(b) thereafter, for each additional 15 minutes or part thereof	£7.50.

SCHEDULE 4B

Regulation 3(5B)

Fees in connection with an application for a WPM authorisation: England

(a) OJ No. L 95, 7.4.2017, p.1, amended by Commission Delegated Regulation (EU) 2019/478 (OJ No. L 82, 25.3.2019, p.4).

<i>(1)</i> <i>Type of application</i>	<i>(2)</i> <i>Fee</i>
Application for a WPM authorisation, other than a renewal of an existing WPM authorisation	£400.00
Application for a renewal of an existing WPM authorisation	£120.00
Application for a re-assessment for the purposes a WPM authorisation	£120.00”.

The Plant Health etc. (Fees) (England) Regulations 2018

38.—(1) The Plant Health etc. (Fees) (England) Regulations 2018(a) are amended as follows.

(2) For regulation 2 substitute—

“**2.**—(1) In these Regulations, “the EU Plant Health Regulation” means Regulation (EU) 2016/2031 of the European Parliament and of the Council on protective measures against pests of plants(b).

(2) Words and expressions which are not defined in these Regulations and appear in the EU Plant Health Regulation or in 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 food and feed law, rules on animal health and welfare, plant health and plant protection products(c) have the same meaning in these Regulations as they have in the EU instrument in question.”.

(3) In regulation 3—

(a) in paragraph (1), for “listed in Schedule 5 to the 2015 Order” substitute “described in the lists of the Phytosanitary Conditions Regulation that apply for the purposes of Articles 72(1) and 74(1) of the EU Plant Health Regulation”;

(b) in paragraph (3)—

(i) for sub-paragraphs (a) and (aa) substitute—

“(a) “controlled plant pest” means—

(i) a plant pest of a description specified in the lists of the Phytosanitary Conditions Regulation that apply for the purposes of Articles 5(2), 32(3) and 37(2) of the EU Plant Health Regulation;

(ii) any other plant pest of a description specified in a decision adopted before 14th December 2019 by the European Commission pursuant to Article 16(3) of Council Directive 2000/29/EC on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community(d);

(aa) “Europe” includes Belarus, the Canary Islands, Georgia, Kazakhstan (except the area east of the Ural river), Russia (except the regions of Tyumen, Chelyabinsk, Irkutsk, Kemerovo, Kurgan, Novossibirsk, Omsk, Sverdlovsk, Tomsk, Chita,

(a) S.I. 2018/289, amended by S.I. 2018/510, 2019/180, 1257.

(b) OJ No. L 317, 23.11.2016, p.4, amended by Regulation (EU) 2017/625 of the European Parliament and of the Council (OJ No. L 95, 7.4.2017, p.1).

(c) OJ No. L 95, 7.4.2017, p.1, amended by Commission Delegated Regulation (EU) 2019/478 (OJ No. L 82, 25.3.2019, p.4).

(d) OJ No. L 169, 10.7.2000, p.1, last amended by Commission Implementing Directive (EU) 2019/523 (OJ No. L 86, 28.3.2019, p.41).

Kamchatka, Magadan, Amur and Skhalin, the territories of Krasnoyarsk, Altay, Khabarovsk and Primarie, and the republics of Sakha, Tuva and Buryatia), Ukraine and Turkey (except the area east of the Bosphorus Strait known as Anatolia);”;

(ii) after sub-paragraph (ab) insert—

“(aba)“the Phytosanitary Conditions Regulation” means the implementing act adopted by the European Commission pursuant to Articles 5(2), 32(3), 37(2) and (4), 40(2), 41(2), 53(2), 54(2), 72(1), 73, 74(2), 79(2) and 80(2) of the EU Plant Health Regulation;”;

(iii) omit sub-paragraph (c).

(4) In regulation 4—

(a) in paragraph (2), in the words before sub-paragraph (a), after “out” insert “by, or on behalf of, the Secretary of State”;

(b) in paragraph (6)(a), omit “conferred under article 29 of the 2015 Order”.

(5) In regulation 5—

(a) in paragraph (1)—

(i) in sub-paragraph (a), at the end insert “made to the Secretary of State”;

(ii) in sub-paragraph (b), at the end insert “granted by the Secretary of State”;

(b) in paragraph (5), for “a licence described in article 40 or 41 of the 2015 Order” substitute “an authorisation for the purposes of any derogation described in Article 8(1) or 48(1) of the EU Plant Health Regulation”.

(6) After regulation 5 insert—

“Export certification services and pre-export services: fees

5A.—(1) The fees specified in the table in Schedule 4A (“the table”) are payable in respect of the services described in column 1 of the table by a person who applies to the Secretary of State for a certificate or a pre-export service.

(2) The amount of the fee in respect of any service described in column 1 of the table is—

(a) in the case of a small exporter who, at the date of the application, has only been liable during the financial year in which the application is made to pay fees of £750 or less in respect of the services described in column 1 of the table, the amount specified in the corresponding entry in column 2 of the table;

(b) in any other case, the amount specified in the corresponding entry in column 3 of the table.

(3) The fees specified in columns 2 and 3 of the table in respect of an inspection of a consignment or an audit of a grain inspection are payable for each 15 minutes (or part thereof) spent in carrying out the inspection or audit and any associated activities, subject to the minimum fees specified in those entries.

(4) Where a person submits an application for a certificate or a pre-export service or a request to amend a certificate in paper form (and not online), the following additional fee is payable in respect of the application or request—

(a) in the case of a small exporter who, at the date of the application or request, has only been liable during the financial year in which the application or request is made to pay fees of £750 or less in respect of the services described in column 1 of the table, £7.88;

(b) in any other case, £15.76.

(5) In this regulation—

“certificate” means either a phytosanitary certificate for export or a phytosanitary certificate for re-export;

“pre-export service” means any plant health inspection or examination, including by the taking of samples, which is required to be carried out in relation to a plant, plant product or other object which is to be exported to a third country in order to satisfy the phytosanitary requirements of the third country, other than any such inspection or examination required for the issue of a certificate;

“small exporter” means a person who—

- (a) in the financial year in which the application or request is made—
 - (i) is not a taxable person for the purposes of the Value Added Tax Act 1994^(a); or
 - (ii) does not make a taxable supply of plants, plant products, seeds, soil or agricultural machinery for the purposes of the Value Added Tax Act 1994; or
- (b) in the financial year preceding the year in which the application or request is made, exported goods which were accompanied by a certificate the total value of which was less than £5,000.”.

(7) In regulation 6(1), for “inspector” substitute “official plant health officer”.

(8) Omit regulation 7.

(9) In regulation 11—

(a) in paragraph (1)—

- (i) in the words before sub-paragraph (a), for “registered plant trader” substitute “registered professional operator”;
- (ii) in sub-paragraph (b), for “trader’s” substitute “operator’s”;

(b) omit paragraph (2).

(10) After Schedule 4 insert—

“SCHEDULE 4A

Regulation 5A

Fees for export certification services and pre-export services

<i>(1)</i> <i>Service</i>	<i>(2)</i> <i>Fee - Small Exporter (£)</i>	<i>(3)</i> <i>Fee - other Exporter (£)</i>
Inspection of consignment	31.90 for each 15 minutes (or part thereof), subject to a minimum fee of 63.80	63.80 for each 15 minutes (or part thereof), subject to a minimum fee of 127.60
Audit of a grain inspection	13.20 for each 15 minutes (or part thereof), subject to a minimum fee of 26.40	26.40 for each 15 minutes (or part thereof), subject to a minimum fee of 52.80
Laboratory examination (including laboratory testing)	16.78 per sample tested	33.56 per sample tested
Issue of certificate	12.76 per certificate	25.52 per certificate

^(a) 1994 c. 23.

Amendment of a certificate at the request of the exporter	7.88 per certificate	15.76 per certificate”.
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PART 7

Review and revocation

Review

- 39.**—(1) The Secretary of State, in relation to England, must from time to time—
- (a) carry out a review of the regulatory provision contained in these Regulations; and
 - (b) publish a report setting out the conclusions of the review.
- (2) The first report must be published before 14th December 2024.
- (3) Subsequent reports must be published at intervals not exceeding 5 years.
- (4) Section 30(4) of the Small Business, Enterprise and Employment Act 2015^(a) requires that a report published under this regulation must in particular—
- (a) set out the objectives intended to be achieved by the regulatory provision referred to in paragraph (1)(a);
 - (b) assess the extent to which those objectives are achieved;
 - (c) assess whether those objectives remain appropriate; and
 - (d) if those objectives remain appropriate, assess the extent to which they could be achieved in another way which involves less onerous regulatory provision.
- (5) In this regulation, “regulatory provision” has the same meaning as in sections 28 to 32 of the Small Business, Enterprise and Employment Act 2015 (see section 32 of that Act).

Revocation

- 40.** The Official Controls (Animals, Feed and Food) (England) Regulations 2006^(b) are revoked.

3rd December 2019

We approve

3rd December 2019

Gardiner of Kimble
Parliamentary Under Secretary of State
Department for Environment, Food and Rural Affairs

Mike Freer
Colin Clark
Two of the Lords Commissioners of Her Majesty’s Treasury

(a) 2015 c. 26.
(b) S.I. 2006/3472, amended by S.I. 2018/575.

EXPLANATORY NOTE

(This note is not part of these Regulations)

These Regulations replace the Official Controls (Animals, Food and Feed) (England) Regulations 2006 (S.I. 2006/3472) and substantially amend the Trade in Animals and Related Products Regulations 2011 (S.I. 2011/1197) that apply in England only.

These Regulations implement and enforce Regulation (EU) 2017/625 (OJ No. L 95, 7.4.2017, p. 1) 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 (“the EU Regulation”) except as regards certain provisions of that Regulation.

Implementation and enforcement of certain provisions of the EU Regulation relating to feed and food are the subject of the Official Feed and Food Controls (England) Regulations 2009 (S.I. 2009/3255).

Implementation and enforcement of provisions relating to plant health and protective measures against plant pests are the subject of separate Regulations.

Part 2 provides for audits to be undertaken of official controls and other official activities in accordance with the EU Regulation.

Part 3 provides for assistance and co-operation under Title IV of the EU Regulation and recovery of expenses.

Part 4 provides for enforcement and penalties.

Part 5 deals with consequential amendments as a result of the application of the EU Regulation.

Part 6 contains amendments to secondary legislation relating to plant health fees as a result of the application of the EU Regulation and Regulation (EU) 2016/2031 of the European Parliament of the Council on protective measures against pests of plants (OJ No. L 317, 23.11.2016, p.4).

Part 7 inserts a review provision in accordance with the Small Business, Enterprise and Employment Act 2015 (c. 26), and revokes the Official Controls (Animals, Food and Feed) (England) Regulations 2006 (S.I. 2006/3472).

A full impact assessment has not been produced for these Regulations as no, or no significant, impact on the private, voluntary or public sector is foreseen.

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