

GUERNSEY STATUTORY INSTRUMENT

2020 No. 161

**The Official Controls (Brexit) (Amendment)
(Bailiwick of Guernsey) Regulations, 2020**

ARRANGEMENT OF SECTIONS

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SCHEDULE: Variations from amendments to the retained OCR.

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**The Official Controls (Brexit) (Amendment)
(Bailiwick of Guernsey) Regulations, 2020**

<i>Made</i>	<i>31st December, 2020</i>
<i>Coming into operation</i>	<i>See regulation 7.</i>
<i>Laid before the States</i>	<i>, 2021</i>

THE POLICY & RESOURCES COMMITTEE, in exercise of the powers conferred on it by sections 5(1) and 11 of the European Union (Brexit) (Bailiwick of Guernsey) Law, 2018^a, and all other powers enabling it in that behalf, and upon receipt of the certificate required under section 5(3) of that Law, hereby makes the following Regulations:-

Amendment of the Preserved OCR.

1. The Preserved OCR is amended in the same way as the retained OCR is amended (as set out in Part 2 of the Official Controls (Animals, Feed and Food, Plant Health etc.) (Amendment) (EU Exit) Regulations 2020^b ("the GB Official Controls

^a Order in Council No. 1 of 2019; as amended by G.S.I. No. 6 of 2020.

^b UK S.I. 2020 No. 1481.

Regulations") except for –

- (a) those terms, expressions or provisions set out in the first column of the Table in Part 1 of the Schedule which are varied from the retained OCR as set out in the corresponding row in the second column of that Table, and
- (b) Annex 6, which is varied from the retained OCR as set out in Part 2 of the Schedule.

Amendment of the Official Controls (Implementation) Ordinance.

2. The European Communities (Official Controls) (Implementation and General Provisions) (Guernsey) Ordinance, 2019^c ("**the Implementation Ordinance**") is amended as follows –

- (a) in section 9(1), for "United Kingdom or other member States" substitute "British Islands",
- (b) in section 9(2), for "United Kingdom or another member State, or the Commission" substitute "British Islands",
- (c) in section 9(2)(a)(i), for "representatives of the Commission" substitute "such persons as the Designated Officer considers necessary",

^c Ordinance No. III of 2020; as amended by Ordinance No. IX of 2020.

- (d) in section 14(3), for "Union" substitute "Bailiwick" in each place it occurs,
- (e) in section 30(1), in the definition of "the OCR" –
 - (i) after "means" insert "(subject to paragraph 5(2) of Schedule 2) Preserved",
 - (ii) for "an EU instrument" substitute "a Preserved EU instrument or other enactment",
- (f) in section 30(1), after the definition of "premises" insert-

""Preserved EU law" has the meaning given by section 3 of the European Union (Brexit) (Bailiwick of Guernsey) Law, 2018,"

- (g) for section 30(3), substitute –

"(3) Unless the context requires otherwise, any reference in this Ordinance to an item of Preserved EU law is a reference to that item of Preserved EU law as from time to time amended, modified or applied."

- (h) in the Table in Part I of Schedule 1, for "Union" substitute "Bailiwick" in each place it occurs,
- (i) in the Table of Contents, section 20(1)(b), the definition of "under" in section 30(1), Part II of Schedule 1 (including the title of that Part), and paragraph 5 of

Schedule 2, before "EU" at each place it occurs insert "Preserved", and

(j) renumber the text at paragraph 5 of Schedule 2 as subparagraph (1), and after subparagraph (1) insert –

"(2) For the avoidance of doubt, references in this Schedule to **"the OCR"** in –

(a) paragraph 1(1)(a),

(b) the first time it appears in paragraph 2, and

(c) paragraph 3,

are references to Regulation (EU) 2017/625 (including EU instruments made thereunder) and accordingly are not references to Preserved EU law."

Interpretation.

3. In these Regulations, unless the context requires otherwise –

"certificate" includes attestations, labels, or marks,

"the Implementation Ordinance": see regulation 2,

"the GB Official Controls Regulations": see regulation 1,

"the OCR" 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, 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)^d,

"the Preserved OCR" means the OCR as an item of Preserved EU law,

"the retained OCR" means the OCR as an item of retained EU law,

"retained EU law" has the meaning in section 6(7) of the European Union (Withdrawal) Act 2018^e,

"under", in relation to an EU instrument, includes "by", "in accordance with", "for the purposes of", "pursuant to" and "by virtue of" the EU instrument or any other EU instrument made under it,

"variation" means a substitution, omission, construction or other variation,

^d OJ No L 95, 7.4.2017, p. 1.

^e An Act of Parliament (2018 c. 16); as amended by An Act of Parliament (2020 c. 1).

and other terms or expressions, unless the context requires otherwise, shall have the same meaning as in the Preserved OCR.

Savings and Transitional provisions.

4. (1) The amendments to the Preserved OCR and the Implementation Ordinance have no effect on the validity of –

- (a) any licence, consent or other authorisation issued or granted,
- (b) any notice served,
- (c) any certificate issued, or
- (d) any other thing done (including any application made) in relation to any of the things mentioned in subparagraphs (a) to (c),

under the OCR or the Implementation Ordinance before exit day (and Schedule 2 to the Implementation Ordinance shall be construed accordingly).

(2) Accordingly, any such licence, consent or other authorisation, notice, certificate, or other thing done (or, as the case may be, made) –

- (a) remains in force and continues to have effect, on or after exit day, in so far as it applies to anything existing, done or omitted to be done before or, as the case may be, made after exit day,

- (b) is to be treated, on and after exit day, as if it were issued, granted, served, or done (or, as the case may be, made) under the Preserved OCR or the Implementation Ordinance, and
- (c) is to be read with such modifications as are necessary in consequence of paragraphs (a) and (b).

Extent.

5. These Regulations have effect throughout the Bailiwick of Guernsey, save for regulation 2 which has effect in the islands of Guernsey, Herm and Jethou, including the territorial waters adjacent to those islands, only.

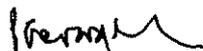
Citation.

6. These Regulations may be cited as the Official Controls (Brexit) (Amendment) (Bailiwick of Guernsey) Regulations, 2020.

Commencement.

7. These Regulations come into force on exit day.

Dated this 31st day of December, 2020



P. T. R. FERBRACHE

President of the Policy & Resources Committee

For and on behalf of the Committee

SCHEDULE

Regulation 1

VARIATIONS FROM AMENDMENTS TO THE RETAINED OCR

PART 1

TABLE

Provision in the retained OCR as amended by the GB Official Controls Regulations	Variation in the Bailiwick
Article 1	In Article 1, for "Great Britain" in each place it occurs substitute "the Bailiwick".
Article 1(3)	In Article 1(3), after "entering the Bailiwick" insert "from third countries".
Article 1(4)	For paragraphs (4)(b) and (4)(c), substitute – "(b) Directive 2010/63/EU of the European Parliament and of the Council or, as the case may be, legislation which transposed that Directive,

	<p>(c) Directive 2001/82/EC of the European Parliament and of the Council or, as the case may be, legislation which transposed that Directive."</p>
Article 3(2A)	<p>For point (2A), substitute –</p> <p>""the appropriate authority" means –</p> <p>(a) in the case of rules applying in Sark only, the Sark Committee,</p> <p>(b) in the case of rules applying in Alderney only, the Alderney Committee, and</p> <p>(c) in any other case, the Policy & Resources Committee,</p> <p>and the "Sark Committee", the "Alderney Committee" and the "Policy & Resources Committee" have the meanings given in the European Union (Brexit) (Bailiwick of Guernsey) Law, 2018,".</p>
Article 3(2B)	Point (2B) is omitted.
Article 3(2C)	Point (2C) is omitted.
Article 3(3)	In the words before point (a), for "the competent authority" reinstate "competent authority".

Article 3(3)	In point (a), for "appropriate authority" substitute "the central authorities of the Bailiwick".
Article 3(3)	In point (c), for ", of Northern Ireland or any of the Crown Dependencies" substitute "or of another constituent territory of the British Islands".
Article 3(3A)	Point (3A) is omitted.
Article 3(4)	In point (4) – <ul style="list-style-type: none"> (a) for "Great Britain" substitute "the Bailiwick", (b) for ", of Northern Ireland or of any of the Crown Dependencies" substitute " or of another constituent territory of the British Islands", and (c) for ", in Northern Ireland or in any of the Crown Dependencies" substitute " or in another constituent territory of the British Islands".
Article 3(38) and (39)	In points (38) and (39), for "competent authority" substitute "appropriate authority".
Article 3(40)	For point (40), substitute – <p>"entering the Bailiwick' or 'entry into the Bailiwick' means the action of bringing animals and goods into the Bailiwick from a third country,".</p>

Article 3(40A)	In point (40A), for "in Great Britain" substitute "into the Bailiwick".
Article 3(41)	In point (41), for "retained direct EU legislation" substitute "Preserved EU law".
Article 4(4)	In paragraph (4), for "must" substitute "may".
Article 9(3)	In point (b), for "retained direct EU legislation" substitute "Preserved EU law".
Article 9(6)	In paragraph (6), for "Great Britain" substitute "the Bailiwick".
Article 9(7)	In paragraph (7), omit "responsible for the constituent territory of destination in Great Britain".
Article 10(3)	In paragraph (3), after "amending" insert "or modifying".
Article 15(3)	In paragraph (3), for "Great Britain" substitute "the Bailiwick".
Article 21	In Article 21, for "Great Britain" in each place it occurs substitute "the Bailiwick".
Article 22(2)	In point (a), for "Great Britain" substitute "the Bailiwick".
Article 23(2)	In point (a)(i), omit the words from "legislation" to "transposed" and after "Directive 2001/18/EC" insert ", or (as the case may be) legislation which transposed that Directive,".

Article 23(2)	In point (a)(ii), the variation is omitted and the original text is not substituted.
Article 23(3)	In point (a), the variation is omitted and after "Directive 2001/18/EC" insert ", or (as the case may be) legislation which transposed that Directive,".
Article 22(3)	In point (b), the variation is omitted and the original text is not substituted.
Article 24(2)	For point (a), substitute – "results of relevant monitoring activities including those on pesticides residues carried out in the Bailiwick for the purpose of Article 32(2) of Regulation (EC) No 96/2005, of Article 8 of Directive 2000/60/EC of the European Parliament and of the Council, or any other purpose".
Article 24(3)	In point (a), for "Great Britain" substitute "the Bailiwick".
Article 24(4)	In point (a), for "Great Britain" substitute "the Bailiwick".
Article 34(1)	In paragraph (1), for "legislation in force in the relevant constituent territory of Great Britain" substitute "legislation or other rules".
Article 34(2)	In point (b), omit "the relevant constituent territory of".

Article 37(1)	In paragraph (1), for ", which may be in any part of the United Kingdom," substitute ", which may be in any part of the British Islands," and for "Great Britain" substitute "the Bailiwick".
Article 37(6)	In paragraph (6), for "United Kingdom or in a third country," substitute "British Islands or in a third country,".
Article 40(3)	In paragraph (3), for "United Kingdom" substitute "British Islands".
Article 42(1)	In point (a), for "in force in the relevant constituent territory of Great Britain" substitute "or other rules".
Article 42(4)	In paragraph (4), for "United Kingdom" substitute "British Islands".
Chapter V	Throughout Chapter V, for "Great Britain" in each place it occurs substitute "the Bailiwick".
Article 44(3)	In paragraph (3), for "United Kingdom" substitute "British Islands".
Article 47(1)	In point (e), for "the United Kingdom, as amended from time to time, whether established and maintained pursuant to section 8(1) of the Taxation (Cross-border Trade) Act 2018(6) or under any other enactment" substitute "the Bailiwick, as amended from time to time".
Article 47(2)	In points (a) and (b), for "the United Kingdom, as amended from time to time, whether established and maintained

	pursuant to section 8(1) of the Taxation (Cross-border Trade) Act 2018(6) or under any other enactment" substitute "the Bailiwick, as amended from time to time".
Article 47(3)	In paragraph (3), after "amending" insert "or modifying".
Article 51(1)	In point (c), for "in" substitute "into".
Article 53(1)	In point (a), for "retained direct EU legislation" substitute "Preserved EU law".
Article 53(1)	In points (b) and (c), for "United Kingdom" substitute "British Islands" and for "constituent territory of Great Britain" substitute "constituent territory of the British Islands".
Article 54(3)	In point (a)(iv), for "via" substitute "in a form and manner approved by the competent authority, which may include".
Article 56(3)	In point (b)(ii), for "through" substitute "in a form and manner approved by the competent authority, which may include".
Article 56(4)	In paragraph (4), for "into" substitute "in a form and manner approved by the competent authority, which may include" and for "in Great Britain" substitute "in the British Islands".
Article 57(1)	In paragraph (1), after "finalised in" insert "a form and manner approved by the competent authority, which may include".
Article 64(3)	In point (f), after "systems" insert "or other systems".

Article 64(3)	In point (g), after "system" insert "or other systems".
Article 65(5)	In paragraph (5), after "system" insert "or another agreed system".
Article 66(5)	In paragraph (5), after "system" insert "or another agreed system".
Article 68(2)	In paragraph (2), for "constituent territory of Great Britain where the official controls were performed" substitute "Bailiwick".
Article 73(5)	In paragraph (5), for "constituent territory of Great Britain" substitute "Bailiwick".
Article 74(1)	In point (a), after "system" insert "or other agreed system".
Article 76(1)	In paragraph (1), for "under the Taxation (Cross-border Trade) Act 2018" substitute "in other enactments".
Article 77(1)	In point (a), for "by fisheries administration" to "No 1005/2008" substitute "designated in the Bailiwick for such purposes".
Article 77(1)	In paragraph (1), omit point (aa).
Article 77(1)	In point (f), for "either to an address in Great Britain, or to an address in the Crown Dependencies via an entry point in Great

	Britain" substitute "to an address in the Bailiwick, whether or not via an entry point in Great Britain".
Article 77(1)	In point (ha), for "Crown Dependency" substitute "Bailiwick, whether or not".
Article 79	In paragraphs (1) and (2), for "shall" substitute "may".
Article 85	In paragraphs (2) and (3), for "shall" substitute "may".
Article 89(1)	In point (c), omit "and may also be in Welsh".
Article 91(2)	In point (b), omit "and may also be in Welsh".
Article 95(1)	In paragraph (1), for "must" substitute "may".
Article 99(1)	In paragraph (1), for "shall" substitute "may".
Article 100(1)	In paragraph (1), for "must" substitute "may" and for "Great Britain" substitute "the Bailiwick".
Article 100(1A)	In point (a), for "United Kingdom" substitute "British Islands".
Article 100(4)	In paragraph (4), for "must" substitute "may".
Article 102(2)	In paragraph (2), for "shall" substitute "may".
Article 103(1)	In paragraph (1), for "shall" substitute "may".
Article 103(3)	In paragraph (3), for "shall" substitute "may".

Article 107(2)	In point (b), for "relevant constituent territory of Great Britain" substitute "Bailiwick".
Article 109(1)	In paragraph (1), for "constituent territories of Great Britain" substitute "Bailiwick, including any co-ordination with any other constituent jurisdiction of the British Islands".
Article 109(2)	In paragraph (2), for "The appropriate authorities must jointly" substitute "The appropriate authority may".
Article 110(2)	In paragraph (2), for "Great Britain" in each place it occurs substitute "the Bailiwick".
Article 111(1)	In paragraph (1), for "shall" substitute "may".
Article 111(2)	In points (b) and (f), for "Great Britain" substitute "the Bailiwick".
Article 112	In Article 112, for "Great Britain, the appropriate authorities" substitute "the Bailiwick, the appropriate authority".
Article 113(1)	In paragraph (1), for "must" substitute "may".
Article 115(1)	In paragraph (1), for "shall" substitute "may".
Article 120(1)	In point (b), for "Great Britain" substitute "the Bailiwick".
Article 120(2)	In point (f), for "Great Britain" substitute "the Bailiwick".

Article 121(1)	In points (a), (c) and (e), for "Great Britain" substitute "the Bailiwick".
Article 122	In Article 122, for "shall" in each place it occurs substitute "may".
Article 123	In Article 123, for "shall" in each place it occurs substitute "may" and for "Great Britain" substitute "the British Islands".
Chapter II	In the heading of Chapter II, for "Great Britain" substitute "the Bailiwick".
Article 125(1)	In paragraph (1), for "shall" substitute "may".
Article 125(1)	In the opening words to paragraph (1) and in point (f), for "Great Britain" at each place it occurs substitute "the Bailiwick".
Article 125(1)	In point (g), for "Great Britain" substitute "the British Islands".
Article 125(2)	In paragraph (2), for "Great Britain" substitute "the Bailiwick".
Article 126	In the heading to Article 126 and in each place it occurs, for "Great Britain" substitute "the Bailiwick".
Article 126(2)	In paragraph (2), for "the United Kingdom, as amended from time to time, whether established and maintained pursuant to section 8(1) of the Taxation (Cross-border Trade) Act 2018(6) or under any other enactment" substitute "the Bailiwick, as amended from time to time".

Article 127(3)	In point (g), for "Great Britain" substitute "the Bailiwick".
Article 128	In the heading to Article 128 and in each place it occurs, for "Great Britain" substitute "the Bailiwick".
Article 128(1)	In paragraph (1), for "must" substitute "may".
Article 128(2)	In paragraph (2), for "the United Kingdom, as amended from time to time, whether established and maintained pursuant to section 8(1) of the Taxation (Cross-border Trade) Act 2018(6) or under any other enactment" substitute "the Bailiwick, as amended from time to time".
Article 129(2)	In paragraph (2), for "Great Britain" at each place it occurs substitute "the Bailiwick".
Article 131	In Article 131, for "must" substitute "may".
Article 132	In Article 132, for "shall" substitute "may".
Article 133(1)	In paragraph (1), for "Great Britain" at both places it occurs substitute "the Bailiwick or, as the case may be, the British Islands" and for "shall" at the first place it occurs substitute "may".
Article 133(2)	In paragraph (2) – <p style="text-align: center;">(a) after "in force in the" insert "Bailiwick or, as the case may be, another",</p>

	<p>(b) for "Great Britain" substitute "the British Islands", and</p> <p>(c) for "shall" substitute "may".</p>
Article 133(3)	<p>In paragraph (3) –</p> <p>(a) for "shall" on the first occasion it appears substitute "may"</p> <p>(b) in point (b), for "Great Britain" substitute "the Bailiwick",</p> <p>(c) after "in force in" insert "the Bailiwick or, as the case may be, in another", and</p> <p>(d) for "Great Britain" substitute "the British Islands".</p>
Article 135(1)	<p>In paragraph (1) –</p> <p>(a) for "United Kingdom data protection legislation, as defined in section 3(9) of the Data Protection Act 2018" substitute "The Data Protection (Bailiwick of Guernsey) Law, 2017 or legislation made thereunder",</p> <p>(b) after "system" insert ", or any other system", and</p>

	(c) for "section 3(2) of the Data Protection Act 2018" substitute "section 111(1) of the Data Protection (Bailiwick of Guernsey) Law, 2017".
Article 135(2)	In paragraph (2) – (a) after "system" insert ", or any other system", and (b) for "section 1(1) of the Data Protection Act 1998(10) or section 3(6) of the Data Protection Act 2018, as the case may be" substitute " section 111(1) of the Data Protection (Bailiwick of Guernsey) Law, 2017".
Article 136	In Article 136, after "system" insert ", or any other system" and for "relevant constituent territory of Great Britain" substitute "Bailiwick".
Article 138(2)	In point (d), for "Great Britain" substitute "the Bailiwick" and after "the country" insert "or the territory".
Article 139	In Article 139, for "shall" in the first place it occurs substitute "may" and omit "national".
Article 140	In Article 140, for "shall" in the first place it occurs substitute "may" and for "relevant constituent territory of Great Britain" substitute "Bailiwick".
Article 141	In Article 141, for "must" substitute "may".

Article 142	In Article 142, after "amending" in each place it occurs insert "or modifying".
Article 143	In Article 143, for "United Kingdom data protection legislation, as defined in section 3(9) of the Data Protection Act 2018" substitute "The Data Protection (Bailiwick of Guernsey) Law, 2017 or legislation made thereunder".
Article 144	<p>For Article 144, substitute –</p> <p>"Regulations made under this Regulation shall be laid before a meeting of –</p> <p>(a) the States of Deliberation, where the regulations are made by the Policy & Resources Committee,</p> <p>(b) the States of Alderney, where the regulations are made by the Alderney Committee, or</p> <p>(c) the Chief Pleas of Sark, where the regulations are made by the Sark Committee,</p> <p>as soon as is reasonably practicable after being made; and if at that or the next meeting the States of Deliberation, the States of Alderney or (as the case may be) the Chief Pleas of Sark resolve that the regulations be annulled then, the regulations shall cease to have effect but without prejudice to anything done under it, or to the making of new regulations."</p>

Article 150	<p>In Article 150 –</p> <ul style="list-style-type: none"> (a) omit "legislation which transposed" at each place it occurs, (b) after "IV to that Directive," insert ",or, as the case may be, legislation which transposed that Directive or those Annexes,", and (c) after "Directive 96/23/EC" insert ", or, as the case may be, legislation which transposed those Articles,".
Article 162	<p>In Article 162, for "Great Britain" substitute "the British Islands".</p>
Article 168	<p>In Article 168, omit "for transitional purposes" from the heading and "transitional" from Article 168.</p>
Chapter I of Annex II	<p>In paragraph (13), for "Great Britain" substitute "the Bailiwick".</p>
Heading of Chapter I of Annex IV	<p>In the heading, for "Great Britain" substitute "the Bailiwick".</p>

PART 2

ANNEX 6

For Annex 6, substitute -

"ANNEX 6 Application of and derogations from this Regulation, and modifications to its application, in relation to territories subject to special import arrangements

PART 1

Introductory

Application.

1. (1) This Annex applies to relevant goods which originate from a relevant third country, and –

(a) in the case of relevant goods (excluding animals) which form part of passengers' personal luggage and are intended for personal consumption or use –

(i) are within any allowances for such personal consignments as may be prescribed by the appropriate authority or, as the case may be, the competent authority, and

(ii) have been declared to a customs officer on their arrival into the Bailiwick by the passenger whose luggage the relevant goods (excluding animals) form a part, or

(b) in any other case, have been the subject of any requisite

notification prior to their entry into the Bailiwick.

(2) For the purposes of subparagraph (a)(ii), the appropriate authority may, by Order, from time to time set allowances or limits (however described) in respect of the amounts or quantities of relevant goods (excluding animals) that may form part of passengers' personal luggage and that are intended for their personal consumption or use.

Interpretation.

2. For the purposes of this Annex -

"**appropriate frequency rate**" means the frequency of performance of official controls, determined by the relevant competent authority in accordance with the factors specified in Article 44(2),

"**designated point of entry**" means St Peter Port Harbour, St Sampson's Harbour or Guernsey airport,

"**prior notification**" means notification that has been given in a form and manner approved by the appropriate authority (which may include the appropriate computerised information management system) to the relevant competent authority in accordance with Article 56A,

"**the relevant competent authority**" means the authority responsible for performing official controls on the particular category of relevant goods and at the particular place where the controls are to be carried out,

"**relevant goods**" means animals and goods in the categories specified in Article 47(1)(a) to (c),

"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 the Bailiwick, the animals and relevant goods concerned –
 - (i) have been presented to a border control post of a territory subject to special import arrangements, and
 - (ii) are accompanied by a CHED which has been completed to the satisfaction of the relevant competent authority,

"territory subject to special import arrangements" means –

- (a) in relation to relevant goods falling within Article 47(1)(a) and
- (b) –
 - (i) an EEA state,
 - (ii) the Faroe Islands,
 - (iii) Greenland,
 - (iv) Switzerland, or

(b) in relation to relevant goods falling within Article 47(1)(c) –

(i) an EU member State,

(ii) Liechtenstein,

(iii) Switzerland,

Application and derogations from, and modifications to, these Regulations.

3. The provisions of this Regulation apply to relevant goods entering the Bailiwick from a relevant third country with the derogations and modifications specified in Part 2 of this Annex.

PART 2

Derogations and modifications: relevant goods entering the Bailiwick from a relevant third country.

4. In Article 43, after "and 48," insert "other than relevant goods entering from a territory subject to special import arrangements,".

5. After Article 44(1), insert –

"1A. The competent authorities may perform official controls on consignments which include relevant goods entering the Bailiwick from a relevant third country, selected randomly or on a risk basis and at the appropriate frequency rate.

1B. Relevant goods originating in relevant third countries may enter the Bailiwick through a designated point of entry.".

6. In Article 47 –

- (a) in paragraph 1, in the opening words, for the words from "shall" to the end, substitute "may perform official controls at any of the places specified in Article 44(3) on consignments of relevant goods of each of the following categories entering the Bailiwick from a relevant third country:",
- (b) in paragraph 5, for the words from "animals" to the end, substitute "relevant goods entering the Bailiwick from a relevant third country are presented for official controls, where required, at any of the place specified in Article 44(3), by the relevant competent authority."

7. In Article 48 –

- (a) renumber the existing text paragraph 1,
- (b) at the end, insert –

"2. This Article applies to relevant goods arriving in the Bailiwick from a relevant third country subject to the derogations and modifications specified in Annex 6."

8. In Article 49 –

- (a) in paragraph 1, for the words from "shall" to the end, substitute "may perform official controls on consignments of

relevant goods arriving from a relevant third country, selected randomly, or on the basis of risk, at any of the places specified in Article 44(3). Where a consignment of relevant goods is selected for official controls, those official controls must include documentary checks and may include identity and physical checks."

- (b) in paragraph 2, in the opening words, for "Physical checks shall be performed" substitute "In a case where a consignment is selected for physical checks, those checks must be performed, in relation to:".

9. In Article 50 –

- (a) in paragraph 1, for the words from "and kept by" to the end, substitute "and, in a case where a consignment of relevant goods arriving from a relevant third country is selected for the performance of official controls, may be kept by the competent authority with responsibility for the place where the official controls are carried out ('the responsible competent authority')",
- (b) in paragraph 2, for the words from "The competent authorities" to "shall" substitute "In a case where a consignment of relevant goods arriving from a relevant third country is selected for official controls and the original official certificates or documents are kept by the responsible competent authority, that authority must",

(c) for paragraph 3 substitute –

"3. In a case where the responsible competent authority has notified the operator that official controls are to be performed on a consignment, that consignment must not be split until those official controls have been carried out."

10. Articles 53 and 54 do not apply in relation to relevant goods entering the Bailiwick from a relevant third country.

11. In Article 55, for paragraph 1 substitute –

"1. In a case where official controls are performed on relevant goods arriving from a relevant third country, the competent authority must decide whether the consignment is in compliance with the rules referred to in Article 1(2) and, where relevant, the applicable customs procedure."

12. In Article 56(1) and (3), after "Article 47(1)" in both places it occurs insert ", other than relevant goods arriving from a relevant third country,"

13. After Article 56, insert –

"56A. Prior notification of entry into the Bailiwick under special import arrangements.

1. This Article applies in relation to relevant goods entering the Bailiwick from a relevant third country on and after 8th January, 2021.

2. Prior notification of relevant goods arriving from a territory subject to special import arrangements, where required under paragraph 3 or 4 or by other

legislation in force in the Bailiwick, must be given to the relevant competent authority

–

- (a) at least one working day before the expected time of arrival at a point of entry into the Bailiwick, or
- (b) in a case where the importer can provide evidence of a logistical constraint preventing such notification, that requirement may be satisfied by notification of its expected time of arrival at least four hours in advance.

3. Operators must give prior notification of the arrival of –

- (a) live animals,
- (b) products of animal origin, germinal products, animal by-products and derived products not intended for human consumption, hay and straw and foodstuffs containing both products of plant origin and processed products of animal origin ("composite products"), and
- (c) plants, plant products and other objects specified in the lists established pursuant to Articles 72(1) and 74(1) of Regulation EU 2016/2031."

14. In Article 57(1) and (3), after "Article 47(1)", in both places where it occurs, insert ", other than relevant goods arriving from a relevant third country,".

15. In Article 79(1), in the opening words, for the words from "or" to "Article 53(1)" substitute ", at control posts referred to in point (a) of Article 53(1) or, in relation to relevant goods arriving from a territory subject to special transitional import arrangements, at one of the places referred to in Article 44(3),".

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made under the European Union (Brexit) (Bailiwick of Guernsey) Law, 2018 and make provision which is necessary or expedient as a result of the withdrawal of the United Kingdom from the EU.

The Regulations make amendments to EU provisions which have effect in the Bailiwick relating to Official Controls concerning agri-foods imports. The Regulations also make consequential amendments to the Official Controls (General Provisions and Implementation) (Guernsey) Ordinance, 2019 which provides for administrative and enforcement provisions in Guernsey in relation to the OCR.

The amendments are primarily made to reflect that from 1st January, 2021 the Bailiwick will cease to be subject to EU law in relation to trade in agri-foods and will, instead, be part of a Great Britain and Crown Dependency market in such products.

Amendments are made to align with proposed amendments in Great Britain to ensure equivalent rules operate in the new market. Transitional and savings are also included to ensure a smooth transition to the new provisions.

These Regulations come into force on exit day within the meaning of the European Union (Brexit) (Bailiwick of Guernsey) Law, 2018.