

GUERNSEY STATUTORY INSTRUMENT

2021 No. 68

**The Official Controls (Brexit) (Amendment)  
(Bailiwick of Guernsey) Regulations, 2021**

<i>Made</i>	29 <sup>th</sup> June, 2021
<i>Coming into operation</i>	1 <sup>st</sup> July, 2021
<i>Laid before the States</i>	, 2021

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<sup>a</sup>, 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 2020 Regulations.**

1. For Part 2 of the Schedule to the Official Controls (Brexit) (Amendment) (Bailiwick of Guernsey) Regulations, 2020<sup>b</sup>, substitute the Part 2 set out in the Schedule to these Regulations.

**Extent.**

2. These Regulations have effect throughout the Bailiwick.

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<sup>a</sup> Order in Council No. 1 of 2019; as amended by G.S.I. No. 6 of 2020.

<sup>b</sup> G.S.I. No. 161 of 2020.

**Citation.**

3. These Regulations may be cited as the Official Controls (Brexit) (Amendment) (Bailiwick of Guernsey) Regulations, 2021.

**Commencement.**

4. These Regulations come into force on 1<sup>st</sup> July, 2021.

Dated this 29<sup>th</sup> day of June, 2021

A handwritten signature in black ink, appearing to read 'P. T. R. Ferbrache', with a stylized flourish at the end.

P. T. R. FERBRACHE

President of the Policy & Resources Committee

For and on behalf of the Committee

SCHEDULE

Regulation 1.

"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. 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, limits or exceptions (however described) in respect of the amounts or quantities of relevant goods (excluding animals) that may form part of such personal consignments as an appropriate authority or a

competent authority may from time to time specify in writing, and

- (ii) have, if so required, 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 of, or
- (b) in any other case, have been the subject of any requisite prior notification before their entry into the Bailiwick from a relevant third country.

**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, Guernsey Airport, Braye Harbour, or Alderney Airport,

"**prior notification**" means notification that has been given to the relevant competent authority in accordance with Article 56A in a form and manner as an appropriate authority or a competent authority may from time to time specify in writing,.

**"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. (1) 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.

(2) For the purposes of performing official controls on relevant goods entering the Bailiwick from a relevant third country in accordance with this Annex, an appropriate authority or a competent authority may from time to time specify in writing –

- (a) the arrangements for prior notification in respect of relevant goods,

- (b) the form and manner of such prior notification, including the person or persons by whom such prior notification should be given,
- (c) the documentation or certification (however described) relating to or required in respect of relevant goods,
- (d) information relating to documentary, identity or physical checks, including the place at which such checks may (or may not) take place, and
- (e) any other related matter.

(3) In discharging their functions under this Annex, an appropriate authority or a competent authority may take into account any guidance, guidelines, policies, rules or practices (however described) issued by or on behalf of the Department for Environment, Food & Rural Affairs, including any affiliated bodies or agencies.

## 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. (1) 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."

(2) In Article 44(4), after "1" insert "to 1B".

6. In Article 45(1), in the opening words for "Article 44(1), they shall" substitute "Article 44(1) to (1B), they may" and in point (a) omit "always".

7. 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 places specified in Article 44(3), by the relevant competent authority."

8. 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."

9. 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 may 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:".

10. 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."

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

12. 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."

13. 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,".

14. 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.

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 or other persons as an appropriate authority or competent authority may from time to time specify in writing 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 Preserved Regulation EU 2016/2031."

15. 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,".

16. 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),".

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## 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 minor amendments to existing regulations which, in turn, amended EU provisions having effect in the Bailiwick as Preserved EU law relating to official controls relating to agri-foods goods. The amendments made by the Regulations create more flexibility in the administration of the controls on agri-foods imports, and will make it easier for practice in the Bailiwick to mirror (where appropriate) that in the United Kingdom.

These Regulations come into force on 1<sup>st</sup> July, 2021.

