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From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
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To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union

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Subject:	COMMISSION DELEGATED REGULATION (EU) .../... of 8.3.2019 establishing rules on specific training requirements for staff for performing certain physical checks at border control posts

Delegations will find attached document C(2019) 1786 final.

Encl.: C(2019) 1786 final



Brussels, 8.3.2019
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COMMISSION DELEGATED REGULATION (EU) .../...

of 8.3.2019

**establishing rules on specific training requirements for staff for performing certain
physical checks at border control posts**

(Text with EEA relevance)

EXPLANATORY MEMORANDUM

1. LEGAL CONTEXT OF THE DELEGATED ACT

Regulation (EU) 2017/625 of the European Parliament and of the Council establishes rules on the performance of official controls by the competent authorities of the Member States. It provides that certain categories of animals and goods coming from third countries must be subject to official controls at the border control post of first arrival into the Union.

In order to verify compliance with Union agri-food chain legislation and ensure a certain standard of competence, the competent authorities at border control posts are required to designate staff, performing physical checks on certain commodities or assisting the official veterinarian in the performance of physical checks on animals and meat, only where they have received the appropriate training relevant to their tasks.

In that regard, this draft delegated regulation establishes the obligation for competent authorities to develop and arrange training for the staff involved in the performance of physical checks and sets out the relevant training subject matters.

In order to avoid unnecessary burden, the draft regulation provides the possibility for competent authorities to designate staff who did not attend the training specified therein where they received training on the same subject matters as part of the training activities or exchange programmes organised by the Commission in accordance with Article 130 of Regulation (EU) 2017/625.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

Commission Expert Group "official controls" (E00911) and stakeholders were consulted.

The draft delegated regulation based on Art. 49(5) of Regulation (EU) 2017/625 was presented and informally discussed in a number of meetings with the Members of the Expert Group. The informal discussions contributed to the preparation of a draft which did not present controversial issues.

No impact assessment has been carried out, as the delegated regulation is not expected to have any significant negative impact.

The possibility offered through the Commission's website (https://ec.europa.eu/info/law/better-regulation/have-your-say_en) to provide public feedback on the draft Delegated Regulation resulted in 3 submissions, which support the approach taken and provide complementary suggestions for the application of the rules in the UK.

3. LEGAL ELEMENTS OF THE DELEGATED ACT

The legal basis for the delegated regulation is Article 49(5) of Regulation (EU) 2017/625, which places an obligation on the Commission to act.

COMMISSION DELEGATED REGULATION (EU) .../...

of 8.3.2019

establishing rules on specific training requirements for staff for performing certain physical checks at border control posts

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2017/625 of the European Parliament and of the Council of 15 March 2017 on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products, amending Regulations (EC) No 999/2001, (EC) No 396/2005, (EC) No 1069/2009, (EC) No 1107/2009, (EU) No 1151/2012, (EU) No 652/2014, (EU) 2016/429 and (EU) 2016/2031 of the European Parliament and of the Council, Council Regulations (EC) No 1/2005 and (EC) No 1099/2009 and Council Directives 98/58/EC, 1999/74/EC, 2007/43/EC, 2008/119/EC and 2008/120/EC, and repealing Regulations (EC) No 854/2004 and (EC) No 882/2004 of the European Parliament and of the Council, Council Directives 89/608/EEC, 89/662/EEC, 90/425/EEC, 91/496/EEC, 96/23/EC, 96/93/EC and 97/78/EC and Council Decision 92/438/EEC (Official Controls Regulation)¹, and in particular Article 49(5) thereof,

Whereas:

- (1) Regulation (EU) 2017/625 establishes rules on the performance of official controls by the competent authorities of the Member States on animals and goods entering the Union in order to verify compliance with Union agri-food chain legislation.
- (2) Article 5(4) of Regulation (EU) 2017/625 requires that all staff performing official controls and other official activities must receive appropriate training for their area of competence. Chapter I of Annex II to Regulation (EU) 2017/625 sets out subject matters for the training of staff performing official controls and other official activities.
- (3) Article 21(2)(c) of Regulation (EU) 2017/625 requires that competent authorities perform official controls on animals presented at border control posts to verify compliance with animal welfare requirements and in particular with the rules applicable to their transport into the Union. Such official controls are to include controls on the fitness of animals being transported and on the means of transport.

¹ OJ L 95, 7.4.2017, p. 1.

- (4) Article 21(3) of Regulation (EU) 2017/625 requires that during the performance of official controls competent authorities take the necessary measures to prevent or reduce to a minimum any delay between the loading of the animals and their departure. If animals have to be detained during transport for more than two hours, competent authorities are to ensure that appropriate arrangements are taken for their care and, where necessary, their feeding, watering, unloading and accommodation. It is therefore appropriate that staff assisting the official veterinarian in the performance of physical checks on animals at border control posts are specifically trained for that purpose.
- (5) Article 47(1) of Regulation (EU) 2017/625 provides that certain categories of animals and goods coming from third countries are to be subject to official controls at the border control post of first arrival into the Union. In accordance with Article 49(1) of that Regulation such official controls are to include documentary checks, identity checks and physical checks.
- (6) Article 49(2) of Regulation (EU) 2017/625 provides that the physical checks are to be performed by an official veterinarian where those checks concern animals, except aquatic animals, or meat and edible meat offal. The official veterinarian may be assisted by staff trained in accordance with the requirements established under that Regulation in veterinary matters and designated by the competent authorities for that purpose. It also provides that the physical checks are to be performed by an official veterinarian or by staff trained in accordance with the requirements established under that Regulation and designated by the competent authorities for that purpose where those checks concern aquatic animals, products of animal origin other than meat and edible meat offal, germinal products or animal by-products.
- (7) Accordingly, staff performing physical checks as part of official controls on animals and certain categories of goods at border control posts are required to be more specifically trained for that purpose. The training should ensure that such physical checks are performed with the same degree of competence at all border control posts.
- (8) Directive 2005/36/EC of the European Parliament and of the Council² sets out a detailed study programme for veterinary surgeons. This study programme includes subjects such as anatomy, pathology, parasitology, clinical medicine, veterinary state medicine and public health, veterinary legislation, animal production and food hygiene (inspection and control of foodstuffs of animal origin, food hygiene and technology and practical work, including practical work in places where slaughter of animals and processing of foodstuffs take place). Knowledge of these subjects is necessary for the competent performance of physical checks on animals, products of animal origin, germinal products and animal by-products. It is therefore appropriate to set out specific training requirements for staff other than official veterinarians to attain the required standard of performance. At present, no need for introducing specific training requirements for official plant health officers going beyond existing requirements has been identified. Therefore, it is not necessary for official veterinarians and official plant health officers to fall within the scope of this Regulation.

² Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications (OJ L 255, 30.9.2005, p. 22).

- (9) Member States should be permitted to designate staff which, even though they did not follow the training programme in accordance with this Regulation, completed the training activities or the programmes for the exchange of staff referred to in Article 130 of Regulation (EU) 2017/625, provided that such activities or programmes cover the same subject matters as required by this Regulation.
- (10) Commission Decision 93/352/EEC³ lays down rules concerning the designation of an official agent, who is specifically trained for carrying out checks on fish at border inspection posts located in ports where fish are landed. As the scope of that Decision is covered by Regulation (EU) 2017/625 and the training requirements are laid down in this Regulation, it should be repealed.
- (11) Regulation (EU) 2017/625 applies from 14 December 2019. Accordingly, the rules laid down in this Regulation should also apply from that date,

HAS ADOPTED THIS REGULATION:

Article 1

Subject matter and scope

1. This Regulation lays down rules establishing specific training requirements for the following staff as referred to in Article 49(2)(a) and (b) of Regulation (EU) 2017/625, performing physical checks at border control posts:
 - (a) staff assisting an official veterinarian in performing physical checks on animals, except aquatic animals, or on meat and edible meat offal;
 - (b) staff performing physical checks on aquatic animals, on products of animal origin other than the ones referred to in point (a), on germinal products or on animal by-products.
2. This Regulation shall not apply to official veterinarians and to official plant health officers.

Article 2

General obligations on the competent authorities concerning training

1. The staff referred to in Article 1(1)(a) and (b) may assist the official veterinarian in the performance of physical checks or perform physical checks in accordance with Article 49(2) of Regulation (EU) 2017/625 only where they have successfully completed a training programme that complies with the requirements of Article 3 of this Regulation (the training programme).
2. The competent authorities shall develop and arrange the training programme to ensure that the physical checks referred to in Article 1 are performed with the necessary level of technical competence and expertise. The training programme shall be both theoretical and practical.

³ Commission Decision 93/352/EEC of 1 June 1993 laying down derogations from the conditions of approval for border inspection posts located in ports where fish is landed (OJ L 144, 16.6.1993, p. 25).

3. The competent authorities shall keep records of the training programme on paper or in electronic form for each individual, including the dates, duration, programme description, and, where appropriate, certificates attesting the successful completion of the training programme by staff. The competent authorities in a Member State shall ensure that each border control post within that Member State has access to training records kept on paper or in electronic format.

Article 3

Requirements concerning the subject matters of the training programme

1. The content of the training programme shall be determined according to the animals and goods for which the border control posts are designated and the tasks and responsibilities to which the staff are assigned.
2. The training programme shall cover the following subject matters:
 - (a) applicable Union legislation concerning the entry into the Union of animals and goods, including procedures and activities to be carried out during and after physical checks;
 - (b) general principles of examination of animals;
 - (c) examination of the fitness to travel of animals;
 - (d) practical aspects of handling of animals in line with Union legislation, including arrangements to prevent or reduce delays at border control posts and, where necessary, to feed, water, unload and accommodate the animals;
 - (e) sensorial examination of goods;
 - (f) examination of the means of transport and the transport conditions, including the management of temperature-sensitive goods (cold chain) and the transport of animals;
 - (g) identification of animal species, including, when appropriate, identification of invasive alien species as defined in point (2) of Article 3 of Regulation (EU) No 1143/2014 of the European Parliament and of the Council⁴ introduced via animals and goods;
 - (h) control procedures, concerning:
 - (i) the use of equipment;
 - (ii) the implementation of monitoring plans;
 - (iii) sampling procedures and laboratory analysis with regard to animals and animal and public health aspects;

⁴ Regulation (EU) No 1143/2014 of the European Parliament and of the Council of 22 October 2014 on the prevention and management of the introduction and spread of invasive alien species (OJ L 317, 4.11.2014, p. 35).

- (i) methods for the interpretation of laboratory test results and related decisions in accordance with the requirements of applicable Union legislation;
- (j) risk assessment, including data gathering in relation to animal and public health in order to carry out appropriately targeted physical checks;
- (k) prevention of cross-contamination and compliance with relevant biosecurity standards;
- (l) labelling requirements for goods referred to in Article 47(1)(b) of Regulation (EU) 2017/625;
- (m) investigations and control techniques aimed at detecting fraudulent or deceptive practices in trade.

Article 4

Training activities and programmes for the exchange of staff organised pursuant to Article 130 of Regulation (EU) 2017/625

By way of derogation from Article 2(1), the staff referred to in Article 1(1)(a) and (b) may assist the official veterinarian in the performance of physical checks or perform physical checks in accordance with Article 49(2) of Regulation (EU) 2017/625 where they have been trained in the framework of training activities or programmes for the exchange of staff organised pursuant to Article 130 of Regulation (EU) 2017/625, provided that such activities or programmes cover the content and subject matters of the training programme referred to in Article 3(2) of this Regulation.

Article 5

Repeal

Decision 93/352/EEC is repealed.

Article 6

Entry into force and date of application

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, 8.3.2019

*For the Commission
The President
Jean-Claude JUNCKER*