



Council of the
European Union

Brussels, 23 September 2021
(OR. en)

12143/21

AGRILEG 206
VETER 84
DENLEG 74
DELECT 204
UK 213

COVER NOTE

From: Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director

date of receipt: 21 September 2021

To: Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union

No. Cion doc.: C(2021) 6723 final

Subject: COMMISSION DELEGATED REGULATION (EU) .../... of 21.9.2021 amending Delegated Regulation (EU) 2019/2122 as regards certain categories of goods posing low risk, goods that form part of passengers' personal luggage and pet animals exempted from official controls at border control posts and amending that Delegated Regulation and Delegated Regulation (EU) 2019/2074 as regards references to certain repealed legislation

Delegations will find attached document C(2021) 6723 final.

Encl.: C(2021) 6723 final



Brussels, 21.9.2021
C(2021) 6723 final

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

of 21.9.2021

amending Delegated Regulation (EU) 2019/2122 as regards certain categories of goods posing low risk, goods that form part of passengers' personal luggage and pet animals exempted from official controls at border control posts and amending that Delegated Regulation and Delegated Regulation (EU) 2019/2074 as regards references to certain repealed legislation

(Text with EEA relevance)

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

Regulation (EU) 2017/625 of the European Parliament and of the Council¹ on Official Controls (OCR) establishes the framework for official controls and other official activities to verify the correct application of Union agri-food chain legislation. This includes official controls performed on animals and goods entering the Union from third countries.

Commission Delegated Regulation (EU) 2019/2122² provides, inter alia, certain categories of animals and goods exempted from official controls at border control posts and specific controls on passengers' luggage. That Delegated Regulation exempts research and diagnostic samples from official controls at border control posts, subject to certain conditions. The Delegated Regulation further establishes the posters that the competent authority are to display in locations which are easily visible to passengers arriving from third countries and provides for standardised information which may be made available to such passengers in relation to the applicable Union rules.

The purpose of this Delegated Regulation is to introduce a further category of samples of products of animal origin and of certain composite products that are exempt from official controls at border control posts, subject to certain conditions and to lay down specific control rules for such samples.

This Delegated Regulation also adapts the posters for passengers arriving from third countries to include a reference to the United Kingdom(Northern Ireland); furthermore, it corrects a reference to pet animals exempted from official controls at border control posts in order to align the reference with the relevant lists of third countries from where pet animals may be moved into a Member State.

In addition, this Delegated Regulation corrects certain references to repealed legal acts in Delegated Regulation (EU) 2019/2122 and in Commission Delegated Regulation (EU) 2019/2074³.

¹ 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).

² Commission Delegated Regulation (EU) 2019/2122 of 10 October 2019 supplementing Regulation (EU) 2017/625 of the European Parliament and of the Council as regards certain categories of animals and goods exempted from official controls at border control posts, specific controls on passengers' personal luggage and on small consignments of goods sent to natural persons which are not intended to be placed on the market and amending Commission Regulation (EU) No 142/2011 (OJ L 321, 12.12.2019, p. 45).

³ Commission Delegated Regulation (EU) 2019/2074 of 23 September 2019 supplementing Regulation (EU) 2017/625 of the European Parliament and of the Council as regards rules on specific official controls on consignments of certain animals and goods originating from, and returning to the Union following a refusal of entry by a third country (OJ L 316, 6.12.2019, p. 6).

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

The Commission Expert Group "official controls" (E00911) was consulted at several occasions, and a number of meetings have been held with relevant stakeholders.

No impact assessment has been carried out, as due to the limited changes and the clarifications it introduces, this Regulation is not expected to have any significant impact.

3. LEGAL ELEMENTS OF THE DELEGATED ACT

The legal basis for this Delegated Regulation is Article 48 (b), (c), (d), (e), (f) and (h), Article 53(1)(d)(ii) and Article 77(1) (h) and (k) of Regulation (EU) 2017/625 which place an obligation on the Commission to act.

In the interest of legal certainty, it is appropriate to lay down in a single act rules on exemptions from checks at border control posts, rules on specific control tasks performed by customs authorities and other public authorities and rules for the performance of specific official controls on goods exempted from official controls at the border control post of first arrival into the Union.

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

of 21.9.2021

amending Delegated Regulation (EU) 2019/2122 as regards certain categories of goods posing low risk, goods that form part of passengers' personal luggage and pet animals exempted from official controls at border control posts and amending that Delegated Regulation and Delegated Regulation (EU) 2019/2074 as regards references to certain repealed legislation

(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)⁴, and in particular Article 48 (b), (c), (d), (e), (f) and (h), Article 53(1) (d)(ii) and Article 77(1) (h) and (k) 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 the compliance with Union agri-food chain legislation.
- (2) Commission Delegated Regulation (EU) 2019/2122⁵ lays down rules for when and the conditions under which certain categories of animals and goods are exempted from official controls at border control posts and for when and the conditions under which specific control tasks may be performed by customs authorities or other public authorities, insofar as those tasks are not already falling under the responsibility of those authorities, on passengers' personal luggage.
- (3) Samples of products of animal origin and of composite products for product analysis and quality testing, including organoleptic analysis, that are used for testing and

⁴ OJ L 95, 7.4.2017, p. 1.

⁵ Commission Delegated Regulation (EU) 2019/2122 of 10 October 2019 supplementing Regulation (EU) 2017/625 of the European Parliament and of the Council as regards certain categories of animals and goods exempted from official controls at border control posts, specific controls on passengers' personal luggage and on small consignments of goods sent to natural persons which are not intended to be placed on the market and amending Commission Regulation (EU) No 142/2011 (OJ L 321, 12.12.2019, p. 45).

analysis by an operator in the Member State of destination pose a low risk to public health, as they do not enter the food chain. Therefore, the competent authority of the Member State of destination should be able to grant an authorisation to exempt those samples from official controls at border control posts.

- (4) In order to prevent risks to animal health, the competent authority of the Member State of destination should issue the authorisation for samples of products of animal origin and of composite products in accordance with the animal health requirements laid down in rules established in, or pursuant to, Regulation (EU) 2016/429 of the European Parliament and of the Council⁶ or by the Member States. The competent authority of the Member State of destination should specify in the authorisation the public health conditions for entry into the Union and for the use of the samples.
- (5) In order to prevent the placing on the market of samples of products of animal origin and of composite products for product analysis and quality testing, the competent authority should specify in the authorisation the obligations of operators to keep records of the use of the samples for product analysis and quality testing, and to dispose of the samples after use in accordance with Regulation (EC) No 1069/2009 of the European Parliament and of the Council⁷.
- (6) To avoid any misuse of this exemption, the competent authority that authorises the entry of research or diagnostic samples and of samples of products of animal origin and of composite products for product analysis and quality testing should specify in the authorisation issued to operators the maximum amount of the samples.
- (7) The quantity of certain goods that form part of passengers' personal luggage, are intended for personal consumption or use and are exempted from official controls at border control posts, should be clarified.
- (8) In order to ensure coherence with the relevant lists of third countries in Regulation (EU) No 576/2013 of the European Parliament and of the Council⁸ from where pet animals may be moved into a Member, the exemption for pet animals that enter the Union from third countries, not listed in Part 1 of Annex II to Commission Implementing Regulation (EU) No 577/2013⁹ should be corrected.
- (9) In accordance with the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community (Withdrawal Agreement), and in particular Article 5(4) of the Protocol on Ireland/Northern Ireland in conjunction with Annex 2 to that Protocol, Regulation (EU) 2017/625, as well as the Commission acts based on it, apply in the

⁶ 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).

⁷ 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 (Animal by-products Regulation) (OJ L 300, 14.11.2009, p. 1).

⁸ 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 998/2003 (OJ L 178, 28.6.2013, p. 1).

⁹ Commission Implementing Regulation (EU) No 577/2013 of 28 June 2013 on the model identification documents for the non-commercial movement of dogs, cats and ferrets, the establishment of lists of territories and third countries and the format, layout and language requirements of the declarations attesting compliance with certain conditions provided for in Regulation (EU) No 576/2013 of the European Parliament and of the Council (OJ L 178, 28.6.2013, p. 109).

United Kingdom in respect of Northern Ireland. Consequently, the posters in Annex II to Delegated Regulation (EU) 2019/2122 and the leaflet in Annex III thereto concerning the introduction of products that form part of passengers' personal luggage, should be amended to include references to the United Kingdom in respect of Northern Ireland.

- (10) Commission Decision 2007/275/EC¹⁰ is repealed by Commission Implementing Regulation (EU) 2021/632¹¹. In the interest of legal certainty, references to Commission Decision 2007/275/EC in Annex III to Delegated Regulation (EU) 2019/2122 should be replaced by references to Commission Delegated Regulation (EU) 2021/630¹².
- (11) Delegated Regulation (EU) 2019/2122 should therefore be amended accordingly.
- (12) Commission Implementing Regulation (EU) 2019/2007¹³ is repealed by Implementing Regulation (EU) 2021/632. In the interest of legal certainty, the references to Implementing Regulation (EU) 2019/2007, and to Decision 2007/275/EC in Commission Delegated Regulation (EU) 2019/2074¹⁴ should be replaced by references to Commission Implementing Regulation (EU) 2021/632.
- (13) Delegated Regulation (EU) 2019/2074 should be amended accordingly.
- (14) In Delegated Regulation (EU) 2019/2074, references to the same repealed legal acts as in Delegated Regulation (EU) 2019/2122 should be corrected. The rules in those Delegated Regulations are substantively linked and are intended to be applied in tandem. In the interests of simplicity and transparency, as well as to facilitate their application and to avoid a multiplication of rules, they should be laid down in a single act rather than in a number of separate acts with many cross-references and the risk of duplication. In conclusion, the amendment to Delegated Regulation (EU) 2019/2074 should be included into this Regulation together with the amendment to Delegated Regulation (EU) 2019/2122,

¹⁰ Commission Decision 2007/275/EC of 17 April 2007 concerning lists of composite products to be subject to controls at border control posts (OJ L 116, 4.5.2007, p. 9).

¹¹ Commission Implementing Regulation (EU) 2021/632 of 13 April 2021 laying down rules for the application of Regulation (EU) 2017/625 of the European Parliament and of the Council as regards the lists of animals, products of animal origin, germinal products, animal by-products and derived products, composite products, and hay and straw subject to official controls at border control posts, and repealing Implementing Regulation (EU) 2019/2007 and Commission Decision 2007/275/EC (OJ L 132, 19.4.2021, p. 24).

¹² Commission Delegated Regulation (EU) 2021/630 of 16 February 2021 supplementing Regulation (EU) 2017/625 of the European Parliament and of the Council as regards certain categories of goods exempted from official controls at border control posts and amending Commission Decision 2007/275/EC [C(2021)899] (OJ L 132, 19.4.2021, p. 17).

¹³ Commission Implementing Regulation (EU) 2019/2007 of 18 November 2019 laying down rules for the application of Regulation (EU) 2017/625 of the European Parliament and of the Council as regards the lists of animals, products of animal origin, germinal products, animal by-products and derived products and hay and straw subject to official controls at border control posts and amending Decision 2007/275/EC (OJ L 312, 3.12.2019, p. 1).

¹⁴ Commission Delegated Regulation (EU) 2019/2074 of 23 September 2019 supplementing Regulation (EU) 2017/625 of the European Parliament and of the Council as regards rules on specific official controls on consignments of certain animals and goods originating from, and returning to the Union following a refusal of entry by a third country (OJ L 316, 6.12.2019, p. 6).

HAS ADOPTED THIS REGULATION:

Article 1

Delegated Regulation (EU) 2019/2122 is amended as follows:

1. in Article 3(1), point (b) is replaced by the following:
'(b) their entry into the Union is authorised in advance for that purpose by the competent authority of the Member State* of destination;

* In accordance with the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community, and in particular Article 5(4) of the Protocol on Ireland/Northern Ireland in conjunction with Annex 2 to that Protocol, for the purposes of this Regulation, references to Member States include the United Kingdom in respect of Northern Ireland.;

2. Article 4 is amended as follows:
(a) the title is replaced by the following:

‘Article 4

Research and diagnostic samples, and samples of products of animal origin and of composite products for product analysis and quality testing, including organoleptic analysis’;

- (b) the following paragraphs 3, 4 and 5 are added:
'3. The competent authority of the Member State of destination may exempt samples of products of animal origin and of composite products for product analysis and quality testing, including organoleptic analysis, from official controls at border control posts provided that:
 - (a) the competent authority has issued to the operator responsible for the analysis or testing of the samples in advance of their entry into the Union an authorisation for their introduction into the Union in accordance with paragraph 4 and that authorisation is recorded in an official document delivered by that authority;
 - (b) the samples are accompanied by the official document referred to in point (a) or by a copy thereof, the certificate or declaration referred to in paragraph 4(b), or where applicable, any document required under national rules referred to in paragraph 4(c), until the samples reach the operator responsible for the analysis or testing of the samples.

Where samples referred to in the first subparagraph enter the Union via a Member State other than the Member State of destination, the operator shall present such samples at a border control post.

4. The competent authority of the Member State of destination shall specify in the authorisation for the introduction into the Union of samples of products of animal origin and of composite products for product analysis and quality testing, including organoleptic analysis, the following:

- (a) the samples originate from third countries or regions of third countries listed in Commission Implementing Regulation (EU) 2021/404*;
 - (b) the samples are accompanied by the relevant certificate or declaration drawn up in accordance with the models established in Commission Implementing Regulation (EU) 2020/2235**;
 - (c) that, depending on the commodity, the samples comply with the following:
 - (i) relevant requirements laid down in Commission Delegated Regulation (EU) 2020/692***; or
 - (ii) national rules in accordance with Articles 230(2), 234(3) and 238(4) of Regulation (EU) 2016/429, where applicable;
 - (d) the public health requirements for:
 - entry into the Member State of destination, which may include labelling and packaging requirements for the samples; and
 - the analysis or testing of the samples by the operator;
 - (e) the operator responsible for the analysis or testing of the samples, including a reference to the address of the operator's premises for which the samples are destined;
 - (f) the competent authority responsible for official controls at the operator's premises for which the samples are destined; and
 - (g) the obligations of the operator responsible for the analysis or testing not to mix the samples with food destined for placing on the market, to keep records on the use of the samples and to dispose of the samples after the product analysis or the quality testing in accordance with Regulation (EC) No 1069/2009 of the European Parliament and of the Council****.
5. The competent authority of the Member State of destination shall specify in the authorisations referred to in paragraphs 1(a) and paragraph 3, first subparagraph, point (a) the maximum amount of samples exempted from official controls at border control posts .

* 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).

** Commission Implementing Regulation (EU) 2020/2235 of 16 December 2020 laying down rules for the application of Regulations (EU) 2016/429 and (EU) 2017/625 of the European Parliament and of the Council as regards model animal health certificates, model official certificates and model animal health/official certificates, for the entry

into the Union and movements within the Union of consignments of certain categories of animals and goods, official certification regarding such certificates and repealing Regulation (EC) No 599/2004, Implementing Regulations (EU) No 636/2014 and (EU) 2019/628, Directive 98/68/EC and Decisions 2000/572/EC, 2003/779/EC and 2007/240/EC (OJ L 442, 30.12.2020, p. 1).

*** 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).

**** 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 (Animal by-products Regulation) (OJ L 300, 14.11.2009, p. 1).’;

3. in Article 7, point (a) is replaced by the following:
‘(a) goods listed in Part 1 of Annex I provided that the quantity in each category does not exceed the weight limit of 2 kg;’;
4. in Article 11, point (a)(ii) is replaced by the following:
‘(ii) meet the conditions laid down in Article 5(1) or Article 5(2) of Regulation (EU) No 576/2013 and are being moved from a territory or a third country other than those listed in Part 1 of Annex II to Implementing Regulation (EU) No 577/2013, provided that they undergo documentary and identity checks in accordance with Article 34 of Regulation (EU) No 576/2013, and where relevant, standard spot checks in accordance with Article 5(3) of that Regulation; or’;
5. Annexes II and III are amended in accordance with the Annex to this Regulation.

Article 2

Delegated Regulation (EU) 2019/2074 is amended as follows:

1. in Article 3, paragraph 1 is replaced by the following:
 - ‘1. The competent authority at the border control post of arrival into the Union shall authorise the entry into the Union of the following consignments of products originating from and returning into the Union following a refusal of entry by a third country provided that they comply with the requirements set out in paragraph 2:
 - (a) products of animal origin listed in the Annex to Commission Implementing Regulation (EU) 2021/632*;
 - (b) composite products listed in Chapters 15 to 22 of the Annex to Implementing Regulation (EU) 2021/632 that are subject to veterinary checks at border control posts of arrival into the Union in accordance with Article 3 of that Implementing Regulation.

* Commission Implementing Regulation (EU) 2021/632 of 13 April 2021 laying down rules for the application of Regulation (EU) 2017/625 of the European Parliament and of the Council as regards the lists of animals, products of animal origin, germinal products, animal by-products and derived products, composite products, and hay and straw subject to official controls at border control posts, and repealing Implementing Regulation (EU) 2019/2007 and Commission Decision 2007/275/EC (OJ L 132, 19.4.2021, p. 24).’;

2. in Article 3(2), point (a) is replaced by the following:

‘(a) the original official certificate issued by the competent authority of the Member State* from which the goods originate and were dispatched to a third country (“Member State of origin”), or its electronic equivalent submitted in IMSOC, or an authenticated copy thereof;

* In accordance with the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community, and in particular Article 5(4) of the Protocol on Ireland/Northern Ireland in conjunction with Annex 2 to that Protocol, for the purposes of this Regulation, references to Member States include the United Kingdom in respect of Northern Ireland.’.

Article 3

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

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

Done at Brussels, 21.9.2021

For the Commission
The President
Ursula VON DER LEYEN