EXPLANATORY MEMORANDUM TO

THE PRODUCTS OF ANIMAL ORIGIN (THIRD COUNTRY IMPORTS) (ENGLAND) (AMENDMENT) REGULATIONS 2010

2010 No. 1758

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

2. Purpose of the instrument

2.1 Products of Animal Origin (Third Country Imports) (England) (Amendment) Regulations 2010 amend Schedule 1 of The Products of Animal Origin (Third Country Imports) (England) Regulations 2006 ("the principal Regulations") to give effect to EU law concerning the importation of products of animal origin from third countries. A number of pieces of legislation have been repealed and replaced by new EU legislation and need to be provided for in National law.

2.2 The amendment Regulations contain proportionate and appropriate ambulatory reference for the technical Schedule 1 so that future amendments to EU legislation already included within this Schedule will be immediately enforceable. Such ambulatory reference is expedient due to not only the technical nature of the detailed trade related EU legislation listed in that Schedule 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 animal disease through products of animal origin. 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 references. No new burdens are likely to be introduced on public authorities or public spending by the operation of this ambulatory reference. Regulation 2(5) of the principal Regulations is accordingly omitted by virtue of regulation 2(a).

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

3.1 None

4. Legislative Context

4.1 The principal Regulations implement Council Directive 97/78/EC (laying down the principles governing the organisation of veterinary checks on products entering the Union from third countries). Earlier Regulations implementing this 1997 Directive were first introduced in 2002 and have been updated regularly since, primarily to ensure effective enforcement of Commission Decisions and EC Regulations amending European Union import requirements (which are listed in the Schedule 1 "Import Conditions").

4.2 The principal Regulations require that products of animal origin to which the Directive applies (listed in Commission Decision 2007/275/EC) for import from third countries, must be presented to an approved Border Inspection Post for veterinary examination to ensure that the product complies with the relevant import requirements. They require importers to comply with the import conditions listed in Schedule 1. Enforcement at Border Inspection Posts is the responsibility of the local authorities or, in the case of a Border Inspection Post that handles only consignments not intended for human consumption, by the Animal Health agency. The UK Border Agency is responsible for anti-smuggling controls on illegal imports from non EU countries at GB points of entry, except in areas designated as Border Inspection Posts.

5. Territorial Extent and Application

5.1 The amendment Regulations apply in England.

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

6. European Convention on Human Rights

6.1 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 Directive 97/78/EC is to ensure that products of animal origin imported into the EU are produced to animal health and hygiene standards at least equivalent to those required for EU production. The changes to Schedule 1 are technical ones, reflecting the constantly changing legislation applicable to imports from third countries including disease situations in third countries.

7.2 The changes to the principal Regulations:

- They replace Schedule 1 of the Products of Animal Origin (Third Country Imports) (England) Regulations 2006 to give effect to EU law concerning the import of products of animal origin from third countries. This is necessitated due to a number of pieces of EU legislation that apply to imported animal products having been repealed and replaced by new EU instruments;

- omit regulation 2(5) of the principal Regulations to enable proportionate and expedient ambulatory references to the technical Schedule 1 that deals with import conditions.

- ***Consolidation***

7.3 These Regulations have been amended several times since they first came into force on 24th November 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 as a result of the need to implement EU requirements and keep up to date the legislative base for enforcement.

9. Guidance

9.1 Guidance for the requirements dealing with importing animal products is available on the Defra website.

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 changes in the principal Regulations will give powers to the relevant enforcement authorities to apply EU rules to the importation of animal products referred to in Schedule 1 of the Regulations.

12.2 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 changes and whether any further implementation is required.

12.3 Animal Health carry out audit checks to identify and rectify any non-compliance issues at animal product BIPs operated by local authorities, in order to ensure full compliance with EU law.

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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