Commission Regulation (EU) 2020/797 of 17 June 2020 amending Regulation (EU) No 142/2011 as regards requirements for animal by-products and derived products originating from, and returning to, the Union following refusal of entry by a third country (Text with EEA relevance)

COMMISSION REGULATION (EU) 2020/797

of 17 June 2020

amending Regulation (EU) No 142/2011 as regards requirements for animal by-products and derived products originating from, and returning to, the Union following refusal of entry by a third country

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EC) No 1069/2009 of the European Parliament and of the Council of 21 October 2009 laying down health rules as regards animal by-products and derived products not intended for human consumption and repealing Regulation (EC) No 1774/2002[(1)], and in particular the first subparagraph of Article 41(3) and Article 42(2)(a) thereof,

Whereas:

(1) Commission Regulation (EU) No 142/2011[(2)] lays down measures to implement the rules laid down in Regulation (EC) No 1069/2009, including public and animal health rules for import or transit of animal by-products and derived products into, or sent in transit through the Union, in order to prevent and minimise risks to public and animal health arising from those products.

(2) Article 15 of Council Directive 97/78/EC[(3)] lays down rules concerning the veterinary checks to be conducted for the purposes of authorising the re-importation of consignments of products of Union origin returning to the Union following a refusal of entry by a third country. Regulation (EU) 2017/625 of the European Parliament and of the Council[(4)] repeals and replaces Directive 97/78/EC with effect from 14 December 2019.

(3) Commission Delegated Regulation (EU) 2019/2074[(5)] establishes rules for the performance of specific official controls of consignments of animals and goods referred to in Article 47(1)(a), (b) and (c) of Regulation (EU) 2017/625 originating from, and returning to, the Union following a refusal of entry by a third country, among them animal by-products and derived products.

(4) The animal and public health requirements for the entry into the Union of animal by-products and derived products originating from, and returning to, the Union following a refusal of entry by a third country should be established in accordance with Articles 41 and 42 of Regulation (EC) No 1069/2009.

(5) In the absence of animal and public health requirements relevant for the return of refused consignments of animal by-products and derived products, those consignments are subject to the general import rules set out in Regulation (EC) No 1069/2009 and product-specific requirements for importation set out in Annex XIV to Regulation (EU) No 142/2011, which could prevent the return to the Union of certain consignments of EU origin following refusal by a third country, for example because of the absence of the product-specific commercial document or health certificate required for entry.

(6) However, animal and public health risk posed by animal by-products and derived products originating from the Union is different to risks posed by those commodities originating in third countries. A consignment of animal by-products and derived products originating from, and returning to, the Union following a refusal of entry by third countries therefore does not need to be accompanied by a commercial document, health certificate or where appropriate declaration which corresponds to a model currently laid down pursuant to point (d) of the first subparagraph of Article 42(2) of Regulation (EC) No 1069/2009 as required for consignments originating from third countries.

(7) The aforementioned consignment should be allowed to enter the Union and to be sent to any establishment or plant approved in accordance with Article 24 of Regulation (EC) No 1069/2009 for the Category and type of animal by-products and derived products, provided that the competent authority of the place of destination in the Union has agreed to accept that consignment.

(8) Certain consignments of animal by-products or derived products intended for export to third countries may be subject to checks by a competent authority in the Union other than those responsible for animal by-products or derived products. If the original seal has been replaced during those checks, the number of the new seal should be indicated in the accompanying documentation.

(9) Therefore, to ensure appropriate animal and public health risk management and legal certainty, it is necessary to provide for conditions for the return to the Union of animal by-products and derived products of Union origin following a refusal of entry by a third country.

(10) To ensure traceability of the returning consignments of animal by-product and derived products, their transport from the border control post of arrival in the Union to the establishment of destination should be monitored in accordance with the procedure provided for in Commission Delegated Regulation (EU) 2019/1666[(6)].

(11) Annex XIV to Regulation (EU) No 142/2011 should be amended accordingly.

(12) As Delegated Regulation (EU) 2019/2074 applies from 14 December 2019, the rules laid down in this Regulation should also apply from that date.

(13) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on Plants, Animals, Food and Feed,

HAS ADOPTED THIS REGULATION:

***Changes to legislation:** There are currently no known outstanding effects for the Commission Regulation (EU) 2020/797. (See end of Document for details)*

Article 1

Regulation (EU) No 142/2011 is amended as follows:

(1) in Article 25(3), the following point is added:

(c) the specific requirements for animal by-products and derived products originating from, and returning to, the Union following a refusal of entry by a third country, set out in Chapter VI of that Annex.;

(2) in Article 26, the following point is added:

(e) the materials originating from a Member State and returning to that Member State following a refusal of entry by a third country, must comply with the specific requirements set out in Chapter VI of Annex XIV.;

(3) in Article 31, the following paragraph is added:

By way of derogation from the first paragraph, animal by-products and derived products originating from, and returning to, the Union following a refusal of entry by a third country, must comply with the specific requirements set out in Chapter VI of Annex XIV.;

(4) Annex XIV is amended in accordance with the text in the Annex to this Regulation.

Article 2

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

It shall apply from 14 December 2019.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 17 June 2020.

For the Commission

The President

Ursula VON DER LEYEN

Changes to legislation: *There are currently no known outstanding effects for the Commission Regulation (EU) 2020/797. (See end of Document for details)*

ANNEX

In Annex XIV to Regulation (EU) No 142/2011, the following Chapter VI is added:

CHAPTER VI

REQUIREMENTS FOR THE ENTRY OF CONSIGNMENTS OF ANIMAL BY-PRODUCTS AND DERIVED PRODUCTS ORIGINATING FROM, AND RETURNING TO, THE UNION FOLLOWING REFUSAL OF ENTRY BY A THIRD COUNTRY

Section 1

Unpackaged or in bulk animal by-products and derived products, originating from, and returning to, the Union following refusal of entry by a third country not listed as a whole or part of its territory in Annex XIV

1. The competent authority at the border control post shall only authorise the entry into the Union of consignments of unpackaged or in bulk animal by-products or derived products originating from, and returning to, the Union following a refusal of entry by a third country not listed as a whole or part of its territory in Annex XIV for the entry into the Union of the type of product, where the following conditions are met:

(a) the consignment is accompanied by the official certificate or document, either in its original or as authenticated copy, or by the electronic equivalent of such certificate or document generated by use of IMSOC[7], issued by the competent authority of the Member State of export;

(b) the consignment is accompanied by a declaration from the competent authority in the Member State of destination in which that authority agrees to receive the consignment and indicates the place of destination;

(c) the consignment complies with both of the following conditions:

  (i) it has remained sealed with an intact original seal, if the application of a seal prior to leaving the Union was mentioned in the original certificate referred to in point 1(a) or another official document issued by an authority in the Union;

  (ii) it is accompanied by an official declaration of the competent authority or other public authority of the third country which refused the entry of the consignment indicating the reason for the refusal.

2. By way of derogation from point 1(a), in the case where the consignment was exported without accompanying official certificate or document, the origin of the consignment shall be authenticated in another way based on documented evidence presented by the operator responsible for the consignment.

3. The transport of consignments of products referred to in point 1 from the border control post to the place of destination shall be monitored in accordance with Article 2 of Commission Delegated Regulation (EU) 2019/1666.