Commission Delegated Regulation (EU) 2019/2035 of 28 June 2019 supplementing Regulation (EU) 2016/429 of the European Parliament and of the Council as regards rules for establishments keeping terrestrial animals and hatcheries, and the traceability of certain kept terrestrial animals and hatching eggs (Text with EEA relevance)

COMMISSION DELEGATED REGULATION (EU) 2019/2035

of 28 June 2019

supplementing Regulation (EU) 2016/429 of the European Parliament and of the Council as regards rules for establishments keeping terrestrial animals and hatcheries, and the traceability of certain kept terrestrial animals and hatching eggs

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2016/429 of the European Parliament and of the Council of 9 March 2016 on transmissible animal diseases and amending and repealing certain acts in the area of animal health ('Animal Health Law')[(1)], and in particular Articles 3(5), 87(3), 94(3), 97(2), 101(3), 106(1), 118(1) and (2), 119(1) and 122(2), Articles 271(2) and 279(2) thereof,

Whereas:

(1) Regulation (EU) 2016/429 lays down rules for the prevention and control of diseases which are transmissible to animals or humans, including, inter alia, rules for establishments keeping terrestrial animals and hatcheries, and for the traceability of certain kept terrestrial animals and hatching eggs within the Union. Regulation (EU) 2016/429 also empowers the Commission to adopt rules to supplement certain non-essential elements of that Regulation by means of delegated acts. It is therefore appropriate to adopt such supplementing rules in order to ensure the smooth functioning of the system in the new legal framework established by Regulation (EU) 2016/429.

(2) More particularly, this Regulation should lay down rules supplementing those laid down in Chapter 1 and 2 of Title I of Part IV of Regulation (EU) 2016/429 as regards the registration obligation of transporters engaged in the transport of certain kept terrestrial animals other than ungulates, the approval of establishments keeping terrestrial animals posing a significant animal health risk and hatcheries, the registers of transporters and establishments of kept terrestrial animals and hatching eggs to be kept by competent authorities, the record keeping obligations of operators, and the traceability requirements for kept terrestrial animals and hatching eggs. In addition, Regulation (EU) 2016/429 empowers the Commission to lay down rules to ensure that Part IV thereof, is correctly applied to movements of pet animals, other than non-commercial movements. Therefore, this Regulation should also lay down rules regarding such movements.

(3) 'Hatching eggs' fall within the definition of 'germinal products' set out in point 28 of Article 4 of Regulation (EU) 2016/429, and accordingly are subject to the rules laid down in that Regulation for germinal products. At the same time, the animal health requirements laid down in this Regulation for poultry and captive birds should also apply to hatching eggs of those birds and therefore hatching eggs and the establishments supplying them should be included in the scope of this Regulation.

(4) While the supplementing rules laid down in this Regulation should be applied to all kept terrestrial animals, there are certain horse populations kept under wild or semi-wild conditions in defined areas in the Union that do not entirely depend on human control for their survival and reproduction, and therefore the traceability requirements laid down in this Regulation cannot be fully applied to those animals. This Regulation should therefore clarify that while the animal health rules laid down in the framework of Regulation (EU) 2016/429 generally apply to these animals of domestic equine species, certain specific derogations are required as it is not possible for the identification requirements of kept terrestrial animals to be applied to horses that are living outside of human control.

(5) In addition, the rules laid down in this Regulation should supplement the rules laid down in Part IX of Regulation (EU) 2016/429, as regards the transitional measures to protect the acquired rights and legitimate expectations of stakeholders resulting from pre-existing Union acts.

(6) The rules laid down in this Regulation are substantively linked and apply to operators transporting or keeping terrestrial animals or hatching eggs. Therefore, in the interest of coherency, simplicity and for their effective application, and to avoid a duplication of rules, they should be laid down in a single act rather than dispersed in a number of separate acts containing many cross-references. This approach is also consistent with the one of principle objectives of Regulation (EU) 2016/429, which was to streamline Union animal health rules and thus make them more transparent and easier to apply.

(7) Article 87(3) of Regulation (EU) 2016/429 empowers the Commission to specify the types of transporters other than those engaged in the transportation of kept ungulates between Member States or between a Member State and a third country, whose transport activity poses specific and significant risks for certain species of animals, and to lay down the information requirements that those transporters must comply with in order to be registered in accordance with Article 93 of Regulation (EU) 2016/429. Therefore, in order to allow the competent authority to efficiently carry out surveillance and prevent, control and eradicate transmissible animal diseases, it is appropriate to establish in this Regulation a list of the other types of transporters and to lay down rules for the information to be provided by them for registration purposes with the competent authority.

(8) Article 94(1)(a) of Regulation (EU) 2016/429 provides that kept ungulates may only be moved to another Member State if those animals were assembled on establishments approved by the competent authority in accordance with that Regulation. Article 94(3)(a) of Regulation (EU) 2016/429 empowers the Commission to adopt delegated acts providing for derogations from the requirement to apply to the competent authority

for approval for certain types of establishments, where those establishments pose an insignificant risk.

(9) Given the specific situation of equine animals which are not always primarily kept for food producing purposes, but often for recreational and sporting purposes, and in most cases those animals are simply gathered on an establishment, in order to be moved to another Member State, for purposes such as participation in exhibitions, sporting, cultural or similar events, it is appropriate to provide for a derogation in this Regulation from the requirements for operators of those establishments to apply to the competent authority for approval as those establishments pose an insignificant animal health risk and no residency period is applicable in case of the listed diseases for equine animals.

(10) Article 94(1)(c) of Regulation (EU) 2016/429 provides that hatching eggs may only be moved to another Member State if those eggs come from an establishment approved by the competent authority in accordance with that Regulation. Hatching eggs of poultry or other captive birds fall within the definition of hatching eggs laid down in Article 4 of Regulation (EU) 2016/429, and accordingly operators of establishments producing those eggs which are to be moved to another Member State are required to apply to the competent authority for approval of their establishment.

(11) However, hatcheries of captive birds do not pose the same health risk for the spread of listed diseases as hatcheries of poultry. The importance and volume of production of hatchlings and hatching eggs of captive birds is much smaller than that of poultry for agricultural production. In addition, the commercial trade circuits of poultry production and captive birds, and in particular those of hatching eggs, are distinct from one another and have limited contact. Therefore, the risk for the spread of listed diseases to poultry via the movements of hatchlings and hatching eggs of captive birds is limited. Accordingly, this Regulation should provide for a derogation from the requirements to apply to the competent authority for approval for operators of hatcheries of captive birds.

(12) Article 94(1) of Regulation (EU) 2016/429 provides that kept ungulates, poultry and hatching eggs may only be moved to another Member State if those animals or hatching eggs were assembled on or originating from establishments approved by the competent authority in accordance with that Regulation. In addition, Article 95 of Regulation (EU) 2016/429 provides that terrestrial animals kept on an establishment with a confined status may only be moved to or from their establishment if it has obtained an approval of that status from the competent authority in accordance with that Regulation. The competent authority may only approve those establishments if they comply with certain requirements, in relation to quarantine, isolation and other biosecurity measures, surveillance, facilities and equipment, personnel and veterinarians, as well as supervision by the competent authority. Article 97(2) of that Regulation provides for the Commission to adopt delegated acts laying down supplementing rules for the approval of establishments taking into account those requirements.

(13) The requirements laid down in this Regulation for the approval of those establishments should take into account the experience gained in the application of the rules laid

down in Council Directives 64/432/EEC[(2)], 92/65/EEC[(3)] and 2009/158/EC[(4)]. Those Directives are repealed by Regulation (EU) 2016/429 as from 21 April 2021.

(14) Article 94(3)(b) of Regulation (EU) 2016/429 provides for the Commission to adopt delegated acts establishing which other types of establishments for kept terrestrial animals are also required to be approved by the competent authority in accordance with Article 94(1) of that Regulation. An increasing number of dogs, cats and ferrets originating from different establishments or former stray, feral, lost, abandoned or confiscated dogs, cats and ferrets are assembled on establishments for the purpose of grouping them into a consignment before they are moved to another Member State. Directive 92/65/EEC already lays down animal health requirements applicable to the movement of those animals to another Member State. However, in order to carry out adequate surveillance and to apply preventive health measures based on compliance with certain requirements with respect to the animal health status of the Member State, this Regulation should provide for those establishments to apply to the competent authority for approval and also lay down requirements for granting such approval.

(15) Council Regulation (EC) No 1255/97[(5)] lays down animal health requirements to be complied with by operators of control posts applying to the competent authority for approval. Those requirements should be maintained, but updated in this Regulation as they have proven to be effective in preventing the spread of animal diseases within the Union.

(16) In most cases, bumble bees are bred in environmentally isolated establishments subject to high-level biosecurity measures and subject to regular controls by the competent authority and checked for the presence of diseases. When those establishments are recognised by and supervised by the competent authority, they are unlikely to be affected by the presence of small hive beetle, in contrast with open air colonies. This Regulation should therefore provide for such establishments to be approved and supervised by the competent authority and lay down requirements for granting such approval.

(17) Commission Implementing Regulation (EU) No 139/2013[(6)] lays down the animal health conditions for imports of certain birds into the Union and the quarantine conditions for such imports. In particular it lays down conditions for the approval by the competent authority of the quarantine facilities and centres for such birds. In order to avoid a multiplication of rules for quarantine establishments for different species of terrestrial animals, this Regulation should maintain the main substance of those requirements, but adapt them so that they can be applied to multiple species of terrestrial animals.

(18) Regulation (EC) No 1069/2009 of the European Parliament and of the Council[(7)] lays down public health and animal health rules for animal by-products and derived products, in order to prevent and minimise risks to public and animal health arising from those products, and in particular to protect the safety of the food and feed chain. In particular, it lays down the rules on the collection, transport, storage, handling, processing and use or disposal of animal by-products, including animals killed to eradicate epizootic diseases, to prevent them from presenting a risk to animal and

public health. Regulation (EC) No 1069/2009 together with a number of implementing measures adopted pursuant to that Regulation, provide a general framework for the disposal of dead animals. When approving establishments in accordance with Articles 97 and 99 of Regulation (EU) 2016/429, the competent authority should ensure that applicants comply with rules laid down within the framework of Regulation (EC) No 1069/2009.

(19) Article 101(1) of Regulation (EU) 2016/429 provides that the competent authorities are to establish and keep up-to-date registers of establishments and operators registered and approved by them, and that those registers are to be made available to the Commission and to the competent authorities of other Member States. In the interests of transparency, those registers should also be made publically available.

(20) In addition, Article 101(3) of Regulation (EU) 2016/429 provides for the Commission to adopt delegated acts laying down the detailed information to be included in the registers kept by the competent authority and the public availability of the registers of the approved establishments. Therefore, this Regulation should set out the information obligations of the competent authority as regards those registers.

(21) Articles 102 to 105 of Regulation (EU) 2016/429 lay down requirements concerning the minimum information to be recorded by operators of establishments and transporters registered or approved by the competent authority, and Article 106 thereof provides for the Commission to lay down rules supplementing those record-keeping obligations. Operators of establishments and transporters have first-hand knowledge of kept terrestrial animals under their care, and when animals are to be moved, they are obliged to provide certain information to the competent authority for the purposes of animal health certification or of their traceability, and consequently that information is easily accessible to the competent authority. Therefore, this Regulation should lay down rules on the information to be recorded by certain operators of establishments and transporters in addition to that already required under Regulation (EU) 2016/429.

(22) Articles 112 to 115 of Regulation (EU) 2016/429 require operators keeping bovine, ovine, caprine, porcine and equine animals to identify each animal by a physical means of identification, and to ensure that those animals are accompanied by an identification or movement document when they are moved and to transmit information, as required into a computer database kept by the competent authority. In addition, Article 117 of Regulation (EU) 2016/429 requires operators keeping terrestrial animals other than bovine, ovine, caprine, porcine and equine animals to identify each animal by a physical means of identification and to ensure that those animals are accompanied by an identification or movement document when such rules have been adopted by the Commission pursuant to Article 118 thereof.

(23) Article 118(1) of Regulation (EU) 2016/429 empowers the Commission to lay down detailed requirements for the means of identification of kept terrestrial animals and the rules for the identification and movement documents for those animals, as well as detailed rules for the computer databases provided for in that Regulation for kept bovine, ovine, caprine, porcine and equine animals, and rules on exchange of electronic data between computer databases of Member States for kept bovine animals. In