# EXPLANATORY MEMORANDUM TO

# THE OFFICIAL CONTROLS (ESTABLISHMENT LISTS) (REVOCATION) REGULATIONS 2024

## 2024 No. 608

## 1. Introduction

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

## 2. Declaration

2.1 Lord Douglas-Miller, Parliamentary Under Secretary of State (Minister for Biosecurity, Animal Health and Welfare) at the Department for Environment, Food & Rural Affairs confirms that this Explanatory Memorandum meets the required standard.

2.2 Jorge Martin-Almagro, Deputy UK Chief Veterinary Officer and Deputy Director (Global Animal Health and UK Office for SPS Trade Assurance) at the Department for Environment, Food & Rural Affair confirms that this Explanatory Memorandum meets the required standard.

## 3. Contact

3.1 Liam Morris at the Department for Environment, Food & Rural Affairs Telephone: 0208 026 2017 or email: ukofficeoutbreaks@defra.gov.uk can be contacted with any queries regarding the instrument.

## Part One: Explanation, and context, of the Instrument

## 4. Overview of the Instrument

***What does the legislation do?***

4.1 This instrument revokes Commission Implementing Regulation (EU) 2018/700 to remove restrictions on the re-approval of 20 Brazilian food establishments that were previously removed from the list of establishments approved to export to the EU (when the United Kingdom was a member) following cases of non-compliance for Salmonella and fraud related to health certification.

4.2 This follows the outcome of an in-country audit conducted by Defra in 2022, which found that Brazil had taken sufficient action to address the shortcomings in its sanitary and phytosanitary (SPS) regulatory system that had triggered the implementation of restrictions in 2018.

***Where does the legislation extend to, and apply?***

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

4.4 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England, Wales and Scotland.

## 5. Policy Context

***What is being done and why?***

5.1 In 2018, the European Commission removed 20 Brazilian food establishments from the list of establishments approved to export to the EU following cases of non-compliance for Salmonella and fraud related to health certification.

5.2 These restrictions were implemented through Commission Implementing Regulation (EU) 2018/700, which was subsequently retained in domestic law when the United Kingdom left the European Union. This meant the establishments were unable to be listed as approved for exporting certain meat and meat products to Great Britain after EU Exit.

5.3 In 2021, Brazil submitted a request to Defra for these restrictions to be reviewed. This was based on Brazil having made significant progress in demonstrating improved food hygiene and having overseen a major restructuring of the Brazilian competent authority responsible for official controls in meat production and export.

5.4 In response, Defra conducted an in-country audit in Brazil in October 2022 to ascertain if appropriate measures had been taken to address the shortcomings within Brazil's SPS regulatory system relating to beef and poultry production that had triggered the implementation of restrictions. The audit report (published on .gov.uk) concluded that appropriate action had been taken to address the identified shortcomings. The audit's findings, combined with the Brazilian competent authority's response to the recommendations presented in the audit report, led the audit team to conclude that the Brazilian competent authority had provided sufficient guarantees that their establishments will comply with requirements equivalent to the UK's SPS requirements.

5.5 The Animal Disease Policy Group – the senior decision-making body for SPS matters, whose representatives include the Chief Veterinary Officers of England, Scotland, Wales and Northern Ireland, along with the Head of Veterinary Services for the Food Standards Agency – subsequently agreed that it was safe to lift the restrictions on public and animal health grounds. This, together with the audit findings, led UK Government and Devolved Ministers to agree to the lifting of restrictions.

5.6 Revoking Commission Implementing Regulation (EU) 2018/700 will permit the previously restricted establishments to be added to the list of establishments approved to export to Great Britain, as published on .gov.uk, upon submission of an updated list of approved establishments by the Brazilian competent authority. Once re-added to these lists, the establishments concerned will be permitted to export certain meat and meat products to Great Britain.

***What was the previous policy, how is this different?***

5.7 Commission Implementing Regulation (EU) 2018/700 restricted the listing of 20 Brazilian food establishments in the list of establishments approved to export to the EU, on public and animal health grounds. This prohibited the establishments concerned from exporting certain meat and meat products to the European Union.

5.8 Commission Implementing Regulation (EU) 2018/700 was retained in domestic law when the United Kingdom left the European Union. As a result, the restrictions on the establishments concerned continued to apply, preventing the restricted establishments from exporting certain meat and meat products to Great Britain.

5.9 An in-country audit conducted by Defra in 2022 found that sufficient action had been taken by Brazil to address the shortcomings within its SPS regulatory system that had triggered the implementation of restrictions. The Animal Disease Policy Group subsequently agreed that it was safe to lift restrictions on public and animal health grounds.

5.10 As the restrictions were implemented in Commission Implementing Regulation (EU) 2018/700, this instrument revokes that Regulation to facilitate re-approval of the establishments concerned.

5.11 Revoking Commission Implementing Regulation (EU) 2018/700 through this instrument will permit the previously restricted Brazilian food establishments to be added to the list of establishments approved to export to Great Britain, upon submission of an updated list of approved establishments by the Brazilian competent authority.

5.12 Once the previously restricted establishments are re-added to the list of approved establishments, the establishments concerned will be permitted to export certain meat and meat products to Great Britain.

## 6. Legislative and Legal Context

***How has the law changed?***

6.1 Commission Implementing Regulation (EU) 2018/700 will be revoked.

***Why was this approach taken to change the law?***

6.2 This is the only possible approach to make the necessary changes.

## 7. Consultation

***Summary of consultation outcome and methodology***

7.1 Article 144(7) of Regulation (EU) 2017/625 of the European Parliament and of the Council sets out a requirement to consult bodies who would be substantially affected by new regulations made under that Regulation. Although no bodies will be substantially affected by this instrument, Defra wrote to the International Meat Trade Association (IMTA) on 4 August 2023 to notify and seek feedback on the intention to revoke Commission Implementing Regulation (EU) 2018/700 through this instrument. IMTA were supportive of the proposed action.

7.2 Defra has engaged with the Scottish Government and Welsh Government on this instrument, and both are in agreement that restrictions on the Brazilian establishments should be lifted. Officials from each have been involved in the preparation and drafting of this instrument.

## 8. Applicable Guidance

8.1 The Brazilian authorities, trade associations and Border Control Posts have all been formally notified of the steps being taken to lift restrictions on the previously delisted establishments.

8.2 The Brazilian authorities have been invited to re-submit an updated list of approved establishments and informed that the UK will, on receipt, update its own list of establishments approved to export to Great Britain, as set out on .gov.uk: https://www.gov.uk/guidance/exporting-to-the-uk-countries-and-establishments-approved-to-export-animals-and-animal-products

## Part Two: Impact and the Better Regulation Framework

### 9. Impact Assessment

9.1 A full Impact Assessment has not been prepared for this instrument because no, or no significant, impact on the private, voluntary or public sectors is foreseen.

***Impact on businesses, charities and voluntary bodies***

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

9.3 The legislation does not impact small or micro businesses.

9.4 There is no, or no significant, impact on the public sector.

### 10. Monitoring and review

***What is the approach to monitoring and reviewing this legislation?***

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

10.2 The instrument does not include a statutory review clause and, in line with the requirements of the Small Business, Enterprise and Employment Act 2015, Lord Douglas-Miller has made the following statement:

"In my view the provisions of The Official Controls (Establishment Lists) (Revocation) Regulations 2024 have no net impact on business".

## Part Three: Statements and Matters of Particular Interest to Parliament

### 11. Matters of special interest to Parliament

11.1 None.

### 12. European Convention on Human Rights

12.1 The Parliamentary Under Secretary of State (Minister for Biosecurity, Animal Health and Welfare) has made the following statement regarding Human Rights:

"In my view the provisions of The Official Controls (Establishment Lists) (Revocation) Regulations 2024 are compatible with the Convention rights."

### 13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts"). It does however relate to the withdrawal of the United Kingdom from the European Union because it removes restrictions on the Brazilian establishments originally imposed when the UK was a member of the European Union that were retained in domestic law when the UK left the EU.