

# STATES OF JERSEY



Jersey

## **DRAFT OFFICIAL CONTROLS (ANIMALS, FOOD, FEED AND PLANT HEALTH ETC.) (JERSEY) REGULATIONS 202-**

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**Lodged au Greffe on 9th December 2021  
by the Minister for the Environment  
Earliest date for debate: 8th February 2022**

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**STATES GREFFE**



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## REPORT

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### Background

Official Control Regulations (“OCR”) exist in the UK and in the EU and are intended to provide a framework for the control of sanitary and phytosanitary (“SPS”) goods entering a territory. They are necessary for the protection of the SPS health of a territory, and they are integral to international trade negotiations and agreements. The OCR provides assurances to third countries (which might wish to import our animal or plant produce) that there are sufficient protective measures in place to reduce to acceptable levels any risks to animal, plant or human health; and it forms a significant barrier to inward trade, which can be removed or reduced by trade negotiations.

### Detail

The Draft Official Controls (Animals, Food, Feed and Plant Health etc.) (Jersey) Regulations 202- (the “Regulations”) are intended to repeal and replace the [EU Legislation \(Official Controls\) \(Jersey\) Regulations 2020](#) and the [Animal Health and Welfare \(Temporary Continuance of Effect of European Union Legislation\) \(Jersey\) Order 2019](#).

The principal change that is made between the Regulations and the EU Legislation (Official Controls) (Jersey) Regulations 2020 is in respect of the territorial application of these controls.

- The EU Legislation (Official Controls) (Jersey) Regulations 2020 allows the Minister, as the Competent Authority, to treat goods entering Jersey from the rest of the world differently to goods entering Jersey from the UK; and it provides for the treatment of goods entering Jersey from the EU as if they were from the UK.

*Whereas* –

- The Draft Official Controls (Animals, Food, Feed and Plant Health etc.) (Jersey) Regulations 202- allows the Minister, as the Competent Authority, to treat goods entering Jersey from the rest of the world differently to goods entering Jersey from the UK; and it provides (in *Schedule 2*) for the Minister to determine how controls are applied, including as regards the use of Border Control Posts, to SPS goods entering Jersey from the EU.

The changes mirror those made in UK legislation to accommodate the evolving border regime between the EU and the UK. The flexibility that is built into the Regulations will allow for official controls on Jersey to be implemented that reflect the settled policy position of the Minister with regard to EU imports.

The Regulations also implement 6 other EU Regulations and specifies that any controls within may be carried out using the OCR. By implementing these, the OCR completes the suite of regulations necessary for Jersey to demonstrate it has the frameworks for control that underpin third country listing for exports.

- Regulation (EC) No 178/2002 laying down the general principles and requirements of food law... and laying down procedures in matters of food

safety [*Regulation applied only to the extent that it relates to feed intended for pets*].

- Regulation (EC) No 1830/2003 concerning the traceability and labelling of genetically modified organisms and the traceability of food and feed products produced from genetically modified organisms.
- Regulation (EC) No 396/2005 on maximum residue levels of pesticides in or on food and feed of plant and animal origin.
- Commission Regulation (EC) No 2073/2005 on microbiological criteria for foodstuffs.
- Commission Regulation (EC) No 1881/2006 setting maximum levels for certain contaminants in foodstuffs.
- Commission Regulation (EU) No 37/2010 on pharmacologically active substances and their classification regarding maximum residue limits in foodstuffs of animal origin.

### **Financial and manpower implications**

There are no new or additional financial or manpower implications arising from this decision. Funds have been allocated in the [Proposed Government Plan 2022-2025](#) for Brexit related work which includes any additional requirements for inspection. At time of writing, this funding is being reviewed by the Environment, Housing and Infrastructure Scrutiny Panel as part of their review of the Government Plan.

## EXPLANATORY NOTE

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These Regulations, if passed, would continue to implement Regulation (EU) 2017/625 of the European Parliament and of the Council 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 (the “EU Official Controls Regulation”) with the modifications necessary to ensure its continued operation following the United Kingdom’s exit from the EU. These Regulations also implement in Jersey other EU legislation connected with official controls.

**Part 1** contains general provisions.

*Regulation 1* contains definitions of expressions used in these Regulations.

**Part 2** contains provisions relating to the EU Official Controls Regulation.

*Regulation 2* provides that the EU Official Controls Regulation has effect in Jersey subject to the modifications set out in Schedule 1. It sets out the provisions of the EU Official Controls Regulation that do not apply in Jersey.

*Regulation 3* makes provision for the application of the EU Official Controls Regulation in relation to relevant goods entering Jersey from relevant third countries (as defined in *Regulation 1*).

*Regulation 4* sets out special import arrangements that apply in relation to relevant goods from relevant third countries.

*Regulation 5* designates the Minister for the Environment (“the Minister”) as the competent authority for the areas governed by the EU Official Controls Regulation.

*Regulation 6* allows the Minister to designate officers (“designated officers”) to exercise functions under these Regulations or the EU Official Controls Regulation. The States Veterinary Officer, veterinary inspectors, plant health inspectors and environmental health officers are automatically designated by paragraph (3).

*Regulation 7* requires that the Minister ensures that arrangements are in place to ensure confidentiality and the maintenance of proper records.

*Regulation 8* allows the Minister to make available policies and guidance in relation to the exercising of functions under these Regulations or the EU Official Controls Regulation.

*Regulation 9* requires that the Minister arranges for an audit of the Minister’s functions as the competent authority and makes provision for that audit.

*Regulation 10* provides that methods and techniques for official controls must be in accordance with Article 14 of the EU Official Controls Regulation and allows an operator the right to seek a second opinion, at the operator’s own expense.

*Regulation 11* allows the Minister to prescribe, by Order, fees payable for any authorisation, certificate, permit or registration, or any inspection or other service or control provided under the EU Official Controls Regulation or these Regulations.

*Regulation 12* allows the Minister to make further provision by Order. This applies where the EU Official Controls Regulation requires the European Commission to make implementing or delegated acts or allows the Commission to make such acts.

**Part 3** and *Regulation 13* provide that certain other EU Regulations relating to official controls have effect in Jersey. These are –

- Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and

requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety (OJ L 31, 1.2.2002, p. 1), to the extent it relates to feed intended for pets;

- Regulation (EC) No 1830/2003 of the European Parliament and of the Council of 22 September 2003 concerning the traceability and labelling of genetically modified organisms and the traceability of food and feed products produced from genetically modified organisms and amending Directive 2001/18/EC (OJ L 268, 18.10.2003, p. 24);
- Regulation (EC) No 396/2005 of the European Parliament and of the Council of 23 February 2005 on maximum residue levels of pesticides in or on food and feed of plant and animal origin (OJ L 070 16.3.2005, p. 1);
- Commission Regulation (EC) No 2073/2005 of 15 November 2005 on microbiological criteria for foodstuffs (OJ L 338 22.12.2005, p. 1);
- Commission Regulation (EC) No 1881/2006 of 19 December 2006 setting maximum levels for certain contaminants in foodstuffs (OJ L 364, 20.12.2006, p. 5);
- Commission Regulation (EU) No 37/2010 of 22 December 2009 on pharmacologically active substances and their classification regarding maximum residue limits in foodstuffs of animal origin (OJ L 15, 20.1.2010, p. 1).

**Part 4** contains provisions relating to the powers of designated officers and to notices.

*Regulation 14* limits the civil liability of any person or body to whom the Regulations apply when discharging functions under the Regulations, unless there is bad faith. However, it does not prevent an award of damages under the Human Rights (Jersey) Law 2000.

*Regulation 15* provides for powers of entry for any designated officer to ensure compliance with the EU Official Controls Regulation or these Regulations and contains provisions relating to those powers. The powers of entry do not apply to premises that are used wholly or mainly as a private dwelling unless 24 hours' notice has been provided.

*Regulation 16* allows the Bailiff to permit, by warrant, a designated officer to enter premises for a purpose under Regulation 15 where entry has been, or is likely to be, refused (and notice has been given of an intention to apply for a warrant); asking for admission would defeat the object of entry; or entry is needed urgently or the premises are unoccupied.

*Regulation 17* makes provision for a designated officer to issue a notice to a person. The notice may require that information is provided. It may also provide information about any action that is to be taken either by the officer or the person for the purposes of preventing animal diseases or other risks or hazards to animal or plant health, animal welfare or the environment, or in relation to non-compliance with the EU Official Controls Regulation.

The Minister may also by notice designate demarcated areas in relation to the presence of animal disease or other risks or hazards to human, animal or plant health, animal welfare or the environment and include prohibitions and restrictions in relation to such an area.

*Regulation 18* allows a designed officer to enter premises to ensure compliance with a notice or to remedy non-compliance with a notice. This does not apply to premises that are used wholly or mainly as a private dwelling unless 24 hours' notice has been provided.

*Regulation 19* includes further provisions relating to what may be included in notices, for example, what may be required of the person to whom the notice has been given and what is to be done with items to which the notice applies. It also allows a designated officer to amend or withdraw the notice by a further notice.

*Regulation 20* makes provision for the service of notices, including service on unincorporated associations.

*Regulations 21 and 22* contain provisions relating to the disclosure of information.

*Regulation 21* relates to information held by customs officers, which may be disclosed to the Minister to allow the Minister to carry out any function under relevant legislation.

*Regulation 22* allows the Minister to disclose information that the Minister has obtained in executing functions under relevant legislation where this allows him or her to carry out those functions. In particular, information may be disclosed to competent authorities in EU Member States or the British Islands.

**Part 5** makes provision in relation to offences.

*Regulation 23* makes it an offence to contravene a provision of the EU Official Controls Regulation specified in Part 1 of Schedule 3 to these Regulations or of the EU instruments listed in Part 2 of Schedule 3. A person who commits the offence is liable to an unlimited fine.

*Regulation 24* makes it an offence to contravene without reasonable excuse any provision or condition of a notice served on a person under these Regulations, any authorisation granted under these Regulations or a direction given under these Regulations. A person who commits an offence is liable to an unlimited fine.

*Regulation 25* provides that it is an offence knowingly or recklessly to provide a false statement or representation, or a document or information which is false, or to intentionally fail to disclose material information. A person who commits an offence is liable to imprisonment for up to 2 years, an unlimited fine or both.

*Regulation 26* provides that it is an offence to intentionally obstruct a designated officer, to fail (without reasonable excuse) to give assistance or information which a designated officer may reasonably require. A person who commits an offence is liable to imprisonment for up to 2 years, an unlimited fine or both.

*Regulation 27* makes it an offence to disclose, without lawful authority or reasonable excuse, any information received from a customs officer under Regulation 21 if that information relates to a person whose identity is disclosed or can be deduced, the disclosure is not for a purpose specified in Regulation 21 and the customs officer has not given prior consent to the disclosure. A person who commits an offence is liable to imprisonment for up to 2 years, an unlimited fine or both.

*Regulation 28* makes provision in relation to offences committed by bodies corporate and by other bodies.

**Part 6** contains miscellaneous provisions.

*Regulation 29* makes provision for a right of appeal to the Royal Court against refusals, modifications, suspensions, revocations and cancellations of any authorisation, registration or permit under these Regulations or the EU Official Controls Regulation or any requirement or decision of the Minister or a designated officer under these Regulations. It also allows the Minister to prescribe by Order other acts under the EU Official Controls Regulation or these Regulations which may be appealed. The appeal must be brought within 21 days after the person has been served with a written copy of the decision, requirement or act that is being appealed, or within such further time as the Royal Court may allow.

*Regulation 30* makes transitional provision for any existing licences, consents, certificates or other authorisations, or notices served, in relation to any area governed by the EU Official Controls Regulation.

*Regulation 31* repeals the EU Legislation (Official Controls) (Jersey) Regulations 2020.

*Regulation 32* gives the name by which these Regulations may be known and provides that they come into force 7 days after they are made.





Jersey

## **DRAFT OFFICIAL CONTROLS (ANIMALS, FOOD, FEED AND PLANT HEALTH ETC.) (JERSEY) REGULATIONS 202-**

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Jersey

# **DRAFT OFFICIAL CONTROLS (ANIMALS, FOOD, FEED AND PLANT HEALTH ETC.) (JERSEY) REGULATIONS 202-**

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

**THE STATES** make these Regulations under Articles 2, 5A and 5B of the [European Union Legislation \(Implementation\) \(Jersey\) Law 2014](#) –

## **PART 1**

### **GENERAL**

#### **1 Interpretation**

- (1) In these Regulations –
- “customs officer” means the Agent of the Impôts or any other officer of the Impôts;
  - “designated officer” means a person designated by the Minister under Regulation 6(1) or a person listed in Regulation 6(3);
  - “EU Official Controls Regulation” means Regulation (EU) 2017/625 of the European Parliament and of the Council 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 (OJ L 95, 7.4.2017, p. 1), as amended from time to time;
  - “EU Plant Health Regulation” means Regulation (EU) 2016/2031 of the European Parliament and of the Council on protective measures against pests of plants (OJ L 317, 23.11.2016, p. 4);
  - “Minister” means the Minister for the Environment;
  - “Official Controls Regulation” means the EU Official Controls Regulation as it applies in Jersey;
  - “relevant EU Regulation” means a Regulation referred to in Regulation 13;
  - “relevant goods” means animals and goods in the categories specified in Article 47(1)(a) to (c) of the Official Controls Regulation;
  - “relevant legislation” means –
    - (a) these Regulations and any Order made under them;

- (b) the Official Controls Regulation;
- (c) the EU Plant Health Regulation (as it applies to official controls); and
- (d) a relevant EU Regulation;

“relevant third country” means –

- (a) a territory subject to special import arrangements; or
- (b) a third country other than a territory subject to special import arrangements where, before importation into Jersey, the animals or relevant goods concerned –
  - (i) have been presented to a Member State border control post recognised by the appropriate authority, and
  - (ii) are accompanied by a CHED which has been completed to the satisfaction of the Minister;

“territory subject to special import arrangements” means –

- (a) in relation to relevant goods falling within Article 47(1)(a) or (b) of the Official Controls Regulation –
  - (i) an EEA state,
  - (ii) the Faroe Islands,
  - (iii) Greenland,
  - (iv) Switzerland; and
- (b) in relation to relevant goods falling within Article 47(1)(c) of the Official Controls Regulation –
  - (i) a Member State,
  - (ii) Liechtenstein,
  - (iii) Switzerland;

“working day” means any day, other than –

- (a) a Saturday or Sunday;
- (b) Christmas Day or Good Friday; or
- (c) a day that is a public holiday under the [Public Holidays and Bank Holidays \(Jersey\) Act 2010](#).

(2) In these Regulations –

- (a) a reference to a relevant EU Regulation is to be construed as a reference to that Regulation as amended from time to time; and
- (b) terms used in these Regulations and in the Official Controls Regulation have the same meaning as in the Official Controls Regulation.

(3) Except where paragraph (4) applies, a reference in these Regulations to the Official Controls Regulation is to be construed as including any delegated act or implementing act (within the meaning given in Articles 290 and 291 of the Treaty on the Functioning of the European Union) adopted by the Commission under or in relation to the Official Controls Regulation or for which the legal basis otherwise is or includes the Official Controls Regulation and any such act is to be construed compatibly with the modifications made to the Official Controls Regulation by these Regulations.

- (4) Paragraph (3) does not apply to any implementing act or delegated act (within the meaning given in Articles 290 and 291 of the Treaty on the Functioning of the European Union) adopted by the Commission where the Minister has made an Order under Regulation 12 in respect of the matters covered by that implementing act or delegated act.

## **PART 2**

### **OFFICIAL CONTROLS REGULATION**

#### **DIVISION 1 – GENERAL**

## **2 Application of the Official Controls Regulation**

- (1) Subject to Regulation 3 and paragraph (2), the EU Official Controls Regulation has effect in Jersey subject to the modifications set out in Schedule 1.
- (2) The following provisions of the EU Official Controls Regulation do not apply in Jersey –
- (a) Article 4(2)(b) and (4)(b);
  - (b) Article 59(3) to (5);
  - (c) Article 60(2);
  - (d) Article 61;
  - (e) Article 66(5)(a);
  - (f) Articles 92 to 94;
  - (g) Article 98(c);
  - (h) Article 99(3) and (4);
  - (i) Article 100(5) and (6);
  - (j) Article 103(4) to (6);
  - (k) Article 106(3) and (4);
  - (l) Article 108;
  - (m) Article 111(2)(d) and (3);
  - (n) Article 114;
  - (o) Articles 116 to 119;
  - (p) Article 120(4);
  - (q) Article 124;
  - (r) Article 128(4);
  - (s) Article 130;
  - (t) Article 132(c) and (e);
  - (u) Article 133(4);
  - (v) Article 135(3) and (4);
  - (w) Article 144;

- (x) Article 145;
- (y) Article 147;
- (z) Article 149;
- (za) Annex 1.

### **3 Application of the Official Controls Regulation in relation to relevant goods from relevant third countries**

- (1) In addition to the modifications set out in Schedule 1, and subject to paragraph (2), in relation to relevant goods entering Jersey from a relevant third country, the EU Official Controls Regulation has effect subject to the modifications set out in Schedule 2.
- (2) The following provisions of the EU Official Controls Regulation do not apply in Jersey in relation to relevant goods entering Jersey from a relevant third country –
  - (a) Article 54(1) and (2);
  - (b) Article 56;
  - (c) Article 57.

### **4 Prior notification of entry to Jersey: special import arrangements and entry into Jersey**

- (1) This Regulation applies in relation to relevant goods entering Jersey from a relevant third country.
- (2) Prior notification of relevant goods arriving from a territory subject to special import arrangements, where required under paragraph (3) or by other enactment in force in Jersey, must be given to the Minister –
  - (a) at least one working day before the expected time of arrival at a point of entry into Jersey; or
  - (b) in a case where the importer can provide evidence of a logistical constraint preventing such notification, at least 4 hours in advance.
- (3) Operators must give prior notification of the arrival of –
  - (a) live animals and germinal products;
  - (b) products of animal origin intended for human consumption;
  - (c) animal by-products and derived products not intended for human consumption, where the consignment includes material which is required to be notified to the competent authority in the United Kingdom by paragraph 5 of Schedule 5 to the Import of, and Trade in, Animals and Animal Products (Miscellaneous Amendments) (EU Exit) Regulations 2020 of the United Kingdom, as amended from time to time;
  - (d) plants, plant products and other objects specified in Schedule 2 to the Plant Health (Amendment etc.) (EU Exit) Regulations 2020 of the United Kingdom, as amended from time to time;
  - (e) plants, plant products and other objects of a description specified in any entry in columns 1 and 2 of the table in Part A of Annex 11 to



Commission Implementing Regulation (EU) 2019/2072 (OJ L 317, 23.11.2016, p.4) establishing uniform conditions for the implementation of Regulation (EU) 2016/2031 of the European Parliament and the Council, which originate in any third country listed in the corresponding entry in column 3 of that table.

- (4) Relevant goods from relevant third countries may enter Jersey through any point of entry.

## **5 Designation of competent authority**

The Minister is designated as the competent authority in respect of the areas governed by rules listed in Article 1(2)(a) to (j) of the Official Controls Regulation.

## **6 Appointment of designated officers**

- (1) The Minister may, in respect of the designation under Regulation 5, appoint in writing persons as designated officers authorised to perform functions under these Regulations or the Official Controls Regulation.
- (2) Upon request, a designated officer must produce evidence of appointment under this Regulation when performing functions under these Regulations or the Official Controls Regulation.
- (3) In addition to persons designated under paragraph (1), the following are designated officers for the purposes of these Regulations or the Official Controls Regulation –
  - (a) the States Veterinary Officer appointed under the [Animal Health \(Jersey\) Law 2016](#) and any inspector appointed under Article 6 of that Law;
  - (b) any plant health inspector authorised under the [Plant Health \(Jersey\) Law 2003](#);
  - (c) any person appointed under Article 10 of the [Loi \(1934\) sur la Santé Publique](#).

### **DIVISION 2 – FUNCTIONS OF COMPETENT AUTHORITY AND DESIGNATED OFFICERS**

## **7 Confidentiality and records**

- (1) The Minister must ensure that arrangements are in place –
  - (a) to maintain confidentiality in relation to the official controls and other official activities undertaken; and
  - (b) to enable the reporting of actual, potential or suspected non-compliance with the Official Controls Regulation.
- (2) The Minister may –
  - (a) keep and maintain –
    - (i) registers and records,

- (ii) lists of designated, recognised, authorised or approved bodies, councils, agencies, laboratories or like establishments (however described), or sites, facilities and stations (however described), and
  - (iii) lists or records of officers or other individuals appointed or permitted to perform official controls and other official activities on the Minister's behalf (including authorisations to issue official certificates or official attestations);
- (b) grant, issue, amend, suspend, withdraw and revoke such authorisations, consents, licences, certificates, attestations, approvals or like permissions;
  - (c) publicise such information (including on the internet); and
  - (d) take such other action,
- as the Minister considers to be necessary or expedient to enable the performance of the Minister's functions under the Official Controls Regulation and these Regulations.

## **8 Policies and guidance**

The Minister may make available to the public, in a manner and form the Minister considers appropriate, any policies and guidance the Minister intends to take into account in performing functions under the Official Controls Regulation and these Regulations.

## **9 Audits**

- (1) The Minister must make arrangements from time to time for an audit of the Minister's functions as the competent authority.
- (2) The Minister may, in writing, appoint an auditor and, during the term of the appointment and the conduct of the audit, the auditor is a competent authority under the Official Controls Regulation for the purposes of performing functions under these Regulations.
- (3) Upon request, an auditor must produce evidence of appointment under this Regulation when performing functions under these Regulations.
- (4) The Minister must provide such assistance to the auditor as is reasonably required in order for the auditor to carry out the audit effectively.
- (5) The auditor must produce an audit report in such form as the auditor considers to be appropriate and send a copy of the report to the Minister.
- (6) In this Regulation –
  - “audit” means an audit carried out for the purposes of Article 6 of the Official Controls Regulation;
  - “auditor” means a person appointed under paragraph (2) who is conducting an audit.

## **10 Methods and techniques for official controls**

- (1) The methods and techniques for official controls must be in accordance with Article 14 of the Official Controls Regulation.

- (2) An operator whose animals, goods or other objects are subject to sampling, analysis, testing or diagnosis may obtain a second expert opinion at the operator's own expense in accordance with Article 35 of the Official Controls Regulation.

## **11 Fees**

- (1) The Minister may by Order prescribe fees payable for any authorisation, certificate, permit or registration, or any inspection or other service or control provided under the Official Controls Regulation or these Regulations.
- (2) Without limiting paragraph (1), the Order may –
  - (a) include fees in respect of anything done by a designated officer or another person, whether or not it is done at the request of the person required to pay the fee; and
  - (b) make provision for the recovery of such fees or the refusal of any service if a fee prescribed for the service is not paid.

## **12 Power to make provision by Order**

- (1) Where a provision (“an empowering provision”) of the EU Official Controls Regulation requires the Commission of the European Union to make delegated acts or implementing acts gives to the Commission the power to make delegated acts or implementing acts, the Minister may, by Order, make such provision as is necessary to give effect to that empowering provision in Jersey.
- (2) An empowering provision is subject to any modification necessary to allow provision to be made in Jersey, including any modifications necessary to make provision in consequence of the United Kingdom's exit from the European Union.
- (3) When the Minister makes an Order –
  - (a) where the empowering provision includes matters that the Commission must take into account, the Minister must take those matters into account; and
  - (b) where the empowering provision requires the Commission to take account of any European Union legislation before making delegated acts or implementing acts, the Minister may also take into account any equivalent legislation made in another British Island.
- (4) Where the Minister has made an Order under an empowering provision, reference in the Official Controls Regulation to that empowering provision is a reference to the Order made by the Minister.

### PART 3

#### OTHER EU REGULATIONS RELATING TO OFFICIAL CONTROLS

#### 13 Application of other European Union Regulations relating to official controls

- (1) The following Regulations, as amended from time to time, have effect in Jersey –
  - (a) subject to the modification in paragraph (4), Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety (OJ L 31, 1.2.2002, p. 1) (“Regulation (EC) 178/2002”), to the extent it relates to feed intended for pets;
  - (b) subject to the modification in paragraph (5), Regulation (EC) No 1830/2003 of the European Parliament and of the Council of 22 September 2003 concerning the traceability and labelling of genetically modified organisms and the traceability of food and feed products produced from genetically modified organisms (OJ L 268, 18.10.2003, p. 24) (“Regulation (EC) 1830/2003”);
  - (c) Regulation (EC) No 396/2005 of the European Parliament and of the Council of 23 February 2005 on maximum residue levels of pesticides in or on food and feed of plant and animal origin (OJ L 70, 16.3.2005, p. 1);
  - (d) Commission Regulation (EC) No 2073/2005 of 15 November 2005 on microbiological criteria for foodstuffs (OJ L 338, 22.12.2005, p. 1);
  - (e) Commission Regulation (EC) No 1881/2006 of 19 December 2006 setting maximum levels for certain contaminants in foodstuffs (OJ L 364, 20.12.2006, p. 5);
  - (f) Commission Regulation (EU) No 37/2010 of 22 December 2009 on pharmacologically active substances and their classification regarding maximum residue limits in foodstuffs of animal origin (OJ L 15, 20.1.2010, p. 1).
- (2) A reference in the legislation referred to in paragraph (1) to a competent authority is a reference to the Minister.
- (3) When the legislation referred to in paragraph (1) requires an official control to be carried out, the Minister or a designated officer may carry out that control under the Official Controls Regulation.
- (4) In Regulation (EC) 178/2002, references to import into the Community and to export and re-export from the Community are to be read as references to import into Jersey and to export and re-export from Jersey.
- (5) In Regulation (EC) 1830/2003, in the definition of “operator” the reference to the placing on the market in the Community from a Member State or from a third country is a reference to a placing on the market in Jersey from any other country or territory.

## PART 4

### POWERS OF DESIGNATED OFFICERS, AND NOTICES

#### 14 Limitation of civil liability

- (1) A person or body to whom this Regulation applies is not liable in damages for anything done or omitted in the execution or purported execution of any function under relevant legislation unless it is shown that the act or omission was in bad faith.
- (2) This Regulation applies to the Minister, a designated officer or any other person authorised to carry out a function under the relevant legislation.
- (3) Paragraph (1) does not apply so as to prevent an award of damages in respect of the act on the ground that it was unlawful as a result of Article 7(1) of the [Human Rights \(Jersey\) Law 2000](#).

#### 15 Powers of entry

- (1) A designated officer may enter any premises at a reasonable time for any of the following purposes –
  - (a) performing official controls to verify that –
    - (i) a person is complying with relevant legislation, or
    - (ii) any animals, goods or other objects which are subject the relevant legislation comply with those rules or requirements;
  - (b) carrying out other official activities which are to be performed by the Minister under relevant legislation;
  - (c) enforcing relevant legislation; or
  - (d) verifying information supplied by a person in connection with the conduct of official controls or other official activities.
- (2) Before entering any premises under paragraph (1), a designated officer must, if requested to do so, produce a document showing that he or she is a designated officer and any warrant issued under Regulation 16.
- (3) Paragraph (1) does not apply to any premises which are used wholly or mainly as a private dwelling unless 24 hours' notice has been given to the occupier.
- (4) A designated officer who enters premises for a purpose specified in paragraph (1) or under a warrant issued by the Bailiff under Regulation 16 may –
  - (a) examine, photograph or mark any part of the premises, any object on the premises or anything that is attached to or otherwise forms part of the premises;
  - (b) take samples of or from –
    - (i) any animal, good or other object,
    - (ii) any container, package or object which has been or may have been in contact with an animal, good or other object, or
    - (iii) any substance or material;

- (c) open any container or package or require the owner, occupier or other person in charge of any container or package to open the container or package; or
  - (d) inspect or make copies of any documents or records (in whatever form they may be held) relating to an animal, good or other object.
- (5) A designated officer may destroy or otherwise dispose of any sample taken under this Regulation when the sample is no longer required.
- (6) A designated officer may –
- (a) be accompanied by such other persons as the designated officer considers necessary; and
  - (b) bring onto the premises such equipment and vehicles as the designated officer considers necessary.
- (7) A designated officer who is accompanied by a person mentioned in paragraph (6)(a) may –
- (a) show the person any documents or records which are inspected or copied by the officer under paragraph (4)(d); and
  - (b) make copies, or require copies to be made, of those documents or records for that person.
- (8) A person accompanying a designated officer under paragraph (6)(a) may –
- (a) bring onto the premises any equipment or vehicles that the person considers necessary; and
  - (b) perform any function under the relevant legislation on the premises in a manner directed by the designated officer.

## 16 Right of entry conferred by a warrant issued by the Bailiff

- (1) The Bailiff may, by warrant, permit a designated officer to enter premises for a purpose mentioned in Regulation 15(1), if necessary by reasonable force, if the Bailiff, on sworn information in writing, is satisfied that –
- (a) there are reasonable grounds to enter those premises; and
  - (b) one or more of the conditions in paragraph (2) are met.
- (2) The conditions are that –
- (a) entry to the premises has been, or is likely to be, refused and notice of the intention to apply for a warrant has been given to the occupier;
  - (b) asking for admission to the premises, or giving notice of the intention to apply for a warrant, would defeat the object of the entry;
  - (c) entry is required urgently; or
  - (d) the premises are unoccupied or the occupier is temporarily absent.
- (3) A designated officer who enters any unoccupied premises under a warrant under this Regulation must leave them as effectively secured against unauthorised entry as they were before entry.

## 17 Notices

- (1) A designated officer may by notice in writing require an appropriate person to provide, within the time specified in the notice, any information which

the person may possess in relation to the premises specified in the notice as to –

- (a) the animals, goods or other objects stored at any time on those premises;
  - (b) any animal disease or any other risk or hazard to animal or plant health, animal welfare or the environment; or
  - (c) any persons who have had, or are likely to have had, any animal, good or other object in their possession or under their charge on those premises.
- (2) A designated officer may by notice in writing to an appropriate person –
- (a) inform the person of such action that is being or is going to be taken by the designated officer; or
  - (b) require an appropriate person to take such action, within the time specified in the notice,
- as the designated officer considers to be necessary for the purposes of preventing the establishment or spread of, or for the purposes of eradicating, any actual or suspected animal disease or any other risk or hazard to animal or plant health, animal welfare or the environment.
- (3) In cases of actual or suspected non-compliance with obligations arising under the relevant legislation, including non-compliance in a Member State, the United Kingdom, Guernsey or the Isle of Man, a designated officer may by notice in writing to an appropriate person –
- (a) inform the person what action is being or is going to be taken by the designated officer, including any of the measures in Articles 137 and 138 of the Official Controls Regulation; or
  - (b) require the appropriate person to take such action as the designated officer considers to be necessary within the time specified in the notice including any of the measures in Articles 66 and 67 of the Official Controls Regulation.
- (4) The time within which the information is required to be given or action is required to be taken must be reasonable.
- (5) The notice may require that an appropriate person produces for examination by a designated officer any authorisation, official statement, certificate, record, invoice or other document relating to an animal, good or other object specified in the notice.
- (6) In this Regulation, “appropriate person” means –
- (a) in relation to any premises to be specified in a notice under paragraph (1), a person who is the owner, occupier or other person in charge of the premises;
  - (b) a person who has, has had, or is reasonably suspected by the designated officer to have or have had, possession or charge of an animal, good or other object; or
  - (c) a person who, as auctioneer, salesperson or otherwise, has sold, offered for sale or otherwise disposed of an animal, good or object.
- (7) The Minister may by notice –

- (a) demarcate an area in relation to the presence of an animal disease or any other risk or hazard to animal or plant health, animal welfare or the environment; and
  - (b) specify the prohibitions or restrictions which are to apply in the demarcated area for the purpose of reducing or eradicating the disease, risk or hazard.
- (8) A notice under paragraph (7) must –
- (a) describe the extent of the demarcated area;
  - (b) specify the date on which any such prohibitions or restrictions are to commence; and
  - (c) be published in a manner appropriate to bring it to the attention of the public.

## **18 Failure to comply with a notice**

- (1) Despite Article 24, if a person fails to comply with a notice served on that person under these Regulations within the time specified in the notice, a designated officer may enter any premises specified in the notice at all reasonable times to take or cause to be taken any steps that the designated officer considers necessary to ensure compliance with the notice or to remedy the consequences of the person's failure to comply with the notice.
- (2) The reasonable costs of taking such steps are recoverable by the Minister as a debt from the person on whom the notice was served.
- (3) Paragraph (1) does not apply to any premises which are used wholly or mainly as a private dwelling unless 24 hours' notice has been given to the occupier.
- (4) Paragraph (1) does not affect any right of entry conferred by a warrant issued by the Bailiff.

## **19 Miscellaneous provisions as to notices**

- (1) This Regulation applies to any notice given by the Minister or a designated officer under these Regulations.
- (2) The notice may –
  - (a) specify one or more requirements or alternative requirements;
  - (b) specify the manner in which and the period in which any requirement specified in the notice must be carried out or otherwise fulfilled; and
  - (c) require the owner, occupier or other person in charge of the premises to which the notice relates –
    - (i) to notify the Minister of any change in occupation of the premises, the date of the change and the name of the new occupier, and
    - (ii) to inform the new occupier of the premises of the content of the notice.
- (3) Any destruction, disposal, re-export or treatment of an animal, good or other object, or substance or material, which is required to be carried out



under the notice must be carried out, or arranged to be carried out, to the satisfaction of the designated officer by the person on whom the notice has been served.

- (4) A designated officer may amend or withdraw the notice by a further notice.
- (5) The notice may define by reference to a map or plan or otherwise the extent of any premises referred to in the notice.

## **20 Service of notices**

- (1) A notice given by the Minister or a designated officer under these Regulations is validly served on a person by –
  - (a) delivering it to the person personally;
  - (b) leaving it at the person’s proper address; or
  - (c) sending it to the person’s proper address.
- (2) If the name or address of any occupier of premises on whom a notice is to be served or given cannot, after reasonable enquiry, be ascertained, the notice may be served by leaving it conspicuously affixed to a building or object on the premises.
- (3) If the notice is urgent it may be served in the manner provided for under paragraph (2) and a copy subsequently served in the manner provided for under paragraph (1) if this is possible after reasonable enquiry.
- (4) For the purposes of this Regulation and Article 7 of the [Interpretation \(Jersey\) Law 1954](#), “proper address” means –
  - (a) in the case of a body corporate or limited liability partnership or partnership, the registered or principal office in Jersey of the body or partnership;
  - (b) in the case of any other partnership or a partner or person having control or management of the partnership business –
    - (i) the principal office in Jersey of the partnership, or
    - (ii) the email address of the partner or person having control or management; and
  - (c) in any other case, a person’s last known address, which includes an email address.

## **21 Disclosure of information held by customs officers**

- (1) A customs officer may disclose any information in the officer’s possession to the Minister for the purposes of enabling or assisting the Minister to carry out any function conferred on the Minister under relevant legislation.
- (2) Nothing in paragraph (1) affects any other power or requirement to disclose information.

## **22 Disclosure of information to other competent authorities**

- (1) For the purposes of enabling the Minister to carry out functions as the competent authority under relevant legislation, the Minister may disclose information that the Minister has received in the performance of the

Minister's functions to a competent authority in the British Islands or a Member State.

- (2) Nothing in paragraph (1) affects any other power or requirement of the Minister to disclose information under European Union legislation or an enactment.

## **PART 5**

### **OFFENCES**

#### **23 Offences: general**

- (1) A person commits an offence, and is liable to a fine, if the person contravenes –
- (a) a provision of the Official Controls Regulation specified in Part 1 of Schedule 3; or
  - (b) a provision in the EU Regulations specified in Part 2 of Schedule 3.
- (2) However, paragraph (1) does not apply to anything done under, or in accordance with, a notice, authorisation, consent, licence, certificate, attestation, approval or other permission given by the Minister or a designated officer under relevant legislation or to a contravention by the Minister.

#### **24 Failure to comply with requirements of notices etc.**

A person commits an offence, and is liable to a fine, if the person, without reasonable excuse, contravenes –

- (a) a provision or condition of a notice served on the person under these Regulations;
- (b) a provision or condition of an authorisation or permit granted to the person under relevant legislation; or
- (c) a provision or condition of a direction given under relevant legislation.

#### **25 Provision of false or misleading information**

A person commits an offence, and is liable to imprisonment for a term of 2 years and to a fine, if, for the purposes of obtaining an authorisation, licence or other consent under relevant legislation or procuring the issue of an official certificate by a designated officer, the person –

- (a) knowingly or recklessly makes a statement or representation which is false in a material particular;
- (b) knowingly or recklessly furnishes a document or information which is false in a material particular; or
- (c) intentionally fails to disclose any material information.

## **26 Obstruction**

A person commits an offence, and is liable to imprisonment for a term of 2 years and to a fine, if the person –

- (a) intentionally obstructs a designated officer performing a function under relevant legislation; or
- (b) without reasonable excuse, fails to give to a designated officer any assistance or information which the designated officer may reasonably require when performing a function under relevant legislation.

## **27 Offence relating to the disclosure of information held by customs officers**

A person commits an offence, and is liable to imprisonment for a term of 2 years and to a fine, if the person, without lawful authority or reasonable excuse, discloses any information received from a customs officer under Regulation 21 and –

- (a) the information relates to a person whose identity is specified in the disclosure or can be deduced from the disclosure;
- (b) the disclosure is for a purpose other than one specified in Regulation 21; and
- (c) the customs officer has not given prior consent to the disclosure.

## **28 Offences by bodies corporate and others**

(1) In this Regulation –

“relevant offence” means an offence under these Regulations, or an Order made under them, that is committed by a limited liability partnership, a separate limited partnership, an incorporated limited partnership or another body corporate;

“relevant person” means –

- (a) if the relevant offence is committed by a limited liability partnership, a partner of the partnership;
- (b) if the relevant offence is committed by a separate limited partnership or an incorporated limited partnership –
  - (i) a general partner, or
  - (ii) a limited partner who is participating in the management of the partnership;
- (c) if the relevant offence is committed by a body corporate other than an incorporated limited partnership –
  - (i) a director, manager, secretary or other similar officer of the body corporate, and
  - (ii) if the affairs of the body corporate are managed by its members, a member who is acting in connection with the member’s functions of management; and

- (d) a person purporting to act in any capacity described in subparagraphs (a) to (c) in relation to the partnership or body that commits the relevant offence.
- (2) If a relevant offence is proved to have been committed with the consent or connivance of a relevant person, that relevant person is also guilty of the offence and liable in the same manner as the partnership or body corporate to the penalty provided for that offence.
- (3) Paragraph (4) applies if a relevant offence –
  - (a) is an offence that may be committed by neglect; and
  - (b) is proved to be attributable to any neglect on the part of a relevant person.
- (4) The relevant person is also guilty of the offence and liable in the same manner as the partnership or body corporate to the penalty provided for that offence.

## PART 6

### MISCELLANEOUS

#### 29 Appeals

- (1) There is a right of appeal to the Royal Court against –
  - (a) a refusal, modification, suspension, revocation or cancellation of any authorisation, registration or permit under the relevant legislation or the imposition of a condition under any such authorisation, registration or permit;
  - (b) any requirement imposed by, or other decision of, the Minister or a designated officer under these Regulations; or
  - (c) any other act under relevant legislation prescribed by the Minister by Order for the purposes of this Regulation.
- (2) An appeal must be brought within 21 days after the appellant is served with a written copy of the decision, requirement, or other act, against which the appeal is brought, or within any further time that the Royal Court may allow.
- (3) Unless the Royal Court so orders, the lodging of an appeal does not operate to stay the effect of a decision, requirement or other act pending the determination of the appeal.
- (4) On hearing the appeal, the Royal Court may –
  - (a) confirm, reverse or vary the decision, requirement, or other act, against which the appeal is brought; and
  - (b) make any order as to the costs of the appeal as it thinks fit.

#### 30 Transitional provision

Any licence, consent, certificate, other authorisation or notice that continued to have effect under Regulation 26 of the [EU Legislation \(Official Controls\) \(Jersey\) Regulations 2020](#) and has not expired or been superseded by another licence,

consent certificate or other authorisation issued or granted by the Minister under those Regulations remains in force until it expires or is superseded by another licence, consent certificate or other authorisation issued or granted by the Minister under these Regulations.

**31 Repeal and saving**

The [EU Legislation \(Official Controls\) \(Jersey\) Regulations 2020](#) are repealed.

**32 Citation and commencement**

These Regulations may be cited as the Official Controls (Animals, Food, Feed and Plant Health etc.) (Jersey) Regulations 202- and come into force 7 days after they are made.

## SCHEDULE 1

(Regulation 2)

### MODIFICATIONS TO THE OFFICIAL CONTROLS REGULATION

#### PART 1

##### GENERAL MODIFICATIONS TO THE OFFICIAL CONTROLS REGULATION

#### 1 Modifications applying generally to the Official Controls Regulation

The following modifications apply to the EU Official Controls Regulation –

- (a) a reference to a third country is a reference to any country or territory outside the British Islands (regardless of whether that country or territory is an EU Member State);
- (b) a reference to a competent authority is a reference to –
  - (i) the Minister, or
  - (ii) the corresponding authorities responsible for the organisation of official controls and of other official activities in a third country or another constituent territory of the British Islands;
- (c) a reference to first arrival into the Union is a reference to the point of first arrival in Jersey from a third country;
- (d) references to entering the Union and entry into the Union are references to entering Jersey or entry into Jersey;
- (e) references to transit are references to movement from –
  - (i) one third country to another third country passing under customs supervision through one part of the British Islands, or
  - (ii) one part of the British Islands to another part, having passed through the territory of a third country;
- (f) a reference to “Union rules” is a reference to legislation in force in Jersey;
- (g) a reference to “the Combined Nomenclature” is a reference to the classification system applicable in Jersey, as amended from time to time, whether established and under pursuant to section 8(1) of the Taxation (Cross-border Trade) Act 2018 of the United Kingdom or under any enactment;
- (h) a reference to the communication of information through the IMSOC is a reference to the communication of information in a form and manner approved by the Minister, which may include the appropriate computerised information management system used by the United Kingdom.

## **2 References to a Member State or to Member States to be read as references to the Minister**

In the following provisions of the Official Controls Regulation, a reference to a Member State or to Member States is a reference to the Minister –

- (a) Article 3(38) and (39);
- (b) Article 8(1);
- (c) Article 18(9);
- (d) Article 28(2);
- (e) Article 35(3);
- (f) Article 59(1);
- (g) Article 60(1);
- (h) Article 62(1), (2) and (4);
- (i) Article 63;
- (j) Article 74(1);
- (k) Article 78(1);
- (l) Article 79(3) and (4);
- (m) Article 80;
- (n) Article 83(3);
- (o) Article 85(1);
- (p) Article 102(4);
- (q) Article 111(2)(c) and (f);
- (r) Article 115(3);
- (s) Article 139(2);
- (t) Article 140(1).

## **3 References to a Member State or to Member States to be read as references to Jersey**

In the following provisions of the Official Controls Regulation a reference to a Member State or to Member States is a reference to Jersey –

- (a) Article 1(a);
- (b) Article 1(3);
- (c) Article 3(4);
- (d) Article 110(2);
- (e) Article 111(2)(b);
- (f) Article 121(e).

## **4 References to a Member State or to Member States to be read as references to the competent authority**

In the following provisions of the Official Controls Regulation a reference to a Member State or Member States is a reference to the competent authority –

- (a) Article 3;
- (b) Article 21(6);
- (c) Article 74(1);
- (d) Annex 2, Chapter 2, point 7.

## **5 References to the Union to be read as references to the British Islands**

In the following provisions of the Official Controls Regulation a reference to the Union is a reference to the British Islands –

- (a) Article 44(3), the opening words;
- (b) Article 68(1)(b).

## **6 References to the Union to be read as references to Jersey**

In the following provisions of the Official Controls Regulation a reference to the Union is a reference to Jersey –

- (a) Article 9(6)(b) and (c);
- (b) Article 15(3);
- (c) Article 43;
- (d) Article 44(3)(a) and (c) and (4);
- (e) Article 47(1);
- (f) Article 56(4);
- (g) Article 64(1) and (3)(i);
- (h) Article 66(1) and (3)(b);
- (i) Article 72(1)(b);
- (j) Article 75(1);
- (k) Article 76(1) and (5);
- (l) Article 120(1)(b);
- (m) Article 121(a), (c), (e) and (h);
- (n) Article 125(1) and (2);
- (o) Article 133(1);
- (p) Article 138(2)(d);
- (q) Annex 2, Chapter 1, point 13.

## **PART 2**

### **MODIFICATIONS TO SPECIFIC PROVISIONS OF THE OFFICIAL CONTROLS REGULATION**

#### **7 Modifications to Title 1**

- (1) The following modifications apply to Title 1 of the Official Controls Regulation.
- (2) In Article 1 –



- (a) in paragraph (1) –
    - (i) in paragraph (c) the reference to administrative assistance and cooperation between Member States is a reference to arrangements for administrative and cooperation in paragraph (2) of that Article,
    - (ii) in paragraph (d) the reference to the performance of controls by the Commission in Member States and third countries is a reference to the performance of those controls in third countries;
  - (b) in paragraph (3) the reference to goods entering the Union is a reference to goods entering Jersey from third countries.
- (3) In Article 3 –
- (a) in paragraph (4) the references to a third country are references to a third country or another constituent territory of the British Islands;
  - (b) in paragraph (7) the reference to resources, structures, arrangements and procedures set up in a Member State is a reference to resources, structures, arrangements and procedures set up in Jersey;
  - (c) in paragraph (39) the reference to the customs territory of the Union is a reference to the customs territory of the British Islands.

## **8 Modifications to Chapter 1 of Title 2**

In Article 4(4) of the Official Controls Regulation instead of the requirement that Member States ensure that the Commission is informed of the relevant contact details and of any changes regarding them the Minister has the power to make those contact details publicly available by publishing them online.

## **9 Modifications to Chapter 2 of Title 2**

- (1) The following modifications apply to Chapter 2 of Title 2 of the Official Controls Regulation.
- (2) In Article 9 –
  - (a) in paragraph (2) the reference to information shared is to information shared by other competent authorities;
  - (b) in paragraph (6)(a) the reference to availability on the Union market is a reference to availability on the market in Jersey;
  - (c) in paragraph (7) the reference to Member States of destination is a reference to the Minister and the reference to another Member State is a reference to a different constituent territory of the British Islands.
- (3) In Article 18(9) the requirement to notify national measures does not apply.
- (4) In Article 21(2) the references to journeys between Member States and third countries are references to journeys from Jersey to third countries.

**10 Modifications to Chapter 4 of Title 2**

- (1) The following modifications apply to Chapter 4 of Title 2 of the Official Controls Regulation.
- (2) In Article 37 –
  - (a) paragraph (1) applies so that the Minister is required to designate official laboratories which may be in any part of the British Islands;
  - (b) paragraph (2) applies so that the Minister may designate a laboratory in a third country where the requirements of paragraphs (a) and (b) of that paragraph are complied with.
- (3) In Article 38(2) the reference to the European Union reference laboratory or national reference laboratory is a reference to a national reference laboratory.
- (4) In Article 40(3) the reference to the Member States is a reference to the British Islands or the European Union.
- (5) In Article 42(4) the reference to the Member States is a reference to the British Islands.

**11 Modifications to Chapter 5 of Title 2**

- (1) The following modifications apply to Chapter 5 of Title 2 of the Official Controls Regulation.
- (2) In Article 44(1) the reference to goods entering the Union is a reference to goods entering Jersey from a third country.
- (3) In Article 47(1) the reference to goods entering the Union is a reference to goods entering Jersey from a third country.
- (4) In Article 49(1) the reference to consignments is a reference to consignments arriving from a third country.
- (5) In Article 56(3)(a) the reference to consignments is a reference to consignments arriving from a third country.
- (6) In Article 59(2) the requirement that Member States notify the Commission before designating a border control post is a requirement that the Minister notifies the competent authorities of the constituent territories of the British Islands before designating a border control post.
- (7) In Article 60(1) the reference to each Member State is a reference to the Minister.
- (8) In Article 62(2) the reference to the Commission and other Member States is a reference to the competent authorities of the constituent territories of the British Islands.
- (9) In Article 63(2) and (4)(b), the references to the Commission and other Member States are references to the competent authorities of the constituent territories of the British Islands.
- (10) In Article 65(5) the references to the Commission and other Member States are references to the competent authorities of the constituent territories of the British Islands.
- (11) In Article 66(5)(b) the reference to the competent authorities of the other Member States is a reference to the competent authorities of the constituent territories of the British Islands.

- (12) In Article 68(2) –
  - (a) the reference to the competent authorities in the Member State where the official controls were performed is a reference to the Minister; and
  - (b) the reference to the competent authorities of the other Member States is a reference to the competent authorities of the constituent territories of the British Islands.
- (13) In Article 71(2)(b) the reference to the competent authorities of another Member State is a reference to the competent authorities of the constituent territories of the British Islands.
- (14) In Article 72(1)(b) and (c) the references to the competent authorities of the Member State are references to the competent authorities concerned.
- (15) In Article 74(1)(a) the reference to the Commission and other Member States is a reference to the competent authorities of the constituent territories of the British Islands.
- (16) In Article 76(1) –
  - (a) in paragraph (1) after the references to Articles 158 to 202 of Regulation (EU) No 952/2013 there is a reference to the corresponding provisions (if any) under the Taxation (Cross-border Trade) Act 2018 of the United Kingdom;
  - (b) in paragraph (5) the reference to Member States of final destination is a reference to the country or territory of final destination.

## **12 Modifications to Chapter 6 of Title 2**

- (1) The following modifications apply to Chapter 6 of Title 2 of the Official Controls Regulation.
- (2) In Article 85 –
  - (a) in paragraph (2) instead of the requirement that a competent authority makes information available to the public the Minister has the power to make that information available;
  - (b) in paragraph (3) instead of the requirement that Member States consult relevant stakeholders the Minister has the power to consult relevant stakeholders.

## **13 Modifications to Chapter 7 of Title 2**

- (1) The following modifications apply to Chapter 7 of Title 2 of the Official Controls Regulation.
- (2) Article 87 applies so that Articles 88, 89 and 90 apply where the rules listed in Article 1(2) of the Official Controls Regulation require the issuance of official certificate which are necessary for the purposes of exporting consignments of animals and goods to third countries.
- (3) In Article 89(1)(c) the requirement that official certificates are drawn up in one or more of the official languages of the institutions of the Union and, where relevant, in one of the official languages of the Member State of destination, is a requirement that the official certificates are in English and, where relevant, one of the official languages of the country of destination.

- (4) In Article 91(2)(b) the requirement that official attestations are drawn up in one or more of the official languages of the institutions of the Union and, where relevant, in one of the official languages of the Member State of destination, is a requirement that the official attestations are in English and, where relevant, one of the official languages of the country of destination.

#### **14 Modifications to Title 3**

- (1) The following modifications apply to Title 3 of the Official Controls Regulation.
- (2) In Article 95(3) –
- (a) in the opening words and paragraph (a) the references to European Union reference centres are to national reference centres;
  - (b) in paragraph (e) the reference to other European Union reference centres is a reference to other reference centres.
- (3) In Article 96 –
- (a) the reference to European Union reference centres is to national reference centres; and
  - (b) the reference to supporting tasks is to supporting tasks insofar as they are included in the reference centres' annual or multiannual work programmes;
  - (c) in paragraph (f) the reference to Union research bodies is to other research bodies.
- (4) In Article 97 –
- (a) in paragraph (1) the reference to the Commission designating European Union reference centres is a reference to the Minister designating national reference centres;
  - (b) in paragraph (3) the references to European Union reference centres are references to national reference centres.
- (5) In Article 98 –
- (a) the reference to European Union reference centres is to national reference centres; and
  - (b) the reference to supporting tasks is to supporting tasks insofar as they are included in the reference centres' annual or multiannual work programmes.
- (6) In Article 99(1) –
- (a) the requirement that the Commission publish and update the lists is a power for the Minister to publish and update those lists;
  - (b) in paragraphs (b) and (c) the references to European Union reference centres are references to national reference centres.
- (7) In Article 100 –
- (a) in paragraph (1) instead of the requirement that Member States designate one or more national reference laboratories for each European Union reference laboratory the Minister has the power to designate one or more laboratories to act as a national reference

laboratories for Jersey and that power is to be read as including provision that those laboratories may –

- (i) be situated in Jersey, another territory of the British Islands or in a third country, and
  - (ii) be designated in relation to more than one area of the rules listed in Article 1(2) of the Official Controls Regulation;
- (b) in paragraph (2) the reference to the competent authorities designating official laboratories on the basis of a derogation is a reference to the Minister designating official laboratories;
- (c) in paragraph (4) instead of the requirement that Member States communicate and make available certain information the Minister has the power to publish online the up to date name and address of each national reference laboratory.
- (8) In Article 101(1) –
- (a) in sub-paragraph (a) the requirement that national reference laboratories collaborate with European Union reference laboratories and participate in training courses and in inter-laboratory comparative tests organised by these laboratories is a requirement that, where appropriate, national reference laboratories collaborate with other national and international laboratories and participate in inter-laboratory comparative tests organised by those other laboratories or by proficiency test providers accredited to ISO/IEC 17043;
  - (b) in sub-paragraph (d) the requirement that national reference laboratories ensure the dissemination to the competent authorities and official laboratories of information that the European Union reference laboratory supplies is a requirement that the national reference laboratories provide scientific and technical assistance to the Minister and official laboratories;
  - (c) in sub-paragraph (h) the reference to the Member State is a reference to the Minister.

## 15 Modifications to Title 4

- (1) The following modifications apply to Title 4 of the Official Controls Regulation.
- (2) In Article 102 –
  - (a) in paragraph (1) instead of the requirement that the competent authorities in the Member States concerned provide each other with administrative assistance in accordance with Articles 104 to 107 the Minister has the power provide administrative assistance to other competent authorities (whether a competent authority of the British Islands or of a third country);
  - (b) in paragraph (2) instead of the requirement that administrative assistance includes participation by the competent authorities of a Member State the Minister has the power to allow for the administrative assistance to include participation by the competent authorities of a constituent territory of the British Islands in on-the-

- spot official controls that the competent authorities of another constituent territory of the British Islands perform;
- (c) in paragraph (3) the reference to national law is a reference to legislation in force in the relevant constituent territory of the British Islands.
- (3) In Article 103 –
    - (a) in paragraph (1) instead of the requirement that each Member State designates one or more liaison bodies the Minister has the power to designate one or more liaison bodies;
    - (b) in paragraph (3) instead of the requirement that Member States communicate the contact details of their liaison bodies to the Commission and other Member States the Minister has the power to publish online the up to date contact details of the liaison bodies that the Minister has appointed.
  - (4) In Article 104(1) the requirement that the competent authorities in Member State issues a reasoned request for administrative assistance where they consider that, for the performance of official controls or for the effective follow-up to such controls in the territory for which they are responsible, they require data or information from the competent authorities of another Member State, is a requirement that the Minister issues a reasoned request in those circumstances.
  - (5) In Article 105(1) the requirement that the competent authorities in a Member State notify the competent authorities of another Member State if they become aware of a case of non-compliance that may have implications for that Member State is a requirement that the Minister notifies the competent authorities of a constituent territory of the British Islands if the Minister becomes aware of a case of non-compliance that may have implications that territory.
  - (6) In Article 106(1) the references to the Member State or another Member State are references to the constituent territory of the British Islands or another constituent territory of the British Islands.
  - (7) In Article 107 –
    - (a) in paragraph (1) the requirement to notify information to the competent authorities in other concerned Member States and to communicate such information to the Commission is a requirement to notify such information to the other competent authorities in the British Islands;
    - (b) in paragraph (2)(b) the reference to the Union rules is a reference to the rules in force in the relevant constituent territory of the British Islands.

## 16 Modifications to Title 5

- (1) The following modifications apply to Title 5 of the Official Controls Regulation.
- (2) In Article 109 –
  - (a) in paragraph (1) the requirement that Member States ensure that official controls governed by the Official Controls Regulation are

performed by the competent authorities on the basis of a MANCP, the preparation and implementation of which are coordinated across their territory, is a requirement that the Minister ensures that those official controls are performed on the basis of a MANCP, the preparation and implementation of which includes coordination with other jurisdictions in the British Islands;

- (b) in paragraph (2) instead of the requirement that Member States designate a single body tasked with coordinating the preparation of the MANCP, ensuring that the MANCP is coherent and collecting the information on the implementation of the MANCP in order to submit and review an annual report, the Minister has the power to, from time to time, designate a person to coordinate the preparation of the MANCP, ensure that the MANCP is coherent and collect information on the implementation of the MANCP, and review and update that information as necessary in accordance with Article 111(2) of the Official Controls Regulation.
- (3) In Article 111(1) instead of the requirement that Member States ensure the MANCP is available to the public the Minister has the power to allow the person designated in accordance with Article 109(2) of the Official Controls Regulation to make the MANCP available to the public.
- (4) In Article 113(1) instead of the requirement that Member States submit a report to the Commission the Minister has the power to allow the person designated in accordance with Article 109(2) of the Official Controls Regulation to prepare such a report and make it publicly available by publishing it online.
- (5) In Article 115(1) instead of the requirement that Member States draw up contingency plans for food and feed the Minister has the power to draw up such plans.

## 17 Modifications to Title 6

- (1) The following modifications apply to Title 6 of the Official Controls Regulation.
- (2) In Article 120 –
  - (a) in paragraph (1) the reference to Commission experts is a reference to experts appointed by the Minister;
  - (b) in paragraphs (2)(f) and (3) the references to the Commission are references to the Minister.
- (3) In Article 121 –
  - (a) the reference to the frequency of Commission controls is a reference to the frequency of controls;
  - (b) the reference to Commission experts is a reference to experts appointed by the Minister.
- (4) In Article 122 the requirement that the Commission reports on the findings of each control performed in accordance with Articles 120 and 121, is a power for the Minister to report on those findings and, where appropriate, make recommendations and to make the reports publicly available.

- (5) In Article 123 the requirement that the Commission communicate its programme of controls in third countries to other Member States is a power for the Minister to communicate the Minister's programme of controls to competent authorities in the British Islands in advance and to report on the results, to amend that programme to take account of developments in the areas governed by the rules listed in Article 1(2) and to communicate those amendments to other competent authorities in the British Islands in advance.
- (6) In Article 125(1) –
  - (a) the requirement that the Commission requests third countries which intend to export animals and goods to the Union to provide accurate and up-to-date information is a reference to the Minister requesting such information from third countries which intend to export animals and goods to Jersey;
  - (b) in sub-paragraph (g) the reference to the Union sanitary or phytosanitary requirements is a reference to the sanitary or phytosanitary requirements of the constituent territories of the British Islands.
- (7) In Article 127 in paragraphs (3) and (4) the references to the Commission are references to the Minister.
- (8) In Article 131(1) instead of the requirement that the Commission set up and manage a computerised information management system the Minister has the power to set up such a system.
- (9) In Article 132 instead of the requirement that the IMSOC meets certain conditions the Minister has the power allow that the computerised information management system (or other agreed system) meets those conditions.
- (10) In Article 133(1) instead of the requirement that the IMSOC enables competent authorities to exchange data, information and documents concerning animals or goods moved from one Member State to another and on official controls performed upon them, the Minister has the power to allow the computerised information management system to exchange such data, information and documents concerning animals or goods being moved within Jersey, or concerning the official controls performed on or in relation to those animals or goods.
- (11) In Article 135 –
  - (a) in paragraph (1) the requirement that Directive 95/46/EC and Regulation (EC) No 45/2001 of the European Parliament and of the Council apply to personal data processed through the IMSOC is a requirement that the [Data Protection \(Jersey\) Law 2018](#) applies to personal data processed through the computerised information management system or any other system;
  - (b) in paragraph (2) the reference to the competent authorities of the Member States being regarded as data controllers is a reference to the Minister being regarded as a data controller under Article 1(1) of the [Data Protection \(Jersey\) Law 2018](#);
  - (c) in paragraph (5) the reference to the Commission is a reference to the Minister.



- (12) In Article 136 the requirement that Member States and the Commission ensure that the IMSOC complies with the rules on data security adopted by the Commission under Article 17 of Directive 95/46/EC and Article 22 of Regulation (EC) No 45/2001 is a requirement that the Minister ensures that the computerised information management system, or any other system used, and its operation comply with legislation on data security in force in Jersey.

## **18 Modifications to Title 7**

- (1) The following modifications apply to Title 7 of the Official Controls Regulation.
- (2) In Article 138(2)(d) the reference to prohibiting the return of animals or goods to the Member State of dispatch or ordering their return to the Member State of dispatch is a reference to prohibiting or ordering their return to the country or territory of dispatch.
- (3) In Article 140(2) instead of the requirement that the mechanisms referred to include the specified elements the Minister has the power to allow the mechanisms to include those elements.

## **19 Modifications to Title 8**

- (1) The following modifications apply to Title 8 of the Official Controls Regulation.
- (2) In Article 143 the references to Directive 95/46/EC Regulation (EC) No 45/2001 are references to the [Data Protection \(Jersey\) Law 2018](#).
- (3) In Article 148(4) the reference to vessels flying the flag of Member States is a reference to vessels flying the flag of the United Kingdom.

## **20 Modifications to Annex 4**

In Annex 4 to the Official Controls Regulation –

- (a) all references to prices in EUR are references to the sterling equivalent of EUR; and
- (b) the fees in Chapter 1 are in respect of official controls on consignments of animals and goods entering Jersey.

**SCHEDULE 2**

(Regulation 3)

**MODIFICATIONS TO THE OFFICIAL CONTROLS REGULATION IN RELATION TO RELEVANT GOODS ENTERING FROM A RELEVANT THIRD COUNTRY**

- (1) The modifications mentioned in Regulation 3(1) are as follows.
- (2) In Article 44(1) the requirement that the competent authorities perform official controls regularly, on a risk basis and with appropriate frequency, on animals and goods is a power for the Minister to perform official controls on consignments which include relevant goods entering Jersey from a relevant third country, selected randomly or on a risk basis and at the appropriate frequency rate.
- (3) In Article 47 –
  - (a) in paragraph (1) instead of the requirement that the competent authorities perform official controls at the border control post of first arrival into Jersey from a third country the Minister has the power to perform official controls on consignments of relevant goods at any of the places specified in Article 44(3) of the Official Controls Regulation;
  - (b) in paragraph (5) instead of the requirement that operators ensure animals and goods are presented for official controls at the border control post the Minister has the power to require that operators ensure relevant goods are presented at any of the places specified in Article 44(3) of the Official Controls Regulation.
- (4) In Article 49 –
  - (a) in paragraph (1) instead of the requirement that the competent authorities perform official controls on the consignments of the categories of animals and goods referred to in Article 47(1) upon arrival of the consignment at the border control post, the Minister has the power –
    - (i) to perform official controls on those consignments selected randomly, or on the basis of risk, at any of the places specified in Article 44(3), and
    - (ii) where a consignment of relevant goods is selected for official controls, require that those official controls include documentary checks, identity or physical checks;
  - (b) in paragraph (2) the requirement that physical checks are performed is a requirement to perform those checks in relation only to consignments selected for checks.
- (5) In Article 50 –
  - (a) in paragraph (2) the requirement that the competent authorities of a border control post issue the operator with an authenticated paper or electronic copy of the official certificates or documents is a requirement only if the consignment is selected for official controls;
  - (b) in paragraph (3) the requirement that a consignment is not split until official controls have been performed and the Common Health Entry

Document (CHED) has been finalised is a requirement that, in a case where the Minister has notified the operator that official controls are to be performed on a consignment, that consignment is not split until those official controls have been carried out.

- (6) In Article 55(1) the requirement that a decision is taken by the competent authorities on each consignment of the categories of animals and goods referred to in Article 47(1) following the performance of official controls is a requirement that the Minister decides whether the consignment complies with the rules only where official controls are performed.

**SCHEDULE 3**

(Regulation 23)

**OFFENCES****PART 1**

## THE OFFICIAL CONTROLS REGULATION

| <b>Provision of the Official Controls Regulation</b>   | <b>Description of subject matter</b>  |
|--|---|
| Article 47(5)  | Requires the operator responsible for a relevant consignment entering the Union to ensure that it is presented for official controls at the border control post of first arrival into the Union.  |
| Article 50(1)  | Requires the operator of a relevant consignment to which Article 47(1) applies to present the original official certificates or documents which are required to accompany the consignment to the competent authorities of the border control post.        |
| Article 50(3)  | Prohibits the operator of a relevant consignment from splitting the consignment until official controls have been performed and the Common Health Entry Document referred to in Article 56 of the Official Controls Regulation (CHED) has been finalised. |
| Article 56(1)  | Requires the operator of a relevant consignment to complete the relevant part of the CHED.  |
| Article 56(4) read Article 1(1) of Commission Implementing Regulation (EU) 2019/1013 of 16 April 2019 on the prior notification of consignments of certain categories of animals and goods entering the Union (OJ L 165, 21.6.2019, p. 8). | Requires the operator of a relevant consignment to give notification to the competent authorities of the border control post of arrival of the consignment prior to the physical arrival of the consignment in the Union.                                 |

## PART 2

### OTHER EU INSTRUMENTS

| Provision of EU instrument  | Description of subject matter   |
|---|---|
| <b>Commission Delegated Regulation (EU) 2019/1602 of 23 April 2019 (OJ L 250, 30.9.2019, p. 6) supplementing Regulation (EU) 2017/625 of the European Parliament and of the Council concerning the Common Health Entry Document accompanying consignments of animals and goods to their destination</b> |   |
| Article 4(a)  | Requires the operator responsible for a consignment to ensure that a CHED accompanies the consignment before it is released for free circulation in accordance with Article 57(2)(b) of the Official Controls Regulation.   |
| Article 5(1)(b)   | Requires the operator responsible for a consignment that is to be split at a border control post to request the consignment is split and submit a CHED for each part of the split consignment.  |
| Article 5(1)(d)   | Requires the operator responsible for a consignment that has been split at a border control post to ensure that a CHED accompanies the relevant part of the split consignment before it is released for free circulation in accordance with Article 57(2)(b) of the Official Controls Regulation.   |
| Article 5(2)(a)   | Requires the operator responsible for a split consignment in respect of which the competent authority has requested the operator to take action in respect of part of the consignment, to submit a CHED for each part of the split consignment.   |
| Article 5(2)(c)   | Requires the operator responsible for a split consignment in respect of which the competent authority has requested the operator to take action in respect of part of the consignment, to ensure that a CHED accompanies each part of the split consignment before it is released for free circulation in accordance with Article 57(2)(b) of the Official Controls Regulation. |
| Article 6(a)  | Requires the operator responsible for a consignment that has been split after leaving a border control post to ensure that  |

| Provision of EU instrument   | Description of subject matter  |
|--|--|
|  | a copy of the CHED accompanies each part of the split consignment before it is released for free circulation in accordance with Article 57(2)(b) of the Official Controls Regulation.                |
| <b>Commission Regulation (EC) No 1881/2006 of 19 December 2006 setting maximum levels for certain contaminants in foodstuffs (OJ L 364, 20.12.2006, p. 5)</b>  |  |
| Article 1(1) read with Articles 1(2), 2, 4 and 6 and the Annex   | Prohibits the placing on the market of foodstuffs containing certain contaminants exceeding specified maximum levels.  |
| Article 3  | Prohibits the use, mixing and detoxification of foodstuffs that do not comply with the maximum levels.   |
| Article 4  | Imposes requirements in relation to the placing on the market of groundnuts (peanuts), other oilseeds, tree nuts, dried fruit, rice and maize.   |
| Article 6  | Imposes requirements in relation to lettuce.   |
| <b>Commission Regulation (EC) No 2073/2005 of 15 November 2005 on microbiological criteria for foodstuffs (OJ L 338, 22.12.2005, p. 1)</b>   |  |
| Article 7(1) read with Annex 1   | Requires that food business operators take the measures laid down in paragraphs (2) to (4) of Article 7 when the results of testing against the criteria set out in Annex 1 are unsatisfactory.      |
| <b>Regulation (EC) No 1830/2003 of the European Parliament and of the Council of 22 September 2003 concerning the traceability and labelling of genetically modified organisms and the traceability of food and feed products produced from genetically modified organisms (OJ L 268, 18.10.2003, p. 24)</b> |  |
| Article 4(1)   | Requires that, at the first stage of placing on the market of a product consisting of or containing GMOs, operators transmit specified information in writing to the operator receiving the product. |
| Article 4(2)   | Requires that, at subsequent stages of placing on the market, operators transmit in writing the information specified in Article 4(1) to the operator receiving the product.                         |

| <b>Provision of EU instrument</b> | <b>Description of subject matter</b>  |
|-----------------------------------|---|
| Article 4(3)                      | Requires that products consisting of or containing GMOs that are to be used only and directly as food or feed or for processing are accompanied by a declaration of use, along with a list of the unique identifiers for all those GMOs used to constitute the mixture. |
| Article 4(4)                      | Requires that operators keep records of the information referred to in Article 4(1), (2), and (3) for a period of 5 years.  |
| Article 4(6)                      | Requires that operators ensure that specified information appears on the labels of products consisting of or containing GMOs.   |
| Article 5(1)                      | Requires that when placing products produced from GMOs on the market, operators transmit in writing the specified information to the operator receiving the product.  |
| Article 5(2)                      | Requires that operators keep records of the information referred to in Article 5(1) for a period of 5 years.  |