



Brussels, 10.10.2019
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COMMISSION DELEGATED REGULATION (EU) .../...

of 10.10.2019

supplementing Regulation (EU) 2017/625 of the European Parliament and of the Council as regards certain categories of animals and goods exempted from official controls at border control posts, specific controls on passengers' personal luggage and on small consignments of goods sent to natural persons which are not intended to be placed on the market and amending Regulation (EU) No 142/2011

(Text with EEA relevance)

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

Regulation (EU) 2017/625 of the European Parliament and of the Council establishes rules on the performance of official controls by the competent authorities of the Member States. It provides that certain categories of animals and goods coming from third countries can be exempted from official controls at border control posts of first arrival into the Union.

Article 48 of Regulation (EU) 2017/625 provides that certain categories of animals and goods entering the Union may be exempted from official controls at border control posts.

Based on Article 48 of Regulation (EU) 2017/625, this draft Delegated Regulation lays down rules for cases of and conditions under which certain groups of animals and goods are exempted from official controls at border control posts, particularly in order to avoid unnecessary burden for operators and competent authorities.

The draft Delegated Regulation replaces and repeals Regulation (EC) No°206/2009 on personal consignments of products of animal origin entering the Union and amends Commission Regulation (EC) No°142/2011 on animal by-products imported for scientific purposes (deletion of paragraph 2 of its Article 27).

Provisions laid down in this draft Delegated Regulation shall apply from 14 December 2019.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

Commission Members States' Expert Group "official controls" (E00911) and stakeholders were consulted.

The informal discussions contributed to the preparation of a draft which did not presented controversial issues.

The possibility offered through the Commission's website (https://ec.europa.eu/info/law/better-regulation/have-your-say_en) to provide public feedback on the draft Delegated Regulation resulted in one comment. This comment proposed to exempt imported ornamental fishes from physical controls for animal welfare reason. This Regulation establishes such an exemption only for ornamental fish entering the Union during a non-commercial movement, but does not establish any exemption in other cases. No impact assessment has been carried out, as the Delegated Regulation is not expected to have any significant negative impact.

3. LEGAL ELEMENTS OF THE DELEGATED ACT

The legal basis for the Delegated Regulation is Article 48, letters (b) to (f), of Regulation (EU) 2017/625, which place an obligation on the Commission to act.

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(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) 2017/625 of the European Parliament and of the Council of 15 March 2017 on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products, amending Regulations (EC) No 999/2001, (EC) No 396/2005, (EC) No 1069/2009, (EC) No 1107/2009, (EU) No 1151/2012, (EU) No 652/2014, (EU) 2016/429 and (EU) 2016/2031 of the European Parliament and of the Council, Council Regulations (EC) No 1/2005 and (EC) No 1099/2009 and Council Directives 98/58/EC, 1999/74/EC, 2007/43/EC, 2008/119/EC and 2008/120/EC, and repealing Regulations (EC) No 854/2004 and (EC) No 882/2004 of the European Parliament and of the Council, Council Directives 89/608/EEC, 89/662/EEC, 90/425/EEC, 91/496/EEC, 96/23/EC, 96/93/EC and 97/78/EC and Council Decision 92/438/EEC (Official Controls Regulation)¹, and in particular Article 48(b), (c), (d), (e) and (f), point (d)(ii) of Article 53(1) and point (k) of Article 77(1) thereof,

Whereas:

- (1) Article 48 of Regulation (EU) 2017/625 empowers the Commission to adopt rules exempting certain categories of animals and goods from official controls at border control posts, when such an exemption is justified. Point (d)(ii) of Article 53(1) of Regulation (EU) 2017/625 empowers the Commission to adopt rules concerning specific official control tasks performed by customs authorities or other public authorities, insofar as those tasks are not already falling under the responsibility of those authorities, on passengers' personal luggage.
- (2) These rules are substantially linked and many are intended to be applied in tandem. In the interest of simplicity and transparency, as well as to facilitate their application and avoid a multiplication of rules, they should therefore be laid down in a single act rather than in a number of separate acts with many cross-references and the risk of duplication. These rules often serve common purposes and refer to complementary activities of operators and competent authorities. Therefore, it is appropriate to group together these rules in a single Delegated Regulation.
- (3) Where rules establishing exemptions from official controls at border control posts are adopted, conditions, such as adequate control arrangements, should be established to

¹ OJ L 95, 7.4.2017, p. 1.

ensure that no unacceptable risks to public, animal and plant health are incurred where such animals and goods enter the Union

- (4) Exemptions from official controls at border control posts for products which form part of travellers' personal luggage, for products for consumption by the crew and passengers on board means of transport operating internationally, and for products sent as small consignments to private persons already exist under Council Directive 97/78/EC². For the sake of legal clarity and in order to ensure a consistent application of those exemptions given that Directive 97/78/EC is repealed with effect from 14 December 2019, it is appropriate to lay down provisions on such exemptions in this Regulation. Those exemptions concern certain categories of animals and goods which, although they enter the Union, are not to be placed on the market.
- (5) In order to ensure consistency of Union legislation, Member States should continue to carry out appropriate risk-based controls with a view to preventing the introduction into the Union of certain invasive alien species, as required by Regulation (EU) No 1143/2014 of the European Parliament and of the Council³.
- (6) In the interest of facilitating the promotion of scientific activities, it is justified to exempt certain categories of animals and goods intended for scientific purposes from official controls at border control posts.
- (7) Plants, plant products and other objects referred to in Article 47(1)(c) of Regulation (EU) 2017/625 intended for scientific purposes should be exempted from identity and physical checks at border control posts, under certain conditions, since adequate protection measures are laid down in accordance with Article 48 of Regulation (EU) 2016/2031 of the European Parliament and of the Council⁴.
- (8) Pursuant to Article 48(d) and (e) of Regulation (EU) 2017/625, products which form part of passenger's personal luggage and are intended for their personal consumption or use and small consignments of goods sent to natural persons which are not intended to be placed on the market should be exempted from official controls at border control posts. Concerning small consignments of goods sent to natural persons which are not intended to be placed on the market, Member States should carry-out risk-based controls. The possible risk of introducing pathogenic agents or diseases into the Union through the introduction of products of animal origin should be considered in measures regulating the introduction of such consignments or products.
- (9) To ensure that risks to public health, animal health and plant health are minimised Member States should review at least once per year their specific control mechanisms and actions for goods which form part of passengers' personal luggage and update these mechanisms and actions annually after the main travelling season.

² Council Directive 97/78/EC of 18 December 1997 laying down the principles governing the organisation of veterinary checks on products entering the Community from third countries (OJ L 24, 30.1.1998, p.9).

³ Regulation (EU) No 1143/2014 of the European Parliament and of the Council of 22 October 2014 on the prevention and management of the introduction and spread of invasive alien species (OJ L 317, 4.11.2014, p. 35).

⁴ Regulation (EU) 2016/2031 of the European Parliament of the Council of 26 October 2016 on protective measures against pests of plants, amending Regulations (EU) No 228/2013, (EU) No 652/2014 and (EU) No 1143/2014 of the European Parliament and of the Council and repealing Council Directives 69/464/EEC, 74/647/EEC, 93/85/EEC, 98/57/EC, 2000/29/EC, 2006/91/EC and 2007/33/EC (OJ L 317, 23.11.2016, p. 4).

- (10) Regulation (EU) No 576/2013 of the European Parliament and of the Council⁵ and Commission Implementing Regulation (EU) No 577/2013⁶ provide rules concerning certain species of pet animals accompanying their owner or an authorised person during non-commercial movements into the Union from third countries. Administrative burden related to such movements should be minimised while a sufficient level of safety should be ensured with regard to the public and animal health risks involved. Furthermore, Member States should only authorise the movement into the Union of pet birds in accordance with Commission Decision 2007/25/EC⁷.
- (11) Article 48(f) of Regulation (EU) 2017/625 empowers the Commission to adopt rules exempting pet animals kept for private non-commercial purposes from official controls at border control posts. The rules on exemption in this Regulation should not affect the obligation of Member States to carry out official controls to ensure compliance with Regulation (EU) No 1143/2014 and Commission Regulation (EC) No 865/2006⁸.
- (12) With a view to providing citizens with clear and accessible information concerning the rules that apply to the non-commercial movement into the Union of certain species of pet animals, Member States should be required to make that information available to the public.
- (13) The level of public and animal health risk arising from the introduction of animal diseases and pathogenic agents varies according to different factors, such as the type of product, the animal species from which the products have been obtained, and the likelihood of the presence of pathogenic agents. Comprehensive Union rules to prevent the introduction of animal diseases and pathogenic agents exist in Commission Regulation (EC) No 206/2009⁹ to address such risks. Given that this Regulation lays down rules covered by Regulation (EC) No 206/2009, that Regulation should be repealed from the date of application of this Regulation.
- (14) Commission Regulation (EU) No 142/2011¹⁰ should be amended as regards the exemption of certain research and diagnostic samples from veterinary checks at the border inspection posts as the subject matter is covered by this Regulation.

⁵ Regulation (EU) No 576/2013 of the European Parliament and of the Council of 12 June 2013 on the non-commercial movement of pet animals and repealing Regulation (EC) No 998/2003 (OJ L 178, 28.6.2013, p. 1).

⁶ Commission Implementing Regulation (EU) No 577/2013 of 28 June 2013 on the model identification documents for the non-commercial movement of dogs, cats and ferrets, the establishment of lists of territories and third countries and the format, layout and language requirements of the declarations attesting compliance with certain conditions provided for in Regulation (EU) No 576/2013 of the European Parliament and of the Council (OJ L 178, 28.6.2013, p. 109).

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

⁸ Commission Regulation (EC) No 865/2006 of 4 May 2006 laying down detailed rules concerning the implementation of Council Regulation (EC) No 338/97 on the protection of species of wild fauna and flora by regulating trade therein, OJ L 166, 19.6.2006, p.1.

⁹ Commission Regulation (EC) No 206/2009 of 5 March 2009 on the introduction into the Community of personal consignments of products of animal origin and amending Regulation (EC) No 136/2004 (OJ L 77, 24.3.2009, p. 1).

¹⁰ Commission Regulation (EU) No 142/2011 of 25 February 2011 implementing Regulation (EC) No 1069/2009 of the European Parliament and of the Council laying down health rules as regards animal by-products and derived products not intended for human consumption and implementing Council Directive 97/78/EC as regards certain samples and items exempt from veterinary checks at the border under that Directive (OJ L 54, 26.2.2011, p. 1).

- (15) Regulation (EU) 2017/625 applies from 14 December 2019. Accordingly, the rules laid down in this Regulation should also apply from that date.

HAS ADOPTED THIS REGULATION:

Article 1
Subject matter

This Regulation lays down rules for the cases where and the conditions under which certain categories of animals and goods are exempted from official controls at border control posts and the cases where and the conditions under which specific control tasks may be performed by customs authorities or other public authorities, insofar as those tasks are not already falling under the responsibility of those authorities, on passengers' personal luggage.

Article 2
Definitions

For the purposes of this Regulation, the following definitions apply:

- (1) 'research and diagnostic samples' means research and diagnostic samples as defined in point (38) of Annex I to Regulation (EU) No 142/2011;
- (2) 'IMSOC' means the information management system for official controls referred to in Article 131 of Regulation (EU) 2017/625;
- (3) 'fresh fishery products' means fresh fishery products as defined in point 3.5 of Annex I to Regulation (EC) No 853/2004 of the European Parliament and of the Council¹¹;
- (4) 'prepared fishery products' means prepared fishery products as defined in point 3.6 of Annex I to Regulation (EC) No 853/2004;
- (5) 'processed fishery products' means 'processed fishery products' as defined in point 7.4 of Annex I to Regulation (EC) No 853/2004;
- (6) 'pet animal' means pet animal as defined in point (11) of Article 4 of Regulation (EU) 2016/429 of the European Parliament and of the Council¹²;
- (7) 'non-commercial movement' means non-commercial movement as defined in point (14) of Article 4 of Regulation (EU) 2016/429;
- (8) 'petfood' means petfood as defined in point (19) of Annex I to Regulation (EU) No 142/2011.

Article 3
Animals intended for scientific purposes

1. Invertebrates intended for scientific purposes such as research, educational activities or research related to product development activities shall be exempted from official controls at border control posts other than controls carried out in accordance with Article 15(2) of Regulation (EU) No 1143/2014, provided that:

¹¹ Regulation (EC) No 853/2004 of the European Parliament and of the Council of 29 April 2004 laying down specific hygiene rules for food of animal origin (OJ L 139, 30.4.2004, p. 55).

¹² Regulation (EU) 2016/429 of the European Parliament and of the Council of 9 March 2016 on transmissible animal diseases and amending and repealing certain acts in the area of animal health ('Animal Health Law') (OJ L 84, 31.3.2016, p.1).

- (a) they comply with the animal health requirements set out in the rules referred to in point (d) of Article 1(2) of Regulation (EU) 2017/625;
 - (b) their entry into the Union is authorised in advance for that purpose by the competent authority of the Member State of destination;
 - (c) when the activities related to the scientific purposes have been carried out, they and products derived from them, with the exception of the quantities used for the scientific purposes, shall be disposed of or re-dispatched to the third country of origin.
2. Paragraph 1 shall not apply to honey bees (*Apis mellifera*), bumble bees (*Bombus spp*), molluscs belonging to the phylum *Mollusca* and crustaceans belonging to the subphylum *Crustacea*.

Article 4

Research and diagnostic samples

1. The competent authority may exempt research and diagnostic samples from official controls at border control posts provided that:
- (a) the competent authority of the Member State of destination has issued to the user of the samples an authorisation in advance for their introduction into the Union in accordance with Article 27(1) of Regulation (EU) No 142/2011 and this authorisation is recorded in an official document delivered by that authority;
 - (b) they are accompanied by the official document referred to in point (a) or by a copy thereof until they reach the user referred to in point (a) or in the case referred to in point (c) the border control post of entry;
 - (c) in the case of entry into the Union via a Member State other than the Member State of destination, the operator presents the samples at a border control post.
2. In the case referred in paragraph 1(c), the competent authority of the border control post shall inform through the IMSOC the competent authority of the Member State of destination of the introduction of the samples.

Article 5

Plants, plant products and other objects intended for scientific purposes

1. Plants, plant products and other objects are exempted from identity and physical checks at border control posts other than controls carried out pursuant to Article 15(2) of Regulation (EU) No 1143/2014, provided that they are intended for scientific purposes in accordance with Article 48(1) of Regulation (EU) No 2016/2031.
2. The competent authority of the border control post of first arrival of the consignment shall perform documentary checks on the authorisation referred to in Article 48(1) of Regulation (EU) No 2016/2031. In case of identified or suspected non-compliance, the competent authority of the border control post of first arrival may perform identity and physical checks on the consignment or request such checks to be carried out by the person responsible for the quarantine station or the confinement facility that has been designated by the competent authority.
3. If the competent authority of the border control post of first arrival of the consignment requests identity and physical checks to be carried out by the person

responsible for the quarantine station or the confinement facility that has been designated by the competent authority, the competent authority of the border control post of first arrival of the consignment shall inform through the IMSOC the competent authority of the quarantine station or the confinement facility of the results of the documentary checks and of the subsequent departure of the consignment for the quarantine station or the confinement facility. The competent authority of the quarantine station or the confinement facility shall inform through the IMSOC the competent authority of the border control post of first arrival of the consignment of the arrival of the consignment at the quarantine station or the confinement facility. The competent authority of the quarantine station or the confinement facility shall carry out identity and physical checks.

Article 6

Products of animal origin and composite products on board means of transport operating internationally which are not unloaded and are intended for consumption by the crew and passengers

1. Products of animal origin and composite products are exempted from official controls at border control posts provided that:
 - (a) they are intended for consumption by the crew and passengers on board means of transport operating internationally; and
 - (b) they are not unloaded on Union territory.
2. Direct transfer of goods referred to in paragraph 1 unloaded at a port from one means of transport operating internationally to another means of transport operating internationally is exempted from official controls at border control posts provided that:
 - (a) it takes place in accordance with the agreement of the competent authority of the border control post; and
 - (b) it takes place under customs supervision.
3. The operator responsible for the goods referred to in paragraph 1 shall request the agreement referred to in paragraph 2(a) prior to the transfer of these goods from one means of transport operating internationally to another means of transport operating internationally.

Article 7

Goods which form part of passengers' personal luggage and are intended for personal consumption or use

Products of animal origin, composite products, products derived from animal by-products, plants, plant products and other objects which form part of passengers' personal luggage and which are intended for personal consumption or use, are exempted from official controls at border control posts provided that they belong to at least one of the following categories:

- (a) goods listed in Part 1 of Annex I provided that their combined quantity does not exceed the weight limit of 2 kg;
- (b) eviscerated fresh fishery products or prepared fishery products, or processed fishery products provided that their combined quantity does not exceed the weight limit of 20 kg or the weight of one fish, whichever weight is the highest;

- (c) goods other than those referred to in points (a) and (b) of this article and other than those referred to in Part 2 of Annex I, provided that their combined quantity does not exceed the weight limit of 2 kg;
- (d) plants, other than plants for planting, plant products and other objects;
- (e) goods, other than plants for planting, coming from Andorra, Iceland, Liechtenstein, Norway, San Marino or Switzerland;
- (f) fishery products coming from the Faroe Islands or Greenland;
- (g) goods, other than plants for planting and other than fishery products, coming from the Faroe Islands or Greenland provided that their combined quantity does not exceed the weight limit of 10 kg.

Article 8

Information on goods which form part of passengers' personal luggage and are intended for personal consumption or use

1. In all points of entry into the Union, the competent authority shall display information by means of one of the posters set out in Annex II, in at least one of the official languages of the Member State of introduction into the Union, placed in locations which are easily visible to passengers arriving from third countries.
2. The competent authority may complement the information referred to in paragraph 1 with additional information, including:
 - (a) the information set out in Annex III;
 - (b) information appropriate to the local conditions.
3. International passenger transport operators, including airport, port and rail operators and travel agencies shall:
 - (a) draw the attention of their customers to the rules laid down in Article 7 and in this Article, in particular by providing the information set out in Annexes II and III;
 - (b) accept that the competent authority displays the information referred to in paragraphs 1 and 2 within their premises in locations which are easily visible to passengers arriving from third countries.

Article 9

Specific official controls on goods which form part of passengers' personal luggage

1. For goods which form part of passengers' personal luggage, the competent authorities, the customs authorities or other public authorities responsible, in cooperation with port, airport and rail operators and with operators responsible for other points of entry shall organise specific official controls at points of entry into the Union. These specific official controls shall be risk-based and effective.
2. The controls referred to in paragraph 1 of this Article shall:
 - (a) aim in particular at detecting the presence of goods referred to in Article 7;
 - (b) aim at verifying that the conditions laid down in Article 7 are met; and

- (c) be carried out by appropriate means, which may include the use of scanning equipment or specifically trained detector dogs, to screen large volumes of goods.
3. The competent authorities, the customs authorities or other public authorities responsible, which carry out specific official controls shall:
- (a) aim at identifying the goods which are non-compliant with the rules laid down in Article 7;
 - (b) ensure that the non-compliant goods identified are seized and destroyed in accordance with national legislation and, where applicable, in accordance with Articles 197 to 199 of Regulation (EU) No 952/2013 of the European Parliament and of the Council¹³;
 - (c) review, at least once per year and before 1 October, their applied mechanisms and actions, establish the level of compliance achieved, and, on a risk-basis, adapt those mechanisms and actions if necessary, to achieve the objectives laid down in points (a) and (b) of paragraph 2.
4. The review referred to in point (c) of paragraph 3 shall ensure that risks to public health, animal health and plant health are minimised.

The review shall take into account:

- (a) data collected on the approximate number of consignments which are in breach of the rules laid down in Article 7;
- (b) the number of specific official controls done;
- (c) the total quantified amount of seized and destroyed consignments which were found in passengers' personal luggage and which were not in compliance with Article 7; and
- (d) any other relevant information.

Article 10

Small consignments of goods sent to natural persons which are not intended to be placed on the market

1. Small consignments of products of animal origin, composite products, products derived from animal by-products, plants, plant products and other objects sent to natural persons, which are not intended to be placed on the market, are exempted from official controls at border control posts provided that they belong to a least one of the categories listed in Article 7.
2. Member States shall carry out specific official controls on those goods in accordance with Article 9.
3. Postal services shall draw the attention of their customers to the rules laid down in paragraph 1, in particular by providing the information set out in Annexe III.

¹³ Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (OJ L 269, 10.10.2013, p. 1).

Article 11
Pet animals

Pet animals entering the Union during a non-commercial movement are exempted from official controls at border control posts other than official controls carried out in accordance with Article 15(2) of Regulation (EU) No 1143/2014 and other than official controls carried out to verify compliance with Article 57(1) of Regulation (EC) No 865/2006, as follows:

- (a) animals of species listed in Part A of Annex I to Regulation (EU) No 576/2013 which:
 - (i) meet the conditions laid down in Article 5(1) or Article 5(2) of Regulation (EU) No 576/2013 and are being moved from a territory or a third country listed in Part 1 of Annex II to Implementing Regulation (EU) No 577/2013, provided that they undergo documentary and identity checks in accordance with Article 33 and, where relevant, standard spot checks in accordance with Article 5(3) of Regulation (EU) No 576/2013; or
 - (ii) meet the conditions laid down in Article 5(1) or Article 5(2) of Regulation (EU) No 576/2013 and are being moved from a territory or a third country listed in Part 2 of Annex II to Implementing Regulation (EU) No 577/2013, provided that they undergo documentary and identity checks in accordance with Article 34 and, where relevant, standard spot checks in accordance with Article 5(3) of Regulation (EU) No 576/2013; or
 - (iii) meet the conditions laid down in Article 10(3) of Regulation (EU) No 576/2013, provided that they undergo checks in accordance with the permit referred to in point (a) of Article 10(3) of that Regulation and with the requirements in point (b) of Article 10(3) of that Regulation; or
 - (iv) meet the conditions laid down in Article 32 of Regulation (EU) No 576/2013, provided that they undergo checks in accordance with the permit referred to in point (a) of Article 32(1) of that Regulation;
- (b) birds listed in Part B of Annex I to Regulation (EU) No 576/2013 provided that:
 - (i) their movement has been authorised by Member States in accordance with Article 1(1) of Decision 2007/25/EC; and
 - (ii) they undergo veterinary checks in accordance with Article 2 of Decision 2007/25/EC;
- (c) birds listed in Part B of Annex I to Regulation (EU) No 576/2013 moving into the Union from Andorra, the Faroe Islands, Greenland, Iceland, Liechtenstein, Monaco, Norway, San Marino, Switzerland and the Vatican City State;
- (d) animals of species other than birds, listed in Part B of Annex I to Regulation (EU) No 576/2013.

Article 12
Information on pet animals

1. In all points of entry into the Union, the competent authority shall display information in the poster set out in Annex IV, in at least one of the official languages of the Member State of introduction into the Union, by prominent notices placed in locations which are easily visible to passengers arriving from third countries.

2. International passenger transport operators, including airport, port and rail operators shall accept that the competent authority displays the information referred to in paragraph 1 within their premises in locations which are easily visible to passengers arriving from third countries.

Article 13

Repeal of Regulation (EC) No 206/2009

1. Regulation (EC) No 206/2009 is repealed with effect from 14 December 2019.
2. References to the repealed act shall be construed as references to this Regulation and read in accordance with the correlation table in Annex V.

Article 14

Amendment to Regulation (EC) No 142/2011

In Article 27 of Regulation (EC) No 142/2011, paragraph 2 is deleted.

Article 15

Entry into force and date of application

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

It shall apply from 14 December 2019.

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

Done at Brussels, 10.10.2019

For the Commission
The President
Jean-Claude JUNCKER