EXPLANATORY MEMORANDUM TO

THE TRADE IN ANIMALS AND RELATED PRODUCTS (AMENDMENT) REGULATIONS 2020

2020 No. 109

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 Her Majesty.

1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

2.1 The Official Controls (Animals, Feed and Food, Plant Health Fees etc.) Regulations 2019 (S.I 2019/1488) ("the 2019 Regulations") amends the Trade in Animals and Related Products Regulations 2011 (S.I. 2011/1197) ("the 2011 TARP Regulations"). Four further amendments are required to implement the new Regulation (EU) 2017/625 on official controls and other official activities to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products ("the EU Regulation"). These will amend provisions that relate to the seizure of non-compliant animals and animal product consignments as well as the remit of Official Fish Inspectors. Following an internal review of provisions relating to payments to importers, we are removing such provisions, which were inserted into the 2011 TARP Regulations by the 2019 Regulations.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 This instrument is being published under the free issue procedure. This is applicable because there are reasonable grounds to apply the procedure rather than revoke and remake the 2019 Regulations.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

3.2 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

4. Extent and Territorial Application

4.1 The territorial extent of this instrument 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 subject to negative resolution procedure and is not subject to parliamentary procedure, no statement is required.

6. Legislative Context

6.1 The 2011 TARP Regulations, make provision in England for trade in live animals and animal products and the import conditions for live animals and animal products from third

countries. These were amended by the 2019 Regulations due to the commencement of the EU Regulation on 14 December 2019.

6.2 This amending instrument is made under section 2(2) of the European Communities Act 1972 and further amends the 2011 TARP Regulations to ensure the domestic legislation is implemented as originally intended.

7. Policy background

What is being done and why?

7.1 Regulation 26 of the 2019 Regulations amend the 2011 TARP Regulations. A clause was added to regulation 20(7) of the 2011 TARP Regulations, which relates to payments to importers for the destruction of consignments of products of animal origin. This mirrors a similar clause in regulation 23(6) for live animals. These provisions could be interpreted as an unintended financial liability for government to compensate importers for non-compliant consignments that are destroyed. This instrument removes wording in regulations 20(7) and 23(6) of the 2011 TARP Regulations, as amended by the 2019 Regulations, so that the legislation provides that the importer is liable for any expenses incurred in dealing with the measures imposed on the importer following the import of a non-compliant consignment.

7.2 Further amendments are made to regulations 12(4) and 20(8) of the 2011 TARP Regulations, as amended by the 2019 Regulations. Regulation 12(4) relates to composite products containing processed fishery products and clarifies that these are in the remit of Official Fish Inspectors. Regulation 20(8) is omitted as the importer (or the importer's representative) is already entitled to be heard regarding a non-compliant consignment by relying directly on Article 66(3) of the EU Regulation.

8. Withdrawal of the United Kingdom from the European Union

8.1 This instrument does not relate to withdrawal from the European Union.

9. Consolidation

9.1 There are plans to remake the Trade in Animals and Related Products Regulations 2011 before the end of 2020 to take account of new trade requirements once the EU Exit Implementation Period expires.

10. Consultation Outcome

10.1 No consultation was undertaken in relation to this instrument.

11. Guidance

11.1 No specific guidance in relation to this instrument will be produced. The instrument will apply to existing legislation for which guidance already exists. Defra will consider whether such guidance needs to be updated in relation to the amendments made.

12. Impact

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

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

12.3 An Impact Assessment has not been prepared for this instrument.

13. Regulating small business

13.1 The legislation applies to activities that are undertaken by small businesses.

13.2 These amendments do not introduce duties or burdens on business, and businesses will not need to change their current practices as a result of the instrument.

14. Monitoring & review

14.1 The 2011 TARP Regulations contain a review clause at Regulation 43. The approach to monitoring of this legislation is that Defra and its agencies will monitor and review the impact of the instrument as part of its standard policy-making procedures, and will ensure that the provisions are adhered to.

15. Contact

15.1 Melanie Southan at the Department for Environment, Food and Rural Affairs Telephone: 020 8225 7641 or email: melanie.southan@defra.gov.uk can be contacted with any queries regarding this instrument.

15.2 Richard Irvine, Deputy Director for Imports, Exports and EU Trade, at the Department for Environment, Food and Rural Affairs can confirm that this Explanatory Memorandum meets the required standard.

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