EXPLANATORY MEMORANDUM TO

THE EGGS (ENGLAND) REGULATIONS 2021

2021 No. [XXXX]

1. Introduction

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

2. Purpose of the instrument

2.1 This instrument amends Regulation (EC) No 589/2008, laying down marketing standards for eggs, to allow the continuation of the existing enforcement regime for third country imports of Class A eggs.

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 territorial application of this instrument is England.

4.2 The territorial extent of this instrument is England and Wales.

5. European Convention on Human Rights

5.1 The Minister of State for Agriculture, Fisheries and Food, Rt Hon Victoria Prentis MP has made the following statement regarding Human Rights:

"In my view the provisions of the Eggs (England) Regulations 2021 are compatible with the Convention rights."

6. Legislative Context

6.1 This instrument makes amendments to retained direct EU legislation dealing with marketing standards for eggs.

6.2 Regulation (EC) No 589/2008 makes provisions for marketing standards for eggs. It is enforced in England by the Eggs and Chicks (England) Regulations 2009.

6.3 This instrument makes use of the powers contained in Section 37 of the Agriculture Act 2020 for the first time.

7. Policy background

What is being done and why?

7.1 This instrument, which amends retained Regulation (EC) No 589/2008, enables marketing standards checks to continue to be undertaken on imported Class A eggs at the point of destination. Points of destination are locations such as egg packing centres and wholesale premises, where checks are undertaken by egg marketing inspectors prior to release for retail sale or mass catering. This is required because the retained

Regulation requires marketing standards checks to be carried out before customs clearance. As existing practice means inspectors and compliant enforcement procedures already exist at the point of destination – the packing centres and wholesale premises where eggs are checked prior to release for retail sale – it is more efficient and practical to move the checks to these locations.

Explanations

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

7.2 Under Article 24(3) of Regulation (EC) No 589/2008, checks carried out on imported Class A eggs were required to be made at the time of customs clearance and prior to their release for free circulation.

Why is it being changed?

7.3 This amendment enables checks on imported Class A eggs to continue at the point of destination (such as egg packing centres and wholesale premises), where existing resources are already established for carrying out marketing standards checks on Class A eggs. This is necessary because Article 24(3) of Regulation 589/2008 requires marketing standards checks on imported Class A eggs to be undertaken before customs clearance; since the end of the transition period on 31 December 2020, this requirement would apply to eggs from EU Member States as well as any imported from other third countries.

7.4 A grace period for checks on EU imports is currently in place. Great Britain does not currently import Class A eggs from outside the EU. However, if non-EU third countries are assessed as having equivalent standards of egg production to Great Britain, eggs imported from them will be required to undergo marketing standards checks. In the event that the Secretary of State makes the decision to recognise a non-EU third country as producing eggs to an equivalent standard, the requirements of this statutory instrument will also apply.

What will it now do?

7.5 Continuing to undertake egg marketing checks at the point of destination such as egg packing centres and wholesale premises, rather than at points of entry, will allow these checks to use existing and established resources prior to the eggs reaching the market.

7.6 Before eggs are imported into Great Britain from a non-EU third country, the Secretary of State must make a determination of equivalence of egg marketing standards. Until such a determination has been made, eggs may not be imported into GB from non-EU countries.

7.7 Imported packs of eggs that are not produced to equivalent standards must be marked with the country of origin and the farming method as ‘non-UK standard’. There is a transition period of 21 months from the end of the transition period during which either ‘non-UK standard’, or the previously required ‘non-EC standard’, is acceptable.

7.8 However, no eggs currently imported into GB require such a label, since none are imported from countries which do not have equivalent standards.

8. European Union Withdrawal and Future Relationship

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

9. Consolidation

9.1 There are no plans to consolidate these regulations.

10. Consultation outcome

10.1 In accordance with the duty under Article 9 of Regulation (EC) No 178/2002, there has been open and transparent consultation on these proposals.

10.2 A targeted consultation exercise was undertaken on this proposal on amendments to the legislation relating to marketing standards for eggs.

10.3 It was undertaken as a joint consultation with Scottish Government and Welsh Government. Northern Ireland is not involved in these amendments, due to the effects of the Protocol on Ireland/ Northern Ireland.

10.4 The consultation was carried out through the online survey Citizen Space and ran for four weeks from 19 July to 16 August 2021. The consultation targeted stakeholders from the egg sector, with close engagement with egg enforcement bodies. Six responses were received in total.

10.5 One respondent agreed to the proposal. However, the majority of respondents disagreed with it, preferring checks to take place at the border, due to concerns that these measures should mirror the requirements for import of Class A eggs into the EU. To mitigate these concerns, a round table will be scheduled with industry.

10.6 Responses have been shared with the Devolved Administrations to inform their legislative process.

11. Guidance

11.1 Guidance will be provided before this instrument takes effect.

12. Impact

12.1 There will be no impact on business due to the implementation of marketing standards checks, since this will be a continuation of the current regime. There is expected to be no, or no significant, impact on business, charities, or voluntary bodies as a result of this instrument.

12.2 There is expected to be no, or no significant, impact on the public sector as a result of this instrument.

12.3 An Impact Assessment has not been prepared for this instrument because no significant impact on business, charities or voluntary bodies is foreseen, as the amendment retains the current locations for marketing standards checks.

13. Regulating small business

13.1 The legislation has no impact on activities that are undertaken by small businesses.

14. Monitoring & review

14.1 The approach to monitoring of this legislation is through successful implementation and enforcement of the checks.

14.2 This instrument does not include a statutory review clause.

15. Contact

15.1 Becki Irving at the Department for Environment, Food and Rural Affairs Telephone: 07385 414906 or email: Becki.irving@defra.gov.uk can be contacted with any queries regarding the instrument.

15.2 Balwinder Dhoot, Deputy Director for Pigs, Eggs and Poultry at the Department for Environment, Food and Rural Affairs can confirm that this Explanatory Memorandum meets the required standard.

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