

To: Lead Food Officers, Lead Feed Officers,
SCOTSS

Cc: SFELC, REHIS

10 December 2019

Ref: FSS/ENF/19/019

Dear Colleague

Implementation of the new EU Official Controls Regulation (OCR) - Regulation (EU) 2017/625 and associated tertiary legislation

Food Standards Scotland (FSS) recently carried out a [public consultation](#) on the implementation, approach and assessment of impacts on local authorities (LAs) and businesses in Scotland to provide for the execution and enforcement of the new EU Official Controls Regulation (OCR) – [Regulation EU 2017/625](#) and associated tertiary legislation – in relation to our areas of responsibility for food and feed safety. The formal response to the consultation will be published in January 2020.

The OCR will come fully into force on 14th December 2019 and, as the UK will be a Member State at this time, we are legally obligated to implement this directly applicable EU regulation.

As of 14th December, the OCR will repeal and replace existing legislation which is integral to the activities of FSS as the national competent authority (CA) responsible for the delivery of official food and feed controls in Scotland, and other food and feed enforcement bodies such as LAs.

This includes [Regulation \(EC\) No 882/2004](#) regarding official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules; [Regulation \(EC\) No 854/2004](#) that lays down specific rules for the organisation of official controls on products of animal origin (POAO) intended for human consumption and [Regulation \(EC\) No 669/2009](#) that lays down rules concerning the increased level of official controls to be carried out on imports of certain feed and food of non-animal origin.

While the OCR introduces more prescriptive controls in certain areas, greater flexibility is provided in others, and the overall impacts on the existing food and feed official control

regime in Scotland are expected to be broadly policy neutral. An overview of the key elements the OCR will introduce is provided at **Annex A**.

The OCR contains empowerments allowing the Commission to make tertiary legislation to stipulate more detailed provisions. For example, the Delegated ([2019/624](#)) and Implementing ([2019/627](#)) Regulations, made under Article 18 of the OCR, set out the specific rules on official controls on POAO, which repeal and replace Regulation 854/2004. Several are still awaiting publication but those currently published are listed at **Annex B**.

[The Official Feed and Food Controls \(Miscellaneous Amendments\) \(Scotland\) Regulations 2019](#) will provide for the execution and enforcement of the OCR in relation to FSS's areas of responsibility for food and feed law.

[The Official Controls \(Agriculture etc.\) \(Scotland\) Regulations 2019](#) make provision in respect of official controls and other official activities at border control posts; genetically modified organisms for the purposes of feed and food production; animal health requirements; prevention and minimisation of risks to human and animal health from animal by-products and derived products and welfare requirements for animals.

A separate but parallel instrument – The Plant Health (Official Controls and Miscellaneous Provisions) (Scotland) Regulations 2019 - will be made by Scottish Government Plant Health to implement the plant health elements of the OCR. All three instruments will come into force on 14th December.

Editorial changes will be made to the FSS Food and Feed Law Codes of Practice and associated Practice Guidance to update existing references. These changes will be consulted on shortly.

You may now wish to consider timelines for updating your websites, guidance and documented policies and procedures in order to accurately reflect changes to legal requirements and associated legislative references, brought about by the new legislation and any subsequent changes to the Codes of Practice.

If you have any queries on this letter, please do not hesitate to contact me.

Yours sincerely



Sarah Coyle
Food Standards Scotland

Key elements of the OCR

The OCR seeks to clarify and/or enhance current provisions on the performance of official controls by CAs. The current provisions remain substantially the same, but the key changes are:

- introducing a new definition of ‘other official activities’. For example, enforcement measures and/or remedial actions following non-compliance; management of lists of registered/approved food and feed business operators or the issuance of official certificates (Article 2);
- clarifying that CAs are required to carry out regular, risk-based official controls, directed at identifying fraudulent and deceptive practices (Article 9);
- providing for greater transparency and accountability by CAs through the publication of information about the organisation and performance of official controls (Article 11);
- requiring CAs to provide FBOs with copies of reports where non-compliance has been detected as well as where compliance has been achieved (Article 13);
- introducing new provisions to regulate the delegation by CAs of tasks relating to ‘other official activities’ and the conditions to be met for delegating, with the exception of enforcement measures and/or remedial actions following non-compliance (Articles 28 – 33);
- clarifying that sampling of animals and goods ordered on-line by the CA without identifying themselves can be validly used for the purposes of an official control. CAs must inform the food or feed business operator that such a sample has been taken and, where appropriate, is being analysed in the context of an official control (Articles 35 and 36);
- introducing harmonised rules for official controls at borders across the different commodities (Articles 47 - 55);
- amalgamating existing entry documents, such as the Common Entry Document (CED) for high-risk Food Not of Animal Origin (FNAO) and the Common Veterinary Entry Document (CVED) for POAO, as Common Health Entry Documents (CHEDs) (Articles 56 – 58);
- Border Control Posts (BCPs) will replace Border Inspection Posts (BIPs), Designated Points of Entry (DPEs) and First Points of Introduction (FPIs). All existing approvals will be withdrawn and re-designated as BCPs in accordance with Article 59 provided that the minimum requirements referred to in Article 64 (i.e. facilities, equipment, etc.) are complied with (Article 61);
- establishing IMSOC the Information Management System for official controls to link all existing and future IT systems managed by the Commission (e.g. TRACES, RASFF and Europhyt) to enable and efficient exchange of information (Articles 131 – 136).
- ensuring that the penalties associated with fraud convictions must represent the economic advantage gained by the perpetrator as a result of that fraudulent action (Article 139).

OCR Tertiary Legislation

[Commission Implementing Regulation \(EU\) 2018/329](#) designating a European Union Reference Centre for Animal Welfare;

[Commission Delegated Regulation \(EU\) 2018/631](#) supplementing Regulation (EU) 2017/625 of the European Parliament and of the Council by establishing European Union reference laboratories for pests of plants;

[Commission Implementing Regulation \(EU\) 2019/66](#) on rules on uniform practical arrangements for the performance of official controls on plants, plant products and other objects in order to verify compliance with Union rules on protective measures against pests of plants applicable to those goods;

[Commission Delegated Regulation \(EU\) 2019/478](#) amending Regulation (EU) 2017/625 of the European Parliament and of the Council as regards the categories of consignments to be subjected to official controls at border control posts;

[Commission Implementing Regulation \(EU\) 2019/530](#) designating European Union reference laboratories for pests of plants on insects and mites, nematodes, bacteria, fungi and oomycetes, viruses, viroids, and phytoplasmas;

[Commission Delegated Regulation \(EU\) 2019/624](#) concerning specific rules for the performance of official controls on the production of meat and for production and relaying areas of live bivalve molluscs in accordance with Regulation (EU) 2017/625 of the European Parliament and of the Council;

[Commission Delegated Regulation \(EU\) 2019/625](#) supplementing Regulation (EU) 2017/625 of the European Parliament and of the Council with regard to requirements for the entry into the Union of consignments of certain animals and goods intended for human consumption;

[Commission Implementing Regulation \(EU\) 2019/626](#) concerning lists of third countries or regions thereof authorised for the entry into the European Union of certain animals and goods intended for human consumption, amending Implementing Regulation (EU) 2016/759 as regards these lists;

[Commission Implementing Regulation \(EU\) 2019/627](#) laying down uniform practical arrangements for the performance of official controls on products of animal origin intended for human consumption in accordance with Regulation (EU) 2017/625 of the European Parliament and of the Council and amending Commission Regulation (EC) No 2074/2005 as regards official controls;

[Commission Implementing Regulation \(EU\) 2019/628](#) concerning model official certificates for certain animals and goods and amending Regulation (EC) No 2074/2005 and Implementing Regulation (EU) 2016/759 as regards these model certificates;

[Commission Implementing Regulation \(EU\) 2019/723](#) laying down rules for the application of Regulation (EU) 2017/625 of the European Parliament and of the Council as regards the standard model form to be used in the annual reports submitted by Member States;

[Commission Delegated Regulation \(EU\) 2019/1012](#) supplementing Regulation (EU) 2017/625 of the European Parliament and of the Council by derogating from the rules on the designation of control points and from the minimum requirements for border control posts;

[Commission Implementing Regulation \(EU\) 2019/1013](#) on prior notification of consignments of certain categories of animals and goods entering the Union;

[Commission Implementing Regulation \(EU\) 2019/1014](#) to lay down detailed rules on minimum requirements for border control posts, including inspection centres, and for the format, categories and abbreviations to use for listing border control posts and control points;

[Commission Delegated Regulation \(EU\) 2019/1081](#) establishing rules on specific training requirements for staff for performing certain physical checks at border control posts;

[Commission Delegated Regulation \(EU\) 2019/1602](#) concerning the Common Health Entry Document accompanying consignments of animals and goods to their destination;

[Commission Delegated Regulation \(EU\) 2019/1666](#) supplementing Regulation (EU) 2017/625 of the European Parliament and of the Council as regards conditions for monitoring the transport and arrival of consignments of certain goods from the border control post of arrival to the establishment at the place of destination in the Union;

[Commission Implementing Regulation \(EU\) 2019/1715](#) laying down rules for the functioning of the information management system for official controls and its system components;

[Commission Implementing Regulation \(EU\) 2019/1793](#) on the temporary increase of official controls and emergency measures governing the entry into the Union of certain goods from certain third countries implementing Regulations (EU) 2017/625 and (EC) No 178/2002 of the European Parliament and of the Council and repealing Commission Regulations (EC) No 669/2009, (EU) No 884/2014, (EU) 2015/175, (EU) 2017/186 and (EU) 2018/1660;

[Commission Implementing Regulation \(EU\) 2019/1873](#) on the procedures at border control posts for a coordinated performance by competent authorities of intensified official controls on products of animal origin, germinal products, animal by-products and composite products;

[Commission Implementing Regulation \(EU\) 2019/2007](#) laying down rules for the application of Regulation (EU) 2017/625 as regards the lists of animals, products of animal origin, germinal products, animal by-products and derived products and hay and

straw subject to official controls at border control posts and amending Decision 2007/275/EC;

[Commission Delegated Regulation \(EU\) 2019/2074](#) supplementing Regulation (EU) 2017/625 as regards rules on specific official controls on consignments of certain animals and goods originating from, and returning to the Union following a refusal of entry by a third country;

[Commission Delegated Regulation \(EU\) 2019/2090](#) supplementing Regulation (EU) 2017/625 regarding cases of suspected or established non-compliance with Union rules applicable to the use or residues of pharmacologically active substances authorised in veterinary medicinal products or as feed additives or with Union rules applicable to the use or residues of prohibited or unauthorised pharmacologically active substances.