



Implementation of the Official Controls Regulation

Food Standards Scotland Consultation

CIEH response

October 2019

About the Chartered Institute of Environmental Health (CIEH):

CIEH is the professional voice for environmental health representing over 7,000 members, working in the public, private and third sectors, in 52 countries around the world. It ensures the highest standards of professional competence in its members, in the belief that through environmental health action people's health can be improved.

Environmental health has an important, and unique, contribution to make to improving public health and reducing health inequalities. CIEH campaigns to ensure that government policy addresses the needs of communities and business in achieving and maintaining improvements to health and health protection.

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Key messages:

- The draft interpretation of the Regulation does not explicitly recognise Environmental Health Practitioners (EHPs) or Environmental Health Officers (EHOs) as Authorised Officers. This has raised concerns as to whether they will be able to continue carrying out official controls on aquatic animals, products of animal origin, germinal products or animal by-products from 14 December 2019.
- Fully qualified EHPs/EHOs are already appropriately trained and have the necessary level of technical competence and expertise to implement and enforce official controls on the above-mentioned products.
- Food enforcement in the UK is primarily the responsibility of EHPs/EHOs who are trained in food safety and standards. The current Food Law Code of Practice (Scotland) 2019 recognises both the Higher or Ordinary Certificate in Food Premises Inspection and the Higher Certificate in Official Controls, (HCOC) for hygiene and in addition the Higher Certificate in Food Standards Inspection issued by SFSORB.
- CIEH is working with the FSA to ensure that our competency framework will align with the content of any replacement for the HCFC to ensure a pipeline of qualified Authorised Officers and Regulatory Support Officers.
- CIEH is currently developing a new Advanced Professional Certificate in Food Hygiene and Standards Controls to address the ongoing need for holistic food officers. This standalone qualification will produce practitioners capable of being qualified Authorised Officers.
- CIEH currently has mutual recognition agreements with the EHAI, in the Republic of Ireland, and REHIS in Scotland. This ensures alignment of accredited degrees and professional post-graduate qualifications. CIEH is working to ensure that such mutual recognition continues post-Brexit to ensure that EHPs/EHOs will be able to demonstrate their competence across national and international borders.
- CIEH calls upon both the FSS and FSA to state explicitly in the new Official Controls Regulations that qualified EHPs/EHOs can be the Authorised Officers to carry out this work for the avoidance of doubt and continuity of the service.
- CIEH considers that the wording of 2017/625/EC provides for a more overarching interpretation of the definition of "Official Veterinarian", allowing for both Official Veterinary Surgeons and Environmental Health Practitioners to carry out checks at ports, providing flexibility and continuity at a time of great change and potential challenges



- Whilst there are only two Border Inspection Posts (BIPs) and one First Point of Import (FPI) in Scotland, it is possible that Border Control Posts will be established in the future. Further, it is noted that there are proposals for identity and physical checks on imported foods to be carried out at inland control points. Both these changes would have implications for EHPs/EHOs.
- Moving forward from Brexit, it will be necessary to have a sustainable pool of qualified and experienced EHPs/EHOs to cover Imported Food Controls at a potentially sensitive time for food imports. This is in order to facilitate trade and to provide appropriate risk-based interventions to protect public health.

Legislative context

In the current legislation that enacts the related European legislation concerning veterinary checks into domestic law – The Trade in Animals and Related Products (Scotland) Regulations 2012 (TARP Regs) – a specific derogation exists, and Environmental Health Practitioners (EHPs) are referred to as Official Fish Inspectors:

"Appointment of official veterinarians and official fish inspectors

10.—(1) The enforcement authority must appoint suitably trained veterinary surgeons for the purpose of carrying out regulatory functions under these Regulations at border inspection posts.

(2) If the approval for a border inspection post permits the importation of any product for human consumption (other than snails) listed in the Table in Chapter 3 of Annex I to Commission Decision [2007/275/EC](#), the local authority may appoint suitably trained officers to be official fish inspectors for that post in relation to fish and fishery products, and that inspector has all the powers of an official veterinarian in relation to those products."

Article 49 of the new Regulation does not provide a designation for Authorised Officers or Official Fish Inspectors. However, it does make the following distinctions:

*"(a) animals, except aquatic animals, or meat and edible meat offal, by an official veterinarian, who **may be assisted by staff trained** in accordance with the requirements established under paragraph 5 in veterinary matters and designated by the competent authorities for that purpose;"*

*"(b) aquatic animals, products of animal origin other than the ones referred to in point (a) of this paragraph, germinal products or animal by-products, by an official veterinarian **or by staff trained** in accordance with the requirements established under paragraph 5 and designated by the competent authorities for that purpose".*



The critical distinction here is the use of the phrase “may be assisted by staff trained” (for meat and edible meat offal) and “or by staff trained”. This second phrase allows for the continuing use of EHPs in checks for fish and non-animal origin foodstuffs. CIEH calls upon the FSS and FSA to state explicitly in the new Official Controls Regulations that EHPs can be the Authorised Officers to carry out this work for the avoidance of doubt and continuity of the service, as laid out in the TARP Regs.

Training

The changes to delivery identified in the consultation document suggest that non-Official Veterinarian staff will be required to undergo additional training to carry out official controls. We are not aware of any evidence that supports the need for additional training of EHPs/EHOs or Official Fish Inspectors who currently carry out official controls on these products. Such training would be an unnecessary burden to the taxpayer and on importers, who may need to contribute to the cost of this. It could also lead to unnecessary delays at a time when keeping trade flowing smoothly will be a government priority.

We believe the (EU) 2017/625 (OCR) presents a significant opportunity to ensure Imported Food Controls are fit for purpose in the future. Currently, the TARP(S) regulations give a designation of “Official Veterinarian” mean a veterinary surgeon appointed by an enforcement authority under regulation 10(1).

This is a very similar, but not a direct transfer of the EU requirement for “Official Veterinarian”. The definition of Official Veterinarian in Article 3 of 2017/625/EC means a veterinarian appointed by a competent authority, either as staff or otherwise, and appropriately qualified to perform official controls and other official activities in accordance with this Regulation and the relevant rules referred to in Article 1(2);”. It is specific to the **tasks being carried out** at the Border Control Point but does not state the professional qualifications required, thus leaving this free to Member States to decide.

Whilst in the past, English legislation has deemed that Official Veterinarians need to be Official Veterinary Surgeons, this may be an over-interpretation of EC law. Our members advise us that most ports currently employ OVS who are EU nationals, rather than UK-qualified Veterinary Surgeons. Whatever the outcome of Brexit, we believe it would be hugely beneficial to define EHPs/EHOs practising in these fields to be deemed to be Official Veterinarians to build operational flexibility and resilience into future imported food controls.



Qualifications and experience of EHPs/EHOs

Fully qualified EHPs/EHOs are appropriately trained and have the necessary level of technical competence and expertise to implement the new OCRs and enforce the legislation. Food enforcement in the UK is primarily the responsibility of EHPs/EHOs who are trained in food safety and standards.

A fully qualified EHO/EHP must hold one of the following: a Diploma in Environmental Health (or its antecedents) awarded by the Royal Environmental Health Institute of Scotland (REHIS); a Certificate of Registration of the Environmental Health Registration Board (EHRB) (or its antecedents); a Diploma in Environmental Health (or its antecedents) awarded by EHRB or CIEH. All officers undertaking inspections are required to undertake a period of structured practical training with a Food Authority as part of the preparation for the award of these qualifications.

The current Food Law Code of Practice (Scotland) recognises the Higher or Ordinary Certificate in Food Premises Inspection and the Higher Certificate in Official Controls (HCOC), for hygiene. The Higher Certificate in Food Standards Inspection issued by SFSORB, as well as the degree and post-graduate experience route leading to EHRB certificate of registration are also recognised as equivalent demonstrations of competence for Authorised Officers.

EHPs have experience in risk rating, targeting for the most relevant contaminants and taking the most appropriate course of action in line with legal parameters when non-compliance is found. Port Health Officers (PHOs) are fully conversant in import controls and certification schemes and, most importantly, in the Public Health aspects and risks of the role. In the event of a No Deal Brexit or the need for additional checks on food products at ports, it is vital that a qualified and highly trained profession is not excluded from carrying out and enforcing the official controls.

In the UK, EHPs/EHOs working at ports enforce import controls on fishery products, high risk non-animal origin foods, other non-animal origin foods, organic imports and fishery products. We are not aware of any serious deficiencies, which would necessitate or justify a change in who carries out official controls in the future.

CIEH calls on the FSS and FSA to ensure that EHPs/EHOs will be able to continue to carry out Official Border Controls when the new Regulation is adopted. In addition, CIEH calls upon the FSS and FSA to replace the phrase Official Veterinary Surgeon, where used, with Official Veterinarian and apply the definition for Official Veterinarian as set out in Article 3 of 2017/625 allowing for the use of EHPs/EHOs as Official Veterinarians to achieve all the benefits outlined in this response.