EXPLANATORY MEMORANDUM TO

THE ANIMALS AND ANIMAL PRODUCTS (IMPORT AND EXPORT) (ENGLAND) (AMENDMENT) REGULATIONS 2010

2010 No. 1760

1. This explanatory memorandum has been prepared by Department for Environment, Food and Rural Affairs and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 The Animal and Animal Products (Import and Export) (England) (Amendment) Regulations 2010 amend Schedules 3 and 7 of the Animals and Animal Products (Import and Export) (England) Regulations 2006 (the "principal Regulations") to give effect to EU law concerning intra-EU trade in, and the imports into England from Third countries, of animals and animal products.

2.2 Amendments are also made to regulations 1, 5, 9 and in Schedule 4 in respect of the codification of Council Directive 90/539/EEC by Council Directive 2009/158/EC.

2.3 The amendment Regulations contain proportionate and appropriate ambulatory reference to these technical Schedules so that future amendments to EU legislation already included within these Schedules will be directly enforceable without need to amend the Schedules. Such ambulatory reference is expedient here due to not only the technical nature of the detailed EU trade-related legislation listed in the schedules but also because of the considerable resource implications in making regular amendments to the principal Regulations. The Department needs to ensure that EU law is fully and promptly implemented so as to avoid the risk of importing or exporting animal disease through the animals and animal products. The ambit of the criminal offences contained in principal Regulations is not likely to alter and therefore legal certainty is upheld by the reliance on such ambulatory reference. No new burdens are likely to be introduced on public authorities or public spending by the operation of this ambulatory reference.

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

None

4. Legislative Context

4.1. The principal Regulations are made under section 2(2) of the European Communities Act 1972, and in respect of charges levied by the Secretary of State, under section 56(1) and (2) of the Finance Act 1973. In outline (and this has not changed in the new Regulations), these amendment Regulations implement Directive 90/425/EEC relating to intra-EU trade in live animals and animal products (semen, ova and embryos) and Directive 91/496/EEC relating to imports of live animals from non-EU countries.

4.2. The principal Regulations require that, to be eligible for intra-EU trade, animals and genetic material must meet the provisions of the EU legislation listed in Part I of Schedule 3, and any additional requirements specified in that list. Consignments must also be accompanied to their destination by a valid health certificate, signed by a government-approved veterinarian.

4.3. The principal Regulations require that animals imported from non-EU countries must comply with Council Directive 91/496/EC and the EU legislation set out in Schedule 7. Such animals must enter the EU via an approved Border Inspection Post (BIP) (approved BIPs are listed in Schedule 2), where they are checked to ensure they meet EU requirements. (Animals imported from other Member States may enter England at any port in Great Britain).

4.4 The principal Regulations require that live poultry, day old chicks or hatching eggs can only be exported to another Member State from an establishment that is a member of a monitoring scheme (known as the Poultry Health Scheme). The EU legislation has recently been repealed and replaced, so these Regulations have to be amended accordingly.

4.4. The principal Regulations are generally enforced by local authorities but the Secretary of State reserves the right to enforce them.

5. Territorial Extent and Application

5.1. The Regulations apply in England.

5.2. Similar legislation will be introduced in Scotland, Wales and Northern Ireland.

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

- ***What is being done and why***

7.1 The objective of Directives 90/425/EEC and 91/496/EEC and the related legislation implemented through the principal Regulations is to ensure that animals and animal products imported into the EU including England meet the relevant animal, and where appropriate, public health requirements.

7.2 These amendments to the principal Regulations are to update the Schedules to give effect to EU law concerning the importation into England, of animals and animal products. This is because a number of pieces of EU legislation that apply to imported animals and animal products have been repealed and replaced by new legislation.

- ***Consolidation***

7.3 These Regulations have been amended four times since they first came into force on 29th June 2006. Defra is well advanced with a consolidating draft Statutory Instrument that will consolidate the amendments in the principal Regulations and additionally amalgamate them with two other sets of related trade Regulations. It is intended that such consolidation will be in place by late 2010 or at latest early 2011. In the meantime it is still necessary to make the current changes to the principal Regulations prior to the coming into force of that consolidated Statutory Instrument to give effect to various EU changes that need to be effectively enforced.

8. Consultation outcome

8.1 There has been no consultation as the changes in the import conditions are purely necessitated as a result of the need to implement the EU requirements and keep up to date the legislative base for enforcement purposes.

9. Guidance

9.1 Guidance is available on the Defra website for the rules on importing animals and animal products.

10. Impact

10.1 No impact on business, charities or voluntary bodies.

10.2. No impact on the public sector is foreseen.

10.3 An Impact Assessment has not been prepared for this instrument

11. Regulating small business

11.1. No special measures are foreseen for small businesses.

12. Monitoring & review

12.1 The amendments introduced into the principal Regulations will give powers to the relevant enforcement authorities to apply EU rules to the importation of animals and animal products referred to in Schedules 3 and 7.

12.2 The changes will also allow enforcement of the rules providing for exports to other Members States of live poultry, day old chicks or hatching eggs.

12.3 As these regulations contain ambulatory references the Department will consider each time there is a change to EU instruments whether to publish information concerning the change sand whether any further implementation is required.

12.4 Defra is well advanced with a consolidating draft Statutory Instrument that will consolidate the amendments in the principal Regulations and additionally amalgamate them with two other sets of related trade Regulations. It is intended that such consolidation will be in place by late 2010 or at latest early 2011.

13. Contact

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