Animal & Plant Health Agency

APHA Briefing Note 32/19

Regulation (EU) 2017/625 on Official Controls and Other Official Activities[1] (OCR)

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What will the Official Controls Regulation (OCR) change?

The OCR became a directly applicable Regulation in the UK from 14th December 2019. The Regulation repealed and replaced Regulation (EC) 882/2004 on official controls and a number of EU Regulations and Directives.

The OCR provides the rules for the organisation and performance of official controls and other official activities that Competent Authorities (CAs) must carry out to verify compliance with agri-food chain legislation. This will be the legislation referred to in Article 1(2) of the OCR and includes animal health and welfare requirements, food and feed safety, Genetically Modified Organisms, organics and plant health rules.

The OCR Regulation (EU) 2017/625 introduces the following changes:

- extends the scope of the current Regulation (EC) 882/2004 on official controls to plant health, animal by-products and plant protection products to cover the whole agri-food chain;
- increases the transparency of official controls activities carried out by Competent Authorities (CAs), and enables them - under certain conditions - to publish information on the results of controls on individual operators and to establish "rating schemes" whereby consumers can consult data on the performance of retailers, restaurants and other businesses (in the UK, this will be for example the FSA “score on the door” scheme);
- strengthens rules for administrative assistance and cooperation between Member States in case of cross-border breaches of agri-food chain rules;

[1] https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32017R0625&from=EN

- strengthens rules on fraudulent and deceptive practices along the agri-food chain, including the requirement for CAs to perform regular and unannounced risk-based controls to identify fraudulent activities and sets out new rules on financial penalties for fraudulent behaviours;
- clarifies current rules on official certification and specifies that those rules apply to official certificates which are necessary for the purposes of exporting animals and goods to a third country;
- introduces harmonised rules for the performance of official controls at borders of animals, animal products, plants and other categories of goods;
- Establishes IMSOC (Information Management System for Official Controls) which will link all existing and future IT systems managed by the European Commission (e.g. TRACES, RASFF and Europhyt) to enable an efficient exchange of information between Member States.

Import Controls

What are the changes to official controls carried out at EU borders?

The OCR aims to overcome the current fragmented import controls rules by providing one common set of requirements for all the categories of animals and goods under article 47(1) of the OCR which are subject to official controls when entering the EU. In doing so, the OCR repeals a number of pieces of EU legislation which requires official controls at borders such as Council Directives 97/78/EC and 91/496/EEC. A full list of repealed legislation can be found in Annex A.

Chapter V of the OCR, that includes articles 43 to 77, consolidates and adjusts current requirements for import controls at BCPs for the categories of animals and goods listed under article 47(1) of the OCR. Tertiary legislation made under the OCR will establish further import controls requirements and cases and conditions under which animals and goods can be exempted from these controls. Links to the Commission legislation is provided in the footnote.

The main requirements of the OCR and associated Commission legislation are below.

Border Control Posts (BCP)

Existing Border Inspection Posts (BIPs), Designated Points of Entry (DPEs), and First Points of Introduction (FPIs) will become Border Control Posts (BCPs) (Article 61 OCR). The re-designation of these existing border control entities is subject to compliance with the BCP minimum requirements set out in Article 64 of the OCR and with the detailed minimum requirements set out in **Commission Implementing Regulation (EU)**

2019/1014.[2] The requirements of Article 64 include but are not limited to the need for the BCP to have a sufficient number of suitable qualified staff, premises and facilities adequate to the nature and volume of the consignments handled, access to the service of official laboratories and arrangements to comply with biosecurity standards.

In addition to those requirements, detailed rules on minimum requirements have been established in Commission Implementing Regulation (EU) 2019/1014. This Regulation sets out detailed common rules concerning BCP infrastructure, equipment and documentation that apply to BCPs designated for any of the categories of animals and goods referred to in Article 47(1) of the OCR. BCPs that have been designated for animals and for products of animal origin (POAO), animal by-products (ABP), germinal products, composite products and hay and straw will need to comply with additional specific rules. Those rules will require for example storage facilities for feeding stuffs, bedding, equipment for feeding and watering, inspection rooms with facilities to maintain, where necessary, a temperature control environment and changing rooms.

Regulation (EU) 2019/1014 provides for certain exemptions from minimum requirements. For example the exemption for BCPs to have the unloading area covered by a roof for non-containerised consignments and consignments that consist of large quantities of un-packed goods. Also, specific exemptions from certain minimum requirements are provided in article 3 of that Regulation for BCPs designated for plants, plant products and other objects.

Once designated, each Member State must make available on the internet the updated list of BCPs on its territory. A list of BCPs are available on GOV.UK. Please note that the BCP list reflects the format required by Regulation (EU) 2019/1014 and the abbreviations set out in there.

Information Management System for Official Controls (IMSOC)

IMSOC (Information Management System for Official Controls) has been set up by the Commission for the integrated operation of the different IT systems through which data, information and documents concerning official controls are processed and handled. IMSOC builds on IT infrastructure which is already available; in particular, the TRACES system, through which data and information in relation to veterinary controls are currently handled. **Commission Implementing Regulation (EU) 2019/1715**[3] sets out the rules for the functioning of IMSOC.

2 https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32019R1014&from=EN

3 https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32019R1715&from=EN

Procedures after the 14th December:

- The UK did not switch immediately to TRACES NT on 14th December 2019. Importers should **continue to pre-notify on the current TRACES Classic system using current CVED and/or CED documentation**.
- The date importers will need to start using TRACES NT and the new documentation depends on what is being imported:
    - **Importers of live animals and high risk food and feed**: Need to ensure they register for TRACES-NT. Once registered for TRACES NT, users should continue to pre-notify using the current TRACES Classic system for a short period of time. Defra will let importers know when to start to pre-notify using TRACES NT.

    - **Importers of products of animal origin including meat and dairy**: The introduction of TRACES NT for these products is being delayed for all Member States. Importers should continue to use the current CVED documentation and the TRACES Classic system. Defra will provide further information shortly, again ahead of switchover.

Common Health Entry Document (CHED) or TRACES-NT

Please note: The UK did not switch to TRACES NT on 14th December 2019. Therefore, CHEDs will not be applicable and you should continue to pre-notify on the current TRACES Classic system using current CVED documentation.

The use of the CHED will be governed by rules based on current practices (Articles 56 and 57 OCR). This single standard document, which replaces the Common Veterinary Entry Document (CVED) and the Common Entry Document (CED), will be used by operators for the mandatory prior-notification of the arrival of consignments of animals and goods referred to in Article 47(1) of the OCR. Part I of the CHED/CVED will be completed on TRACES and submitted to the Competent Authority at the BCP. The CAs at the BCP will record the outcome of official controls in Part II of the CHED/CVED. The same document must be used by the operator to obtain clearance from customs authorities once all official controls have been performed and the CHED/CVED is finalised.

Minimum time for prior-notification for CVED/CHED

The Commission has set out the requirements for the minimum time for the prior-notification in **Commission Implementing Regulation (EU) 2019/1013**.[4] More specifically, the minimum time for the operator to pre-notify the arrival of consignments of animals and goods referred to in Article 47(1) of the OCR will be one working day. To

[4] https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32019R1013&from=EN

address cases of logistical constraints (e.g. consignments travelling by airplane where the departure notice can be very short), the Regulation allows CAs at the BCP to apply a period of prior-notification of at least four hours.

CHED/CVED accompanying consignments

To ensure the traceability of consignments, **Commission Delegated Regulation (EU) 2019/1602**[5] sets out the conditions and practical arrangements under which the CHED needs to accompany consignments of animals and goods referred to in Article 47(1) of the OCR, and rules relating to the CHED/CVED when consignments are split. These rules reflect current practices.

Monitoring the transport and arrival of consignments

Delegated Regulation 2019/1666[6] made under the OCR requires that the transport of the categories of goods under article 47(1)(b) of the OCR from the BCP of arrival to the place of destination in the Union (same or different Member Sate) is monitored (currently referred to as channelling). The rules for the monitoring laid down in that Regulation are not significantly different from current practices.

The CAs at the place of destination shall notify through TRACES-Classic upon arrival of the consignment the Competent Authorities of the BCP where the controls were performed.

In cases where a notification is not received within 15 days from when the transport of the consignment was authorised, then the BCP authorities must carry out further investigations, with a view to determining the actual location of the consignment.

Where the consignment, does not arrive at the place of destination, the authorities at the BCP of arrival and at the place of destination shall take any enforcement action they deem appropriate against the operator responsible for the consignment.

Official Controls at BCPs: official veterinarian and designated staff

To enable efficient organisation of official controls, the OCR allows Member States to identify the most appropriate staff to perform controls. However, in certain cases, considering risks to biosecurity and public health, Member States are required to refer to official veterinarians or other specifically designated staff.

[5] https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32019R1602&from=EN

Article 49 of the OCR provides for the checks to be performed at BCPs on the categories of animals and goods under article 47(1) of the OCR. More specifically, in terms of physical checks, Article 49(2) of the OCR requires that:

- physical checks on animals (except aquatic animals) and on meat and edible meat offal are performed by an official veterinarian, who may be assisted by staff trained in accordance with the requirements of **Regulation (EU) 2019/1081**[6] and designated for that purpose by the Competent Authority; and
- physical checks on aquatic animals, products of animal origin (except meat and meat offal) germinal products and animal by-products can be performed by an official veterinarian or by staff trained in accordance with the requirements of Regulation (EU) 2019/1081 and designated for that purpose by the Competent Authority.

Article 49(2), therefore does not restrict the performance of physical checks to official veterinarians, on the contrary it provides the flexibility to Competent Authorities to designate trained staff where physical checks concern the animals and animal products indicated in Article 49(2)(b) of the OCR.

Physical checks on plants, plant products and other objects must be performed by official plant health officers.

Decisions on consignments

Article 55 of the OCR requires that decisions on consignments are taken by the official veterinarian where the decisions concern animals, POAO, germinal products or ABP; and by the plant health officer if they concern plants, plant products and other objects (any material or object, other than plants or plant products, capable of harbouring or spreading pests, including soil or growing medium).

However, for decisions concerning consignments of fishery products, live bivalve molluscs, live echinoderms, live tunicates and live marine gastropods intended for human consumption, CAs may decide that they are taken by appropriately trained staff who have been specifically designated by the CAs for that purpose. In the UK this is currently Official Fish Inspectors.

Frequency of Identity and Physical Checks

Implementing Regulation 2019/2129 made under Article 54(3) of the OCR establishes the frequency rates for identity and physical checks of consignments of animals and goods referred to in Article 47(1)(a) and (b) of the OCR intended to be placed on the market. The

[6] https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32019R1081&from=EN

Implementing Regulation will repeal Decision 94/360/EC[7] with effect from 14th December 2019.

From 14 December 2019, the frequency rate for physical checks has changed and the highest frequency is at 30% for products. The new frequency rates for physical checks have been laid down in Annex I of the Implementing Regulation 2019/2129.

The frequency rate for physical checks on specific goods from a specific third country may be increased where serious deficiencies are identified based on:

- information collected by the Commission in accordance with Article 125(1) of Regulation 2017/625; or
- the outcome of controls performed by Commission experts in accordance with Article 120(1) of Regulation 2017/625. In this case, the frequency rate will be increased to the next higher baseline frequency rate set out in Annex I or to a frequency rate of 50% where the frequency rate applicable to the specific category of goods is already at 30%. The list of specific third country goods subject to higher frequency of checks will be made available in IMSOC.

RASFF Intensified Official Controls

Please note: due to the Commission granting an extension to access of TRACES-Classic CVED-P module until at least the 4th week of January 2020, re-enforced checks will continue. Please use this information for future reference.

Re-enforced checks will be referred to as Intensified Official Controls (IOC) from 14th December 2019. A new draft Commission Implementing Regulation made under Article 65(6) of the OCR will establish rules for the coordinated performance of IOC on products of animal origin, germinal products, animal by-products and composite products entering the Union for placing on the market. Each consignment must receive full checks when coming from the same establishment of origin and containing the same category of goods, for the same type of infringement, as indicated in IMSOC.

Where the commodity codes are not specific enough to properly identify the category of goods, the BCPs shall only subject consignments to IOC if they correspond to the description of the goods.

The BCPs must record in TRACES the reasons for not subjecting a selected consignment to the coordinated performance of REC/IOC. If 3 consignments reveal the same infringement, the coordinated performance of IOC must be maintained (imposed checks) until the results and the action of the CAs in the third countries concerned are satisfactory and there has been an uninterrupted sequence of at least 30 satisfactory results in the

[7] https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:31994D0360

coordinated performance of REC/IOCs recorded in the TRACES by the BCPs. The Commission will ask the authorities of the third country of concern to investigate and take measures to address the problem and report back to the Commission.

Please note that the 'less than 10% weight of original consignment' rule will not be applicable from the 14th December. Any consignment meeting IOC criteria must be tested even if the weight is less than 10% of the original consignment.

In order to be lifted from IOC controls, the consignment must have at least 10 satisfactory results and the total must be 10 times the weight of the original consignment (or =300 tonnes).

Transit and Transhipment

There is a Delegated Regulation 2019/2124 regarding rules for official controls of consignments of animals and goods in transit, transhipment and onward transportation through the Union made under Articles 51(1)(a) to (d), 50(4), 77(1)(c)(j) and 77(2) of the OCR. The regulation indicates that the transit regime will not differ from current requirements for products, but the transit time period will be reduced from 30 to 15 days from entry to exit of the EU.

With regards to transhipment, BCPs must perform documentary checks required to accompany transhipped consignments of POAO, germinal products, ABP, derived products, hay and straw and composite products in the following cases:

1. for goods subject to the animal health requirements and to the rules for the prevention and minimisation of risks to human and animal health arising from ABP and derived products where the transhipment period:

    - at the airport exceeds 3 days;
    - at the port exceeds 30 days;

2. for goods not subject to animal health requirements where the transhipment period exceeds 90 days.

Re-import Procedures

Please note the recent publication of Delegated Regulation 2019/2074 and Implementing Decision 2019/2098. Delegated Regulation 2019/2074 made under Article 77(1)h of the OCR lays down the specific rules for the performance of specific controls on consignments of animals, POAO, ABP, germinal products, composite products, hay and straw, plants plant products and other objects (as referred to in Article 47(1) (a) (b) and (c) of the OCR) originating and returning to the EU following refusal of entry by a third country (i.e. re-import).

In particular, it states that the operator must receive a declaration of the CA of the place of destination in the EU that they agree to receive the consignment. However, that

declaration is not required where the consignment returns to the establishment of origin of the consignment, which is located in the same Member State as the BCP of arrival into the EU.

Consignments will only follow the monitoring procedures if a declaration is provided from APHA, FSA or EU Competent Authority.

The Regulation includes specific Public Health re-import requirements for POAO and Composite Products, which are as follows:

1. Must have original Export Health Certificate or a certificate electronically issued on TRACES or the origin of the consignment can be authenticated in another way on the basis of documented evidence from the operator;
2. Official declaration by third country Competent Authority or other Public Authority indicating:

    - Reason for refusal of entry
    - Place and date of unloading and re-loading in the third country
    - The consignment did not undergo any other handling than unloading, storage and re-loading
    - The unloading and re-loading of the POAO was handled hygienically to avoid cross-contamination
    - The POAO were stored under hygienic conditions and at the required temperature for the relevant type of goods

    This declaration is not required if the consignment has an intact original seal. The operator must then submit a declaration stating the reason for the refusal of entry by the third country and confirm that the transport has taken place under conditions appropriate for the relevant type of POAO.

<u>There is a separate Implementing Decision for the specific Animal Health re-import requirements for POAO and Composites</u>

Implementing decision 2019/2098 that applies from 14th December 2019 until 21st April 2021 lays down the animal health requirement for re-imports of POAO and Composite Products. Directive 2002/99/EC currently does not lay down specific animal health requirements for the re-entry into the EU of POAO, which have been refused entry by a third country, as the requirements are held in Directive 97/78/EC that will be repealed on the 14th December. Therefore, to provide legal certainty and to mitigate potential animal health risks after 14th December 2019 the animal health requirements that will be laid down in that new implementing decision apply.

The decision states that if the POAO were unloaded in a third country, the Competent Authority or Public Authority of the third country must attest that:

- Effective measures were put in place to avoid the contamination of the POAO with disease agents which cause transmissible animal diseases listed in Annex I to

Directive 2002/99/EC during the unloading, storage and re-loading in the third country;

- The place of any unloading, storage and re-loading in the third country was not subject to animal health movement restrictions due to transmissible animal diseases listed in Annex I to Directive 2002/99/EC during the unloading, storage and re-loading in the third country.

Please note: For goods rejected on commercial grounds, it will not be required to follow the re-import procedures as it only concerns goods rejected from the third country CA.

Approved Third Countries to export to the EU

The list of approved third countries to export to the EU certain commodities are laid down in **Commission Implementing Regulation 2019/626**[8]. The Regulation lists the approved third countries for:

- Bivalve molluscs, echinoderms, tunicates, marine gastropods, fish POAO, frog legs, snails.
- Approved third countries for reptile meat: Switzerland, Botswana, South Africa, Zimbabwe
- Approved third countries for insects are Canada, Switzerland and South Korea as laid down in Annex III of Implementing Regulation 2019/626 as amended by Commission Implementing Regulation 2019/1981[9].
- Other POAO, if from ungulates third countries listed in 206/2010 or from South Korea, Malaysia, Pakistan, Taiwan; if from poultry third countries listed in 798/2008 and Taiwan

The Implementing Regulation also provides for transitional provisions until 20 April 2021 for Member States to continue to allow the entry into the EU of consignments of casings from third countries/regions authorised for the import of casings into the Union in accordance with Decision 2003/779/EC.

Decision 2006/766/EC concerning fishery products will be repealed and the References to this Decision shall be read in accordance with the correlation table set out in Annex IV to Implementing Regulation 2019/626.

[8] https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32019R0626

[9] https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32019R1981&from=EN

Model Export Health Certificates

Commission Implementing Regulation 2019/628[10] contains 17 new/amended certificates for fishery products, gelatine and collagen, snails/frog legs etc. Most of the requirements remain the same as the existing certificates to date. Five of the EHCs are for newly harmonised commodities, which are as follows: insects, reptile meat, other POAO, lard and rendered fats, seeds/sprouts.

Regulation 2019/628 provides transitional provisions for POAO accompanied by the relevant certificates issued in accordance with Regulation 2074/2005, Regulation 211/2013 and Implementing Regulation 2016/759. For these commodities, existing certificates may be accepted for the entry into the EU until 13th March 2020 provided that the certificate was signed before 14th December 2019.

Third countries may until 13th March 2020 also:

- Use the existing certificate for meat products as set in Annex III to Decision 2007/777/EC to import into the EU Rendered Animal Fats and Greaves.
- Export to the EU of consignments of Reptile meat, Insects and Other POAO without the certificates laid out in IR 2019/628.

Certificates following the old and new model:

Third countries are able to provide paper copies of the certificates using the harmonised format available in relevant existing legislation. Article 3 of Regulation 2019/628 does not require the new model Part 1 for certificates that are not submitted in IMSOC, unless the commodity requires one of the new certificates mentioned in the Regulation 2019/628 (e.g. fishery products, gelatine or collagen etc.).

If third countries intend to use electronic certification through IMSOC then they should use the new Model Part 1 for all EHCs, as laid out in Annex I of Regulation 2019/628.

Please note that further EHCs for meat, dairy and eggs, etc. will be reviewed and published in Commission legislation made under the Animal Health Regulation by 2021.

Operator's right to appeal

The Trade in Animals and Related Products (TARP) Regulations have been amended to comply with the OCR. The new draft TARP states in Regulation 20 that the importer or the importer's representative may immediately, and not later than one working day after notification of the non-compliance, make written representations to the Secretary of State regarding any decision taken under this regulation, and any such representations must be

[10] https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32019R0628

considered and a written response given by the Secretary of State within one working day of receipt of such representations.

If the importer does not agree with the decision made by the Secretary of State, the importer may appeal within one month of the decision to a Magistrates' court.

BCP Official Stamps

BCPs must organise their own stamps and tapes with new 'BCP' reference. Defra will allow BCPs to continue using their existing tape and stamps if there is a surplus amount of tape rolls and stamps left. Defra recommends ordering new stamps using the example template below. The stamp must include the Border Control Post reference and the TRACES code.

Further Information

Further information on the OCR is available on:

- GOV.UK
- the European Union website and
- the supporting PowerPoint presentation.