EXPLANATORY MEMORANDUM TO

THE AFRICAN SWINE FEVER (IMPORT CONTROLS) (AMENDMENT) (ENGLAND) ORDER 2023

2023 No. 1253

1. Introduction

1.1 This explanatory memorandum has been prepared by the Department for Environment, Food and Rural Affairs ("Defra") and is laid before Parliament by Command of His Majesty.

2. Purpose of the instrument

2.1 This instrument provides for Dover Port Health Authority to enforce the African Swine Fever (Import Controls) (England and Scotland) Order 2022 (S.I. 2022/926) ("the ASF Order") under the Trade in Animals and Related Products Regulations 2011 (S.I. 2011/1197) ("TARP Regulations") in relation to pork products entering England through the Channel Tunnel.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Extent and Territorial Application

4.1 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England and Wales.

4.2 The territorial application of this instrument is England only.

5. European Convention on Human Rights

5.1 As the instrument is not subject to parliamentary procedure, no statement is required.

6. Legislative Context

6.1 This instrument amends the African Swine Fever (Import Controls) (England and Scotland) Order 2022 (S.I. 2022/926) ("the ASF Order") to make provision for enforcement of the ASF Order under the Trade in Animals and Related Products Regulations 2011 (S.I. 2011/1197) ("TARP Regulations"). Article 2 inserts a new article 5 into the ASF Order specifying that the district council of Dover as port health authority is responsible for enforcement in relation to porcine products of entry into or exit from the Channel Tunnel. The Order applies in relation to England only.

6.2 The Protocol between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the French Republic Concerning Frontier Controls and Policing, Co-operation in Criminal Justice, Public Safety and Mutual Assistance Relating to the Channel fixed link: Sangatte, 25 November 1991[1] ("Sangatte Protocol") permits sanitary checks to be carried out by the competent authorities of the adjoining State at juxtaposed border control sites in the host State, in conformity with the regulations applicable in the adjoining State.

7. Policy background

What is being done and why?

7.1 This instrument enables Dover Port Health Authority officials to enforce the ASF Order in relation to pork products entering England through the Channel Tunnel.

7.2 It is vitally important for the effectiveness of the ASF Order that the Channel Tunnel entry point has enforcement checks in place.

7.3 The ASF Order is necessary to protect the domestic pig herd from ASF. There has never been an outbreak of ASF in the UK. ASF is a significant animal health risk and is moving across Europe towards the United Kingdom. The Animal and Plant Health Agency has advised that non-commercial imports of pork and pork products are the highest risk route of entry of African Swine Fever into Great Britain. Imports of pork and pork products that meet European Union commercial production standards remain low risk.

Explanations

What did any law do before the changes to be made by this instrument?

7.4 The ASF Order introduced restrictions on imports of certain pork products from EEA States, the Faroe Islands, Greenland and Switzerland by requiring that they are produced to the European Union's commercial standards, with an exemption for products no more than two kilograms in weight for personal consumption or use.

Why is it being changed?

7.5 It is vitally important for the effectiveness of the ASF Order that the Channel Tunnel entry point has enforcement checks in place.

7.6 The ASF Order is necessary to protect the domestic pig herd from ASF. There has never been an outbreak of ASF in the UK. ASF is a significant animal health risk and is moving across Europe towards the United Kingdom. The Animal and Plant Health Agency has advised that non-commercial imports of pork and pork products are the highest risk route of entry of African Swine Fever into Great Britain. Imports of pork and pork products that meet European Union commercial production standards remain low risk.

7.7 Article 2 of the Sangatte Protocol requires the UK Government to designate the authorities responsible for the exercise of frontier controls and to notify the Government of the French Republic of such designations.

What will it now do?

7.8 This instrument fulfils the obligations in Article 2 of the Sangatte protocol by explicitly providing that Dover Port Health Authority is the enforcing authority in respect of the TARP Regulations for the purpose of the ASF Order in relation to pork products entering England through the Channel Tunnel.

7.9 This enables Dover Port Health Authority to enforce the ASF Order in relation to pork products entering England through the Channel Tunnel.

8. European Union Withdrawal and Future Relationship

8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

9. Consolidation

9.1 There are no current plans for consolidation.

10. Consultation outcome

10.1 No formal public consultation has been carried out in relation to this instrument. The Scottish Government and the Welsh Government have been consulted and agree that these measures are necessary to protect animal health in Great Britain.

11. Guidance

11.1 No guidance has been produced to accompany this instrument.

12. Impact

12.1 There is no impact on business, charities or voluntary bodies.

12.2 The impact on the public sector will depend on the resources that Dover Port Health Authority invests in enforcing the ASF Order in relation to pork products entering England through the Channel Tunnel.

13. Regulating small business

13.1 The legislation does not apply to activities that are undertaken by small businesses.

14. Monitoring & review

14.1 The approach to monitoring of this legislation is through the course of normal departmental business.

14.2 The instrument does not include a statutory review clause and, in line with the requirements of the Small Business, Enterprise and Employment Act 2015 the Parliamentary Under Secretary of State (Minister for Rural Affairs and Biosecurity) at the Department for Environment, Food and Rural Affairs, Lord Benyon, has made the following statement:

"In my view the provisions of the African Swine Fever (Import Controls) (Amendment) (England) Order 2023 have no net impact on business".

15. Contact

15.1 Patrick Burke at the Department for Environment, Food and Rural Affairs Telephone: 02080263835 or email: Patrick.Burke@defra.gov.uk can be contacted with any queries regarding the instrument.

15.2 Peter Jinks, Deputy Director for Sanitary and Phytosanitary (SPS) and Imports, at the Department for Environment, Food and Rural Affairs can confirm that this Explanatory Memorandum meets the required standard.

15.3 Lord Benyon at the Department for Environment, Food and Rural Affairs can confirm that this Explanatory Memorandum meets the required standard.