Commission Implementing Regulation (EU) No 139/2013 of 7 January 2013 laying down animal health conditions for imports of certain birds into the Union and the quarantine conditions thereof (codification) (Text with EEA relevance)

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(codification)

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Council Directive 91/496/EEC of 15 July 1991 laying down the principles governing the organisation of veterinary checks on animals entering the Community from third countries and amending Directives 89/662/EEC, 90/425/EEC and 90/675/EEC[(1)], and in particular the second subparagraph of Article 10(3) and point (b) of second subparagraph of Article 10(4) thereof,

Having regard to Council Directive 92/65/EEC of 13 July 1992 laying down animal health requirements governing trade in and imports into the Community of animals, semen, ova and embryos not subject to animal health requirements laid down in specific Community rules referred to in Annex A(I) to Directive 90/425/EEC[(2)], and in particular Article 17(2)(b) and Article 17(3) and the first and fourth indents of Article 18(1) thereof,

Whereas:

(1) Commission Regulation (EC) No 318/2007 of 23 March 2007 laying down animal health conditions for imports of certain birds into the Community and the quarantine conditions thereof[(3)] has been substantially amended several times[(4)]. In the interests of clarity and rationality the said Regulation should be codified.

(2) Following the outbreaks of highly pathogenic avian influenza of the Asian lineage in South-East Asia in 2004, the Commission adopted several Decisions banning amongst other commodities the import of birds, other than poultry, from affected third countries.

(3) In order to draw up an inventory of the risks posed by the import of captive birds, the Commission on 13 April 2005 requested the European Food Safety Authority (EFSA) to provide a scientific opinion on the risks posed by imports of birds caught in the wild and captive bred birds from third countries.

(4) Following that request, the EFSA Panel on animal health and welfare adopted, during their meeting of 26 and 27 October 2006, a Scientific Opinion on the Animal Health and Welfare risks associated with the import of wild birds, other than poultry, into the

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Union. That Scientific Opinion identifies possible tools and options which can reduce any identified animal health risk related to imports of birds other than poultry.

(5) One of the recommendations of the EFSA Scientific Opinion relates to controls carried out in the third countries exporting birds, other than poultry, to the Union. Improvements at the point of export should have most impact in reducing the probability that infected birds are presented for entry into the Union. For that reason, import conditions should be laid down in this Regulation in such a way that only imports from third countries authorised for imports into the Union of such birds are allowed.

(6) Another EFSA recommendation relates to imports of birds caught in the wild. The Scientific Opinion identifies the risk caused by those birds that may be infected due to lateral spread from other infected wild birds and from the contaminated environment, as well as overspill from infected poultry. Taking into account the role played by wild migratory birds in the spread of avian influenza from Asia to Europe in 2005 and 2006, it is appropriate to limit imports of birds, other than poultry, only to birds bred in captivity.

(7) It is seldom possible to distinguish with certainty between birds that have been caught in the wild and captive bred birds. Methods of marking can be applied to both types of birds without it being possible to distinguish between them. It is therefore appropriate to limit imports of birds, other than poultry, to breeding establishments that are approved by the competent authority of the third country of export, and to lay down certain minimum conditions for such approval.

(8) The imported birds should be transported directly to an approved quarantine facility or centre in a Member State, where they should remain until infection with avian influenza or Newcastle disease virus is ruled out.

(9) In case avian influenza or Newcastle disease is suspected in an approved quarantine facility or in a unit of an approved quarantine centre, it is appropriate to wait until the suspicion is confirmed to rule out any other cause of disease symptoms before commencing to kill and destroy the birds in the affected premises.

(10) Council Directive 2005/94/EC of 20 December 2005 on Community measures for the control of avian influenza and repealing Directive 92/40/EEC[(5)] was adopted to take account of the experience gained in the control of avian influenza. Based on that Directive, Commission Decision 2006/437/EC of 4 August 2006 approving a Diagnostic Manual for avian influenza as provided for in Council Directive 2005/94/EC[(6)] (the diagnostic manual) was adopted laying down at Union level diagnostic procedures, sampling methods and criteria for the evaluation of the results of laboratory tests for the confirmation of an outbreak of avian influenza. Account should be taken of that Decision as regards the testing regimes for avian influenza in approved quarantine facilities and centres.

(11) It is appropriate to lay down further import procedures relating to the transfer from the border inspection post to the approved quarantine facilities or centres upon entry into the Union in order to ensure that imported birds arrive at the designated approved quarantine facility or centre within a reasonable time period.

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(12) Approved quarantine facilities and centres, the list of which is to be published by Member States, should comply with certain minimum conditions.

(13) Certain imports of birds are covered by other Union legislation. Therefore, they should be excluded from the scope of this Regulation.

(14) The animal health risk posed by racing pigeons that are brought into the Union to be released again so that they may fly back to their origin is such that they should be excluded from the scope of this Regulation.

(15) In addition, certain third countries have animal health conditions that are equivalent to those provided for in Union legislation. Therefore, imports of birds from those countries should be excluded from the scope of this Regulation.

(16) Certain derogations should also be considered for those birds found to be infected with low pathogenic avian influenza and Newcastle disease in an approved quarantine facility or centre, in those cases where the occurrence of disease does not pose a risk to the animal health status of the Union.

(17) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS REGULATION:

Article 1

Subject matter

This Regulation lays down the animal health conditions for imports of certain birds into the Union, from the third countries and parts thereof referred to in Annex I, and the quarantine conditions for such imports.

Article 2

Scope

This Regulation shall apply to animals of the avian species.

However, it shall not apply to:

(a) poultry;

(b) birds imported for conservation programmes approved by the competent authority in the Member State of destination;

(c) pet animals referred to in the third paragraph of Article 1 of Directive 92/65/EEC, accompanying their owner;

(d) birds intended for zoos, circuses, amusement parks or experiments;

(e) birds destined for bodies, institutes or centres approved according to Article 13 of Directive 92/65/EEC;

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(f) racing pigeons which are introduced to the territory of the Union from a neighbouring third country where they are normally resident and then immediately released with the expectation that they will fly back to that third country;

(g) birds imported from Andorra, Liechtenstein, Monaco, Norway, San Marino, Switzerland, and the Vatican City State.

Article 3

Definitions

For the purposes of this Regulation, the definitions of Directive 2005/94/EC shall apply except for the definition of poultry in point 4 of Article 2 of that Directive. For the purposes of this Regulation 'poultry' means fowl, turkeys, guinea fowl, ducks, geese, quails, pigeons, pheasants, partridges and ratites (*Ratitae*) reared or kept in captivity for breeding, the production of meat or eggs for consumption, or for restocking supplies of game.

The following definitions shall also apply:

(a) 'birds' means animals of the avian species other than those referred to in the second paragraph of Article 2;

(b) 'approved breeding establishment' means:

(i) an establishment used exclusively for the breeding of birds; and

(ii) that has been inspected and approved by the competent authority of the exporting third country for compliance with the conditions provided for in Article 4 and Annex II;

(c) 'captive bred birds' means birds that have not been caught in the wild but have been born and bred in captivity from parents that mated or had gametes otherwise transferred in captivity;

(d) 'seamlessly closed leg-ring' means a ring or band in a continuous circle, without any break or join, which has not been tampered with in any way, of a size which cannot be removed from the bird when its leg is fully grown after having been applied in the first days of the bird's life and which has been commercially manufactured for that purpose;

(e) 'approved quarantine facility' means premises, other than quarantine centres:

(i) in which quarantine of imported birds is carried out;

(ii) which has been inspected and approved by the competent authority for compliance with the minimum conditions provided for in Article 6 and Annex IV;

(f) 'approved quarantine centre' means premises:

(i) in which quarantine of imported birds is carried out;

(ii) containing a number of units, which are operationally and physically separated from each other and in which each unit contains only birds of the same consignment, with the same health status, and therefore comprises a single epidemiological unit;

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(iii) which has been inspected and approved by the competent authority for compliance with the minimum conditions provided for in Article 6 and Annex IV;

(g) 'sentinel birds' means poultry which are to be used as a diagnostic aid during quarantine;

(h) 'diagnostic manual' means the Diagnostic Manual for avian influenza set out in the Annex to Decision 2006/437/EC.

Article 4

Approved breeding establishments

Approved breeding establishments shall comply with the following conditions:

(a) the breeding establishment must be approved by the competent authority in accordance with the conditions set out in Annex II, and assigned an approval number;

(b) that approval number must have been communicated to the Commission by that authority;

(c) the name and approval number of the breeding establishment must appear on a list of breeding establishments drawn up by the Commission;

(d) the approval of the breeding establishment must be immediately withdrawn or suspended by the competent authority where it no longer complies with the conditions set out in Annex II and the Commission must be immediately informed thereof.

Article 5

Import conditions

Imports of birds shall be authorised only if the birds comply with the following conditions:

(a) the birds are captive bred birds;

(b) the birds must originate from third countries or parts thereof referred to in Annex I;

(c) the birds come from approved breeding establishments that comply with the conditions laid down in Article 4;

(d) the birds were subjected to a laboratory virus detection test 7 to 14 days prior to shipment with negative results for any avian influenza and Newcastle disease virus;

(e) the birds have not been vaccinated against avian influenza;

(f) the birds are accompanied by an animal health certificate in accordance with the model set out in Annex III (the animal health certificate);

(g) the birds are identified with an individual identification number by means of a uniquely marked seamlessly closed leg-ring or a microchip in accordance with Article 66(2) of Commission Regulation (EC) No 865/2006[7];