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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 14.7.2021 supplementing Regulation (EU) No 576/2013 of the European Parliament and of the Council with regard to rules for non-commercial movements of pet birds into a Member State from a territory or a third country

Delegations will find attached document C(2021) 5167 final.

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Brussels, 14.7.2021
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COMMISSION DELEGATED REGULATION (EU) .../...

of 14.7.2021

supplementing Regulation (EU) No 576/2013 of the European Parliament and of the Council with regard to rules for non-commercial movements of pet birds into a Member State from a territory or a third country

(Text with EEA relevance)

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

Regulation (EU) No 576/2013 of the European Parliament and of the Council of 12 June 2013 on the non-commercial movement of pet animals and repealing Regulation (EC) No 998/2003¹ lays down the animal health requirements applicable to non-commercial movements of pet animals, including pet birds.

Regulation (EU) No 576/2013 empowers the Commission to adopt delegated acts supplementing the rules laid down in that Regulation for the species of pet animals listed in Annex I to that Regulation, including the avian species listed in Part B of that Annex.

In order to protect the Union from the introduction of highly pathogenic avian influenza (HPAI) through movements from territories or third countries of pet birds accompanying their owners, Commission Decision 2007/25/EC² lays down certain protection measures in relation to those movements. That Decision applies until 31 December 2021.

Those protection measures have been found to be effective in mitigating the risks of the introduction of the avian influenza virus via non-commercial movements of pet birds into Member States from territories or third countries by the European Food Safety Authority (EFSA) in its scientific opinion on avian influenza, first published on 16 October 2017³. Since the global threat of avian influenza has increased in recent years, and the epidemiological situation is not expected to improve in the near future, it is appropriate to establish permanent protection measures based on Regulation (EU) No 576/2013 to ensure that non-commercial movements of pet birds do not pose a risk for the introduction of the avian influenza virus into the Union, instead of prolonging the current protection measures laid down in Decision 2007/25/EC. This step would also be in the interests of legal certainty.

Therefore, this Delegated Regulation lays down the following rules for the non-commercial movements of pet birds into a Member State from a territory or a third country:

- (a) it defines the maximum number of pet birds that may accompany their owner or an authorised person, as being five birds;
- (b) the requirements for the marking of pet birds;
- (c) the preventive health measures in relation to avian influenza.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

The Commission has made this draft delegated act available to the Member States and consulted Member States' experts electronically. The draft delegated regulation was also made available to the European Parliament and the Council, with neither Institution making any comments.

3. LEGAL ELEMENTS OF THE DELEGATED ACT

This Delegated Regulation is to be adopted pursuant to Regulation (EU) No 576/2013, and in particular Article 5(5), the second subparagraph of Article 17(2) and the first subparagraph Article 19(1) thereof.

¹ OJ L 178, 28.6.2013, p. 1.

² Commission Decision 2007/25/EC of 22 December 2006 as regards certain protection measures in relation to highly pathogenic avian influenza and movements of pet birds accompanying their owners into the Community (OJ L 8, 13.1.2007, p. 29).

³ EFSA Journal 2017;15(10):4991.

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

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supplementing Regulation (EU) No 576/2013 of the European Parliament and of the Council with regard to rules for non-commercial movements of pet birds into a Member State from a territory or 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 (EU) No 576/2013 of the European Parliament and of the Council of 12 June 2013 on the non-commercial movement of pet animals and repealing Regulation (EC) No 998/2003⁴, and in particular Article 5(5), the second subparagraph of Article 17(2) and the first subparagraph of Article 19(1) thereof,

Whereas:

- (1) Regulation (EU) No 576/2013 lays down the animal health requirements applicable to non-commercial movements of pet animals, including birds referred to in Part B of Annex I thereto (pet birds), and it provides that preventive health measures may be adopted by means of delegated acts for the protection of animal and public health from diseases or infections that are likely to be spread due to non-commercial movements of pet birds into a Member State from a territory or third country.
- (2) Regulation (EU) No 576/2013 also provides that the preventive health measures are to be based on adequate, reliable and validated scientific information and are to be applied proportionately to the risk to public or animal health of the spread of those diseases or infections via cross-border movements of pet birds.
- (3) In the interests of simplicity and transparency of Union rules, as well as to facilitate the application of those rules and avoid duplication, the rules for non-commercial movements of pet birds into a Member State from a territory or third country should be laid down in a single act rather than in a number of cross-referenced separate acts. This approach is also in line with the current approach in the area of Union legislation on animal health, such as that adopted in Regulation (EU) 2016/429 of the European Parliament and of the Council⁵, which favours the streamlining of Union rules to facilitate their application and reduce the administrative burden.
- (4) Avian influenza is an infectious viral disease of birds which can have a negative impact on animal and public health. In particular, infections with avian influenza viruses in domestic poultry cause two main forms of that disease that are distinguished by their virulence. The low pathogenic form generally only causes mild symptoms, while the highly pathogenic form results in very high mortality rates in most poultry

⁴ OJ L 178, 28.6.2013, p. 1.

⁵ 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') (OJ L 84, 31.3.2016, p. 1).

species. Therefore, that disease may have a severe impact on the profitability of poultry farming. Furthermore, although avian influenza is mainly found in birds, under certain circumstances infections can also occur in humans even though the risk is generally very low.

- (5) Following the first occurrence, in 2005, of a case of highly pathogenic avian influenza (HPAI) of subtype H5N1, in a captive bird introduced into the Union, Commission Decision 2005/759/EC⁶ laid down protection measures aimed at preventing the introduction and spread of the HPAI virus through movements into the Union of pet birds accompanying their owners. Decision 2005/759/EC was repealed and replaced by Commission Decision 2007/25/EC⁷ due to the continuing risks to animal health posed by such movements. Decision 2007/25/EC was further amended due to changes in the epidemiological situation in the Union and its date of application was prolonged several times, the last time by Commission Implementing Decision (EU) 2020/2107⁸. Decision 2007/25/EC will now elapse on 31 December 2021.
- (6) However, since the global threat of avian influenza has increased in recent years, and the epidemiological situation is not expected to improve in the near future, it is appropriate to establish permanent protection measures within the framework of Regulation (EU) No 576/2013, in order to ensure that non-commercial movements of pet birds into the Union do not pose a risk for the introduction and spread of the avian influenza virus.
- (7) Certain territories and third countries apply animal health rules for the non-commercial movement into their territory of pet birds, which are equivalent to the rules laid down in this Regulation. Therefore, the non-commercial movements of pet birds from those territories and third countries into the Union can be considered to present a minimal animal health risk to the Union, and the rules for non-commercial movements of pet birds laid down in this Regulation should not apply to the non-commercial movements into the Union of pet birds from those particular territories and third countries.
- (8) In order to prevent commercial movements of birds into the Union being fraudulently disguised as non-commercial movements, the maximum number of pet birds that may accompany their owner or an authorised person should be limited to five pet birds in a single non-commercial movement. As a higher number of birds represents a higher risk for the introduction and spread of the avian influenza virus, movements into the Union of more than five pet birds should not be regarded as a single non-commercial movement of pet birds, and such movements should not fall within the scope of the rules laid down in this act. Instead, such movements should continue to be carried out in accordance with the requirements for the entry into the Union of captive birds laid down in Commission Delegated Regulation (EU) 2020/692⁹, and also be subject to

⁶ Commission Decision 2005/759/EC of 27 October 2005 concerning certain protection measures in relation to highly pathogenic avian influenza in certain third countries and the movement from third countries of birds accompanying their owners (OJ L 285, 28.10.2005, p. 52).

⁷ Commission Decision 2007/25/EC of 22 December 2006 as regards certain protection measures in relation to highly pathogenic avian influenza and movements of pet birds accompanying their owners into the Community (OJ L 8, 13.1.2007, p. 29).

⁸ Commission Implementing Decision (EU) 2020/2107 of 14 December 2020 amending Decision 2007/25/EC as regards its period of application (OJ L 425, 16.12.2020, p. 103).

⁹ Commission Delegated Regulation (EU) 2020/692 of 30 January 2020 supplementing Regulation (EU) 2016/429 of the European Parliament and of the Council as regards rules for entry into the Union, and the movement and handling after entry of consignments of certain animals, germinal products and products of animal origin (OJ L 174, 3.6.2020, p. 379).

official controls at border control posts as laid down in Regulation (EU) 2017/625 of the European Parliament and of the Council¹⁰.

- (9) In addition, this act should lay down rules concerning the means to identify pet birds to be moved into a Member State from a territory or third country, in order to ensure that a link between the pet bird and the corresponding identification document can be made.
- (10) In its scientific opinion on avian influenza, first published on 16 October 2017¹¹, the European Food Safety Authority (EFSA) considered the animal health requirements laid down in Decision 2007/25/EC to be effective in mitigating the risks of the introduction into the Union of the avian influenza virus via non-commercial movements of pet birds into Member States from territories or third countries. Therefore, the animal health requirements laid down in that Decision should be used as the basis for the requirements laid down in this Regulation.
- (11) The preventive health measures for non-commercial movements of pet birds into the Union should provide for several options of requirements for their entry, including isolation, either prior to such non-commercial movements or at the place of destination, and also pre-movement testing for the H5 and H7 sub-types of the HPAI virus and vaccination against H5 and H7 sub-types of the HPAI virus.
- (12) However, the option of isolation prior to the non-commercial movement into the Union should only be allowed for pet birds originating in territories or third countries which have been assessed for avian influenza and other diseases relevant for the avian species. Therefore, this option should be limited to the third countries or territories listed in the table set out in Part 1 of Annex V, Annex XIV or Annex XIX to Commission Implementing Regulation (EU) 2021/404¹² for the entry into the Union of poultry and germinal products of poultry, fresh meat of poultry and game birds, or eggs and egg products, respectively.
- (13) Furthermore, as regards the option of isolation of pet birds at the place of destination, this should only be carried out in an establishment that can guarantee the animal health status of the animals. It should, therefore, be required that under this option, pet birds are to be placed in a quarantine establishment approved in accordance with Article 14 of Commission Delegated Regulation (EU) 2019/2035¹³.
- (14) To further mitigate the risks of the spread of the avian influenza virus into the Union via non-commercial movements of pet birds from territories or third countries, it should be prohibited to enter those pet birds in shows, fairs, exhibitions or other gatherings of birds for an appropriate period of time following their entry into the Union. It should, therefore, be required that during that period of time pet birds are

¹⁰ 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) (OJ L 95, 7.4.2017, p. 1).

¹¹ EFSA Journal 2017;15(10):4991.

¹² Commission Implementing Regulation (EU) 2021/404 of 24 March 2021 laying down the lists of third countries, territories or zones thereof from which the entry into the Union of animals, germinal products and products of animal origin is permitted in accordance with Regulation (EU) 2016/429 of the European Parliament and the Council (OJ L 114, 31.3.2021, p. 1).

¹³ 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 (OJ L 314, 5.12.2019, p. 115).

isolated under official control, in accordance with the official control provided for in Article 35(1), point (b) of Regulation (EU) No 576/2013.

- (15) Compliance with the requirements laid down in this Regulation should be certified by an official veterinarian of the territory or third country of dispatch or alternatively by an authorised veterinarian and subsequently endorsed by the competent authority of the territory or third country of dispatch, in accordance with the veterinary certificate laid down in the Annex to Commission Implementing Regulation (EU) .../...¹⁴ (of XXX establishing the model identification document for non-commercial movements of pet birds into a Member State from a territory or a third country [Document SANTE/7186/2019]), which is to be applied in tandem with the rules laid down in this Regulation.
- (16) In order to avoid a legal gap in the rules for the non-commercial movement of pet birds into a Member State from territories or third countries, this Regulation should apply from 1 January 2022, as the rules laid down herein replace a number of the rules currently laid down in Decision 2007/25/EC, which applies until 31 December 2021,

HAS ADOPTED THIS REGULATION:

Article 1
Subject matter and scope

1. This Regulation lays down the animal health requirements for non-commercial movements of pet animals of the avian species, as referred to in Part B of Annex I to Regulation (EU) No 576/2013, into a Member State from a territory or third country (pet birds).
2. This Regulation shall not apply:
 - (a) where the total number of pet birds during a single movement exceeds five;
 - (b) to movements of pet birds coming from Andorra, Faeroes, Gibraltar, Greenland, Iceland, Liechtenstein, Monaco, Norway, San Marino, Switzerland and the Vatican City State.

Article 2
Maximum number of pet birds in a non-commercial movement

The maximum number of pet birds which may accompany their owner or an authorised person, during a single non-commercial movement into a Member State from a territory or third country, shall not exceed five.

Article 3
Marking of pet birds

1. Pet birds shall only be permitted to enter into a Member State from a territory or third country if they have been marked in the territory or third country of dispatch with a permanent, non-removable, legible individual marking displaying an alphanumeric code.

¹⁴ Commission Implementing Regulation (EU) .../... of XXX establishing the model identification document for non-commercial movements of pet birds into a Member State from a territory or a third country and repealing Decision 2007/25/EC [Document SANTE/7186/2019](OJ [...], dd/mm/yyyy, p. [...]).

2. Where the pet birds are moved in accordance with the conditions laid down in Article 4(1), point (b)(i), (ii) or (iii), the marking provided for in paragraph 1 of this Article must have been applied to them prior to their isolation, testing or vaccination against avian influenza of the H5 and H7 subtypes.
3. By way of derogation from paragraph 1, a description of the pet birds shall be sufficient, provided the pet birds comply with the following requirements:
 - (a) they are moved under the conditions laid down in Article 6;
 - (b) they were placed in a container sealed by the competent authority of the territory or third country of dispatch prior to their dispatch to the Union and they remain in that sealed container during the quarantine referred to in Article 6(1), point (a).

Article 4

Preventive health measures for non-commercial movements of pet birds into a Member State from a territory or third country

1. Pet birds shall only be moved into a Member State from a territory or a third country if they comply with the following requirements:
 - (a) the territory or third country of dispatch is a member of the World Organisation for Animal Health (OIE);
 - (b) the pet birds fulfil one of the following sets of conditions:
 - (i) they originate from a third country or territory listed in the first column of the table set out in Part 1 of Annex V, Annex XIV or Annex XIX to Implementing Regulation (EU) 2021/404, where they must have undergone isolation under official supervision for a period of at least 30 days prior to the date of dispatch from the territory or third country; or
 - (ii) within the period of six months prior to the date of dispatch to the Union and not later than 60 days prior to the date of dispatch to the Union, they received a complete primary course of vaccination, and where applicable were revaccinated, in accordance with manufacturers' instructions with a licensed vaccine against avian influenza of the H5 and H7 subtypes, which must not have been a live-attenuated vaccine, and it must have been administered by an authorised veterinarian or an official veterinarian of the territory or third country of dispatch; or
 - (iii) in the territory or third country of dispatch, they were:
 - kept in isolation under the supervision of an authorised veterinarian or an official veterinarian for a period of at least 14 days prior to the date of dispatch to the Union;
 - and
 - subjected to an avian influenza H5 and H7 antigen or genome detection test carried out with negative results on a sample taken by an authorised veterinarian or an official veterinarian not earlier than the seventh day of isolation;
 - (c) the pet birds were subjected within a period of 48 hours of or on the last working day prior to the date of dispatch from the territory or third country to a clinical inspection by an authorised veterinarian or an official veterinarian of

- the territory or third country of dispatch and were found to be free of any obvious signs of disease;
- (d) during the period between the clinical inspection referred to in point (c) and the departure from the territory or third country of dispatch, the pet birds have not been in contact with any other birds.
2. The tests required to be performed and vaccines required to be administered in accordance with paragraph 1(b)(ii) and (iii) of this Article shall meet the requirements of Chapter 3.3.4. *in the Manual of Diagnostic Tests and Vaccines for Terrestrial Animals*, 8th Edition, 2018, of the World Organisation for Animal Health (OIE).

Article 5

Movements of pet birds after arrival in the Union

Owners or authorised persons shall only move pet birds which have entered the Union from a territory or a third country directly from the travellers point of entry to a household or another residence within the Union, where the pet birds shall be kept under official control for a period of at least 30 days following the date of their entry into the Union, and during this period these pet birds shall not be entered in shows, fairs, exhibitions or other gatherings of birds.

Article 6

Derogation from the requirements of Article 4(1), point (b) and Article 5

1. By way of derogation from the requirements of Article 4(1), point (b) and Article 5, pet birds which do not comply with the conditions laid down in Article 4(1), point (b) shall only be moved into a Member State from a territory or third country if they comply with the following conditions:
- (a) they are destined for a quarantine establishment approved in accordance with Article 14 of Delegated Regulation (EU) 2019/2035 in the Member State of destination, where they shall undergo quarantine for a period of at least 30 days immediately after their arrival in the Union;
 - (b) the owner or authorised person shall move the pet birds directly from the travellers point of entry into the Union to the approved quarantine establishment referred to in point (a);
 - (c) the birds are released from quarantine only on the written authorisation of an official veterinarian.
2. The competent authority shall:
- (a) monitor the arrival of the pet birds to the approved quarantine establishment referred to in paragraph (1), point (a);
 - (b) inspect the conditions of quarantine, including an examination of the mortality records and a clinical inspection of the birds, at least at the beginning and the end of quarantine period.

Article 7
Health certification

1. Pet birds shall only be moved into the Union if they comply with the following requirements:
 - (a) an official veterinarian of the territory or third country of dispatch has certified that the pet birds comply with the requirements laid down in this Regulation, in accordance with the veterinary certificate set out in the Annex to Implementing Regulation (EU) .../... [*Document SANTE/7186/2019*]; or
 - (b) an authorised veterinarian of the territory or third country has certified that the pet birds comply with the requirements laid down in this Regulation, in accordance with the veterinary certificate set out in the Annex to Implementing Regulation (EU) .../... [*Document SANTE/7186/2019*] and such certification has subsequently been endorsed by the competent authority of the territory or third country.

2. Pet birds shall only be moved into the Union if the veterinary certificate referred to in paragraph 1 has been completed by the official veterinarian or authorised veterinarian in the territory or third country of dispatch on the basis of a written declaration by the owner or the authorised person forming part of that veterinary certificate, and on the basis of:
 - (a) evidence provided by the owner or the authorised person that arrangements have been made for quarantine of the pet birds in a quarantine establishment approved in accordance with Article 14 of Delegated Regulation (EU) 2019/2035, in the case of pet birds that are to undergo quarantine in accordance with Article 6 of this Regulation; or
 - (b) the permit granted by the Member State of destination, in the case of pet birds which have been granted a derogation in accordance with Article 32(1) of Regulation (EU) No 576/2013.

Article 8
Entry into force and applicability

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 1 January 2022.

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

Done at Brussels, 14.7.2021

For the Commission
The President
Ursula VON DER LEYEN