

STATES OF JERSEY



DRAFT EUROPEAN UNION (UNITED KINGDOM EXIT – ANIMAL HEALTH AND WELFARE) (JERSEY) REGULATIONS 201-

**Lodged au Greffe on 28th January 2019
by the Minister for the Environment**

STATES GREFFE



Jersey

DRAFT EUROPEAN UNION (UNITED KINGDOM EXIT – ANIMAL HEALTH AND WELFARE) (JERSEY) REGULATIONS 201-

REPORT

Background

Trade in agricultural goods has been central to Jersey's relationship with the EU. Across the EU, trade in animals and animal products is facilitated through shared health controls for animals and their products. These controls are needed to manage the risk of spreading serious diseases, such as rabies and foot-and-mouth disease.

Pursuant to Protocol 3 of the Treaty of Accession of the United Kingdom, many EU controls for animals and animal products apply directly in Jersey. In addition, much of Jersey's domestic animal health legislation refers to and is dependent upon EU legislation, standards and institutions.

The UK is scheduled to leave the European Union at 11 p.m. on 29th March 2019 pursuant to the European Union (Withdrawal) Act 2018. In the absence of a UK-EU withdrawal agreement that allows EU legislation to continue to apply for a period after exit, directly applicable EU animal health legislation will cease to have application to Jersey. Furthermore, a significant amount of relevant domestic animal health legislation will no longer operate as intended, as a consequence of the change in our (and the UK's) relationship with the EU.

With the likelihood of the UK and EU concluding a withdrawal agreement impossible to predict, Jersey must ensure its legislation is ready for exit day. Furthermore, any future arrangement may not effectively and immediately provide for all relevant areas.

Without amendments to Jersey's Brexit affected legislation, veterinary services will no longer be able to enforce a range of fundamental controls, including import and export health controls for animals, semen and animal products. Certain controls on animal welfare during transport would also cease to function. The consequences of failing to amend legislation include –

- ❖ Impaired ability to restrict the import of animals of lower health status, including those from regions where serious diseases are present which are not present in Jersey, and which we would not wish to introduce to the Island.
- ❖ Impaired ability to enforce or facilitate appropriate welfare standards during transport.
- ❖ Failure to meet international standards for official controls on national animal health status, including import controls. Concerns around Jersey's health status for various diseases would have an effect on trade; should Jersey be

seen as at risk of accepting low health status imports, then other countries, including the UK, may no longer accept relevant exports from Jersey, such as cattle, dogs and horses, or animal products, such as dairy products and shellfish.

The Draft European Union (United Kingdom Exit – Animal Health and Welfare) (Jersey) Regulations 201- (“the new Regulations”) will allow amendments to be made to affected legislation to ensure that essential control arrangements, and with them, market access for Jersey exports, are maintained when our relationship with the EU changes after Brexit. The new Regulations facilitate such amendments by providing the Minister for the Environment with powers to amend animal health, animal welfare and aquatic animal health legislation by Order.

Orders can be made more quickly than Regulations as, unlike Regulations, no 6 week lodging period applies for Ministerial Orders, and there is no requirement that Orders be debated by the Assembly prior to their entry into force. The uncertainties of Brexit and increasingly tight timeframes mean that Ministerial Orders are required for the Government of Jersey to make timely animal health and welfare amendments in response to changes to existing EU schemes.

The Government is working closely with UK and Crown Dependency counterparts to ensure that Jersey is able to continue to enforce robust and appropriate controls outside of EU networks. New post-Brexit arrangements are far from complete and frequently change, with weekly updates from the UK in some areas. Furthermore, negotiations between the UK and the EU on the terms of the UK’s withdrawal and the future relationship are ongoing. The need for powers to make timely changes by Order is further underlined by the large number of animal health and welfare domestic legal instruments affected by Brexit that must be amended before 29th March 2019 (over 30 instruments under review).

It is therefore essential that the Minister is able to react quickly and be able to amend legislation by Order during this period of adjustment. The powers provided in the new Regulations are strictly to allow the Minister to deal with the consequences of Brexit and, therefore, the new Order-making powers will expire at the end of December 2020. This aligns with the end of the transition period as set out in the draft UK-EU Withdrawal Agreement text.

Detail of the new Regulations

Regulations 1 to 3 provide temporary powers for the Minister for the Environment to deal with deficiencies arising from Brexit in Jersey’s animal health, animal welfare and aquatic animal health legislation. These temporary powers will be inserted into the chief piece of domestic legislation in each subject area: Regulation 1 inserts a new Article 31A into the [Animal Health \(Jersey\) Law 2016](#), Regulation 2 inserts a new Article 39A into the [Animal Welfare \(Jersey\) Law 2004](#), and Regulation 3 inserts a new Regulation 39A into the [EU Legislation \(Aquatic Animal Health\) \(Jersey\) Regulations 2016](#).

The Minister is being provided with time-limited powers to make by Order any provision which may be made by Regulations under Article 2, 5A or 5B of the [European Union Legislation \(Implementation\) \(Jersey\) Law 2014](#) (“the 2014 Law”). This will ensure that the Government of Jersey is able to respond quickly to make essential changes during the Brexit period. These powers enable the Minister to fix operationally critical legislation, and to make provision for replacement veterinary control arrangements at the last minute as necessary.

The powers enable the Minister to –

- (a) Give effect, either wholly or partly, to any EU provision, and to deal with matters arising out of or related to any such provision. This includes the ability to modify and adapt EU provisions to make them suitable for Jersey.
- (b) Make appropriate provision to prevent, remedy or mitigate any deficiencies arising in domestic legislation as a result of Brexit.
- (c) Make appropriate provision to prevent or remedy any breach of an international obligation that applies or extends to Jersey as a consequence of Brexit.

The Orders made pursuant to these new powers are subject to the following limitations: Orders may not impose or increase taxation; Orders may not take effect from a date earlier than that of the making of the Order; Orders may not amend the 2014 Law; and Orders may not impose a penalty of imprisonment for more than 2 years. As mentioned above, these 3 Order-making powers will expire after 2020.

Regulation 4 provides that the new Regulations come into force on the day after they are made. The new Regulations are needed in force as soon as possible to enable the drafting of the amending Orders, as many of the amendments to animal health and welfare legislation are needed immediately after 29th March 2019, even if a transition period is agreed between the UK and the EU.

It is important to recognise that the passage of the new Regulations is the critical first stage in an essential series of amendments to veterinary legislation. This is needed to ensure that when the UK leaves the EU, and Jersey's present relationship with the EU ends, Jersey's domestic animal health and welfare controls will still be recognised as fit for purpose, and export market access will be maintained.

Conclusion

The new Regulations are required to enable the Minister to make essential amendments to Jersey's animal health, aquatic animal health and animal welfare legislation as a consequence of Brexit.

Financial and manpower implications

There are no financial or manpower implications for the States arising directly from the adoption of the new Regulations.

Explanatory Note

These Regulations amend the Animal Health (Jersey) Law 2016, the Animal Welfare (Jersey) Law 2004 and the EU Legislation (Aquatic Animal Health) (Jersey) Regulations 2016, to insert powers for the Minister by Order to make provision related to Brexit and European legislation in the fields covered by those 3 enactments. The powers are the same as the powers of the Assembly to make such provision by Regulations under the European Union Legislation (Implementation) (Jersey) Law 2014. The Minister cannot exercise the powers any later than the end of 2020.

The Regulations would come into force on the day after they are made.



Jersey

**DRAFT EUROPEAN UNION (UNITED KINGDOM
EXIT – ANIMAL HEALTH AND WELFARE)
(JERSEY) REGULATIONS 201-**

Arrangement

Regulation

1	Animal Health (Jersey) Law 2016 amended	9
2	Animal Welfare (Jersey) Law 2004 amended	9
3	EU Legislation (Aquatic Animal Health) (Jersey) Regulations 2016 amended	10
4	Citation and commencement	10



Jersey

DRAFT EUROPEAN UNION (UNITED KINGDOM EXIT – ANIMAL HEALTH AND WELFARE) (JERSEY) REGULATIONS 201-

Made [date to be inserted]
Coming into force [date to be inserted]

THE STATES, in pursuance of Articles 2, 5A and 5B of the European Union Legislation (Implementation) (Jersey) Law 2014¹, have made the following Regulations –

1 Animal Health (Jersey) Law 2016 amended

Before Article 32 of the Animal Health (Jersey) Law 2016², there is inserted –

“31A Orders to deal with deficiencies arising from withdrawal of UK from EU

- (1) The Minister may, by Order, make any provision, whether by amendment or otherwise, that –
 - (a) may be made by Regulations under Article 2, 5A or 5B of the European Union Legislation (Implementation) (Jersey) Law 2014³; and
 - (b) is or relates to –
 - (i) a matter capable of regulation by this Law,
 - (ii) a matter for which provision may be made under Article 7, or
 - (iii) an amendment of this Law or of an Order made under this Law.”.
- (2) No Order may be made under paragraph (1) after 2020.”.

2 Animal Welfare (Jersey) Law 2004 amended

After Article 39 of the Animal Welfare (Jersey) Law 2004⁴, there is inserted –

“39A Orders to deal with deficiencies arising from withdrawal of UK from EU

- (1) The Minister may, by Order, make any provision, whether by amendment or otherwise, that –
 - (a) may be made by Regulations under Article 2, 5A or 5B of the European Union Legislation (Implementation) (Jersey) Law 2014⁵; and
 - (b) is or relates to –
 - (i) the welfare of animals,
 - (ii) a matter for which provision may be made by Order under this Law, or
 - (iii) an amendment of this Law or of an Order made under this Law.
- (2) No Order may be made under paragraph (1) after 2020.”.

3 EU Legislation (Aquatic Animal Health) (Jersey) Regulations 2016 amended

After Regulation 39 of the EU Legislation (Aquatic Animal Health) (Jersey) Regulations 2016⁶, there is inserted –

“39A Orders to deal with deficiencies arising from withdrawal of UK from EU

- (1) The Minister may, by Order, make any provision, whether by amendment or otherwise, that –
 - (a) may be made by Regulations under Article 2, 5A or 5B of the European Union Legislation (Implementation) (Jersey) Law 2014⁷; and
 - (b) is or relates to –
 - (i) the health of aquatic animals,
 - (ii) a matter for which provision may be made by Order under these Regulations, or
 - (iii) an amendment of these Regulations or of an Order made under these Regulations.
- (2) No Order may be made under paragraph (1) after 2020.”.

4 Citation and commencement

These Regulations may be cited as the European Union (United Kingdom Exit – Animal Health and Welfare) (Jersey) Regulations 201-, and come into force on the day after they are made.

-
- 1 *chapter 17.245*
 - 2 *chapter 02.020*
 - 3 *chapter 17.245*
 - 4 *chapter 02.050*
 - 5 *chapter 17.245*
 - 6 *chapter 17.245.61*
 - 7 *chapter 17.245*