

Draft Regulations laid before the Scottish Parliament under paragraph 1(6) of schedule 7 of the European Union (Withdrawal) Act 2018

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2020 No.

EXITING THE EUROPEAN UNION
AGRICULTURE
ANIMALS
ANIMAL HEALTH

The Trade in Animals and Related Products (EU Exit) (Scotland) (Amendment) Regulations 2020

Made - - - - 2020
Coming into force in accordance with regulation 1(2)
and (3)

The Scottish Ministers make the following Regulations in exercise of the powers conferred by paragraphs 1(1) and (3) and 11M(1) of schedule 2, paragraph 7 of schedule 4 and paragraph 21 of schedule 7 of the European Union (Withdrawal) Act 2018⁽¹⁾ and of all other powers enabling them to do so.

In accordance with paragraph 4 of schedule 2 of that Act⁽²⁾, to the extent that these Regulations are to come into force before IP completion day, they have consulted with the Secretary of State.

In accordance with paragraph 1(6) of schedule 2 of that Act, a draft of this instrument has been laid before and approved by resolution of the Scottish Parliament.

Citation and commencement

1.—(1) These Regulations may be cited as the Trade in Animals and Related Products (EU Exit) (Scotland) (Amendment) Regulations 2020.

(2) These Regulations, except for regulation 2, come into force immediately before IP completion day.

(3) Regulation 2 comes into force on IP completion day.

(1) 2018 c.16; paragraph 11M of schedule 2 was added by the European Union (Withdrawal Agreement) Act 2020 (c.1) (“the 2020 Act”); paragraph 21 of schedule 7 was amended by the 2020 Act, section 41(4) and schedule 5, paragraph 53.
(2) Paragraph 4 of schedule 2 was amended by the 2020 Act, section 27(7)(a).

Amendment of the Trade in Animals and Related Products (Scotland) Regulations 2012

2.—(1) The Trade in Animals and Related Products (Scotland) Regulations 2012⁽³⁾ are amended as follows.

(2) In regulation 2 (interpretation)—

(a) in paragraph (1)—

(i) in the appropriate places insert—

““border control post” has the meaning given in regulation 9, except where the context otherwise requires;”;

““CHED” has the meaning given in regulation 8;”;

““third country” means any country or territory other than the British Islands.”;

(ii) omit the definition of “Commission Delegated Regulation (EU) 2019/1666”;

(iii) in the definition of “importer” for “United Kingdom” substitute “British Islands”;

(iv) in the definition of “intensified official controls” after “Article 65(4)” insert “of the Official Controls Regulation”;

(v) in the definition of “official controls” for “EU Regulation” substitute “Official Controls Regulation”;

(b) in paragraph (3)—

(i) in sub-paragraph (a) for “EU Regulation”, in both places where it occurs, substitute “Official Controls Regulation”;

(ii) omit sub-paragraphs (b) and (c).

(3) Omit regulation 4 (international agreements).

(4) Omit Part 2 (movement between member States).

(5) In regulation 7 (scope of Part 3)—

(a) in paragraph (a)—

(i) for “country outside the European Union” substitute “third country”;

(ii) omit “and”;

(b) after paragraph (a) insert—

“(aa) applies subject to the derogations and modifications set out in schedule 5; and”.

(6) In regulation 8(4) (Common Health Entry Document) for “EU Regulation” substitute “Official Controls Regulation”.

(7) In regulation 9 (border control posts)—

(a) in paragraphs (1) and (2) for “EU Regulation” substitute “Official Controls Regulation”;

(b) omit paragraph (5).

(8) In regulation 10 (appointment of official veterinarians and official fish inspectors)—

(a) in paragraph (1) for “border inspection posts” substitute “border control posts”;

(b) in paragraph (2) for “border inspection post” substitute “border control post”.

(9) In regulation 11 (place of importation)—

(a) for “border inspection post” substitute “border control post”;

(3) S.S.I. 2012/177, amended by S.S.I. 2012/198, S.I. 2014/3158, S.S.I. 2015/100, S.S.I. 2015/401, S.S.I. 2018/391, S.S.I. 2019/5, S.S.I. 2019/71 and S.S.I. 2019/412.

- (b) omit paragraph (2).
- (10) In regulation 12(3) (notification of importation) for “CVED” substitute “CHED”.
- (11) In regulation 13 (procedure on importation)—
 - (a) in paragraph (1)—
 - (i) for “documentation specified for that consignment in the relevant legislation listed in schedule 1” substitute “relevant export health certificate, as published by the Scottish Ministers or the Secretary of State from time to time, and other documentation specified for that consignment in retained direct EU legislation relating to importation”;
 - (ii) in sub-paragraph (a) for “EU Regulation” substitute “Official Controls Regulation”;
 - (b) in paragraph (4)—
 - (i) in sub-paragraph (a) for “the lists” to the end substitute “a list of approved third countries, or if imports from that country are otherwise prohibited”;
 - (ii) in sub-paragraph (c) for “legislation of the European Union” substitute “retained direct EU legislation relating to importation”;
 - (iii) in sub-paragraph (e) for “legislation of the European Union” substitute “retained direct EU legislation”;
 - (c) in paragraph (5) omit “of the European Union”.
- (12) In regulation 15 (supervision and monitoring consignments)—
 - (a) after “border control post” insert “(within the meaning of Article 3(38) of the Official Controls Regulation(4))”;
 - (b) for “the United Kingdom or a member State” substitute “Great Britain”.
- (13) In regulation 16 (destination outside the United Kingdom)—
 - (a) for “the United Kingdom” in each place where it occurs, including the heading, substitute “Great Britain”;
 - (b) in paragraph (1) for “border inspection post” substitute “border control post”;
 - (c) in paragraph (2)—
 - (i) for “animal consigned to a destination outside the European Union” substitute “imported animal”;
 - (ii) after “country” insert “or territory”;
 - (d) in paragraph (4)—
 - (i) for “European Union” in the first place where it occurs substitute “British Islands”;
 - (ii) for “the European Union” in the second place where it occurs substitute “any of the territories of the British Islands”.
- (14) In regulation 17(a) (unchecked consignments) for “border inspection post” substitute “border control post”.
- (15) In regulation 18 (action following non-compliance: products)—
 - (a) for “EU Regulation” in each place where it occurs substitute “Official Controls Regulation”;
 - (b) in paragraph (3) for “the European Union” substitute “Great Britain”.
- (16) In regulation 19 (consignments of products likely to constitute a risk to health) for “EU Regulation” substitute “Official Controls Regulation”.

(4) Article 3(38) was amended by S.I. 2020/xx.

(17) In regulation 20(4) (serious contraventions etc.) at the end insert “of the Official Controls Regulation”.

(18) In regulation 21 (action following non-compliance: animals) for “EU Regulation” in each place where it occurs substitute “Official Controls Regulation”.

(19) In regulation 23 (re-importation of animals and products)—

(a) in paragraph (1)—

(i) after “Article 47(1)” insert “of the Official Controls Regulation”;

(ii) for “the European Union” substitute “Great Britain”;

(iii) for “the Union” substitute “Great Britain”;

(b) in paragraph (3)(a)—

(i) omit “in the member State where the certificate was issued”;

(ii) for “border inspection post” substitute “border control post”.

(c) after paragraph (3) insert—

“(4) During the transitional staging period, animals and products that originate from Scotland and which have been rejected from entering the European Union at a member State border control post are not required to re-enter Scotland through a border control post if—

(a) the re-entry has been pre-notified through the appropriate computerised information management system to the Scottish Ministers or Food Standards Scotland; and

(b) Scottish Ministers or Foods Standards Scotland have not notified the importer that the product is high risk or, in the case of animals and products that are high risk, have authorised re-entry other than through a border control post before re-entry is to take place.

(5) In paragraph (4)—

(a) “the transitional staging period” has the same meaning as in paragraph 2 of Annex 6 to the Official Controls Regulation⁽⁵⁾;

(b) “pre-notified” means notification that has been given at least one working day before the expected time of arrival at a point of entry into Scotland or, where the importer can provide evidence of a logistical constraint preventing such notification, by notification at least 4 hours in advance of the expected time of arrival;

(c) “high risk” means the animals or products are suspected of constituting a serious risk to human or animal health or animal welfare.”.

(20) In regulation 24 (admission of products into warehouses)—

(a) the existing words become paragraph (1);

(b) from “a warehouse” to the end substitute “a free zone or premises approved by HMRC.”;

(c) after paragraph (1) insert—

“(2) In this regulation “free zone” and “premises approved by HMRC” have the same meaning as in Part 2 of schedule 2 of the Taxation (Cross-border Trade) Act 2018⁽⁶⁾.”.

(21) In regulation 25 (special measures)—

⁽⁵⁾ Annex 6 was inserted by S.I. 2020/xx.

⁽⁶⁾ 2018 c.22.

- (a) in paragraph (1)(a)—
 - (i) for “the United Kingdom” substitute “Great Britain”;
 - (ii) after “country” in each place where it occurs insert “or territory”;
- (b) in paragraph (1)(b) for “EU Regulation” to “a member State” substitute “Official Controls Regulation in relation to imports”;
- (c) in paragraph (2)(a) after “country” insert “or territory”;
- (d) in paragraph (2)(b)(ii)—
 - (i) omit “from the European Union”;
 - (ii) for “EU Regulation” substitute “Official Controls Regulation”;
 - (iii) for “other countries” substitute “third countries”.
- (22) In regulation 27(3) (enforcement) for “Articles 134” to the end substitute “the Taxation (Cross-border Trade) Act 2018.”.
- (23) In regulation 29(h) (powers of authorised officers) for “EU Regulation” substitute “Official Controls Regulation”.
- (24) In regulation 30(3) (importation of products constituting a risk to animal or public health) for “EU Regulation” substitute “Official Controls Regulation”.
- (25) In regulation 31(1) (exchange of information) for “the enforcement authorities in Wales, England and Northern Ireland” substitute “an enforcement authority in any of the territories of the British Islands”.
- (26) In regulation 32 (fees and expenses) omit paragraph (1).
- (27) In regulation 33 (offences)—
 - (a) in paragraphs (a), (b), and (c) for “EU Regulation” in each place where it occurs substitute “Official Controls Regulation”;
 - (b) omit paragraph (d),
 - (c) in paragraph (e) in the table—
 - (i) omit the rows for “regulation 5(1)(a) and (3)” to “regulation 6(5)”;
 - (ii) for “border inspection post” substitute “border control post” in both places where it occurs;
 - (iii) for “CVED” substitute “CHED” in each place where it occurs;
 - (iv) in the rows for schedule 2 omit the rows for “paragraph 2(2)” to “paragraph 6”.
- (28) In schedule 2 (additional requirements in specific cases)—
 - (a) omit Part 1 (trade with member States);
 - (b) in Part 2 (imports from third countries) in paragraph 7(3) for “border inspection post” substitute “border control post” in both places where it occurs.
- (29) In schedule 3 (cases to which Part 3 does not apply)—
 - (a) in paragraph 1 for “Commission Delegated Regulation” to the end substitute “Commission Delegated Regulation (EU) 2019/2122.”;
 - (b) in paragraph 3—
 - (i) in sub-paragraph (1)—
 - (aa) omit “Subject to sub-paragraph (2),”;
 - (bb) for “Regulation (EU) No 142/2011” substitute “[Commission Regulation \(EU\) No 142/2011](#)”;