



Jersey

# **EU LEGISLATION (MONITORING OF RESIDUES IN ANIMALS) (JERSEY) REGULATIONS 2019**

## **Official Consolidated Version**

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Jersey

## EU LEGISLATION (MONITORING OF RESIDUES IN ANIMALS) (JERSEY) REGULATIONS 2019

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## EU LEGISLATION (MONITORING OF RESIDUES IN ANIMALS) (JERSEY) REGULATIONS 2019

**THE STATES** make these Regulations under Articles 2, 5A and 5B of the [European Union Legislation \(Implementation\) \(Jersey\) Law 2014](#) –

Commencement [[see endnotes](#)]

### 1 Interpretation

(1) In these Regulations –

“farmed animal” means –

- (a) an aquaculture animal, within the meaning of the [EU Legislation \(Aquatic Animal Health\) \(Jersey\) Regulations 2016](#); and
- (b) any other animal the meat or a product of which is intended for human consumption, within the meaning of each of those expressions in the Substances Directive;

“keeper” has the meaning given by the [Animal Health \(Jersey\) Law 2016](#);

“Minister” means the Minister for the Environment;

“Monitoring Directive” means Council Directive 96/23/EC of 29 April 1996 (OJ L 125, 23.5.1996, p. 10) on measures to monitor certain substances and residues thereof in live animals and animal products, to the extent that its effect is preserved by Article 150 of the Official Controls Regulation;

“Official Controls Regulation” means 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 (OJ L 95, 7.4.2017, p. 1), and any Implementing Regulation or Delegated Regulation made under that Regulation, to the extent that those Regulations relate to unwanted residues;

“relevant EU residues provision” means the Monitoring Directive, the Substances Directive, the Official Controls Regulation and the Sampling Decision;

“Sampling Decision” means Commission Decision 97/747/EC of 27 October 1997 fixing the levels and frequencies of sampling provided for by Council Directive 96/23/EC for the monitoring of certain substances and residues thereof in certain animal products (OJ L 303, 6.11.1997, p. 12);

“Substances Directive” means Council Directive 96/22/EC of 29 April 1996 (OJ L 125, 23.5.1996, p.3) concerning the prohibition on the use in stockfarming of

certain substances having a hormonal or thyrostatic action and of beta-agonists, and repealing Directives 81/602/EEC, 88/146/EEC and 88/299/EEC;

“unwanted residue” means a substance or residue, within the meaning of those terms in the Monitoring Directive, that is listed in Annex I to that Directive or in Annex II to the Substances Directive.<sup>1</sup>

- (2) In these Regulations, a reference to an EU provision is to be read as a reference to that EU provision as it may be amended, substituted, extended or applied from time to time by any other EU provision, or as it otherwise has effect in the EU from time to time by virtue of any judgment of the European Court.

## 2 Effect of EU residues provisions

- (1) The Sampling Decision has effect in Jersey, to the extent, if any, that it does not have effect under Article 2 of the [European Union \(Jersey\) Law 1973](#).
- (2) The Monitoring Directive and the Substances Directive have effect in Jersey to the extent, if any, that –
  - (a) under the law of the European Union, they have effect in member States of the European Union without further enactment by those member States; and
  - (b) they do not have that effect under Article 2 of the [European Union \(Jersey\) Law 1973](#).
- (3) The Minister is the competent authority for the purpose of the relevant EU residues provisions.
- (4) The Minister may by Order amend this Regulation, and the definition “relevant EU residues provision” in Regulation 1(1), to remove a reference to an EU provision or to give effect to any other EU provision that relates to unwanted residues in farmed animals.
- (5) The obligations imposed by these Regulations are in addition to and not in derogation from the obligations imposed by and under –
  - (a) the [Food Safety \(Jersey\) Law 1966](#);
  - (b) the [Animal Health \(Jersey\) Law 2016](#);
  - (c) the [EU Legislation \(Aquatic Animal Health\) \(Jersey\) Regulations 2016](#); and
  - (d) the [EU Legislation \(Wild Aquatic Animals – Food and Feed\) \(Jersey\) Regulations 2019](#).

## 3 Annual monitoring plan

- (1) The Minister must draw up for each year a plan that complies with the requirements of Articles 5 to 7 of the Monitoring Directive.
- (2) The Minister must publish the plan in a manner appearing to the Minister to be likely to bring it to the attention of the keepers of farmed animals.

## 4 Surveillance

- (1) A person exercising a power under Article 3 of the [Animal Health \(Surveillance\) \(Jersey\) Order 2017](#) may do so –
  - (a) for the purpose of implementing a relevant EU residues provision or the plan published under Regulation 3; or

- (b) otherwise for the purpose of reducing the risk to human health from the presence, or potential for presence, of unwanted residues in farmed animals.
- (2) Article 5 of the [Animal Health \(Surveillance\) \(Jersey\) Order 2017](#) applies in relation to surveillance carried out under paragraph (1) as it does to surveillance carried out under that Order.

## 5 Keeper to record administration of veterinary drugs

- (1) This Regulation applies to an animal that –
  - (a) is a domestic animal of the bovine, porcine, ovine or caprine species; or
  - (b) is otherwise a farmed animal.
- (2) The keeper of the animal must –
  - (a) after a veterinary drug, within the meaning of the [Medicines \(Jersey\) Law 1995](#), is administered to that animal, record –
    - (i) the name and quantity of the drug,
    - (ii) the date and method of administration, and
    - (iii) the withdrawal period observed, within the meaning of that expression in the Monitoring Directive;
  - (b) retain that record for at least 5 years; and
  - (c) permit the Minister, or a person authorised by the Minister, to inspect on demand any or all records so retained.
- (3) A person who, without reasonable excuse, contravenes paragraph (2) commits an offence and is liable to a fine of level 3 on the standard scale.

## 6 Enforcement notices

- (1) The Minister may serve a person with a notice (an “enforcement notice”) if the Minister considers that the person –
  - (a) has not complied with, is not complying with, or is not likely to comply with a requirement (whether taking the form of an obligation or a prohibition or otherwise) of a relevant EU residues provision;
  - (b) without reasonable excuse, has obstructed or is obstructing the implementation of the plan published under Regulation 3; or
  - (c) has not complied with, is not complying with, or is not likely to comply with Regulation 5(2).
- (2) An enforcement notice must state –
  - (a) the steps that the person must take;
  - (b) the date by which the steps must be taken;
  - (c) the reason for the service of the notice and for the requirements in it; and
  - (d) that there is a right to apply for reconsideration under paragraph (6).
- (3) A person who, without reasonable excuse, fails to comply with a requirement in an enforcement notice commits an offence, and is liable to imprisonment for a term of 12 months and to a fine.

- (4) Paragraphs (1) to (7) and (10) of Article 23 of the [Animal Health \(Jersey\) Law 2016](#) apply to a notice under this Regulation as they apply to a notice under the “relevant legislation” for the purpose of that Law.
- (5) If an inspector, within the meaning of the [Animal Health \(Jersey\) Law 2016](#), considers that a requirement of an enforcement notice has not been complied with, the inspector may –
  - (a) take such steps as the inspector considers necessary –
    - (i) to ensure compliance with the requirements of the notice, or
    - (ii) to remedy the consequences of the failure to take the steps required by the notice; and
  - (b) recover any expenses reasonably incurred in so doing from any person who has failed to comply with the notice.
- (6) A person served with an enforcement notice may, within 21 days after that service, apply for reconsideration of the decision to serve the notice, by making written representations about that decision to a person appointed for the purpose by the Minister.
- (7) The Minister may make written submissions concerning the decision to the person appointed.
- (8) The person appointed must review the decision and report in writing to the Minister on the decision, the representations and any submissions.
- (9) The Minister must –
  - (a) reconsider the decision, having regard to the report;
  - (b) make a final determination; and
  - (c) serve written notice of the final determination, giving reasons, on the person who made the representations.
- (10) An application for reconsideration does not suspend the effect of the enforcement notice.

## **7 Prohibitions and offences**

- (1) A person must not do an act in relation to a farmed animal, if member States are required by the Substances Directive to prohibit that act.
- (2) The keeper or importer of a farmed animal commits an offence, and is liable to imprisonment for a term of 12 months and to a fine, if that keeper or importer contravenes paragraph (1) in relation to that animal.
- (3) Paragraph (4) applies to a person other than –
  - (a) the competent authority;
  - (b) an agent of the competent authority; or
  - (c) a person who commits an offence under paragraph (2).
- (4) The person commits an offence, and is liable to a fine of level 3 on the standard scale, if the person, without reasonable excuse, contravenes paragraph (1).
- (5) A person must not import or export any goods in circumstances in which member States are required by a relevant EU residues provision to prohibit the import or export of those goods.

- (6) Nothing in this Regulation limits the application of any offence under the [Customs and Excise \(Jersey\) Law 1999](#), including an offence constituted wholly or partly by a contravention of paragraph (1) or (5).
- (7) In paragraph (1) “act” does not include an omission.

## **8 Criminal liability of directors and others**

- (1) In this Regulation –
  - “relevant offence” means an offence under these Regulations that is committed by a limited liability partnership, a separate limited partnership, an incorporated limited partnership or another body corporate;
  - “relevant person” means –
    - (a) if the relevant offence is committed by a limited liability partnership, a partner of the partnership;
    - (b) if the relevant offence is committed by a separate limited partnership or an incorporated limited partnership –
      - (i) a general partner, or
      - (ii) a limited partner who is participating in the management of the partnership;
    - (c) if the relevant offence is committed by a body corporate other than an incorporated limited partnership –
      - (i) a director, manager, secretary or other similar officer of the body corporate, and
      - (ii) if the affairs of the body corporate are managed by its members, a member who is acting in connection with the member’s functions of management; and
    - (d) a person purporting to act in any capacity described in sub-paragraphs (a) to (c) in relation to the partnership or body that commits the relevant offence.
- (2) If a relevant offence is proved to have been committed with the consent or connivance of a relevant person, that relevant person is also guilty of the offence and liable in the same manner as the partnership or body corporate to the penalty provided for that offence.
- (3) If a relevant offence –
  - (a) is an offence that may be committed by neglect; and
  - (b) is proved to be attributable to any neglect on the part of a relevant person,that relevant person is also guilty of the offence and liable in the same manner as the partnership or body corporate to the penalty provided for that offence.

## **9 Orders to deal with deficiencies, arising from withdrawal of UK from EU, in residue standards**

- (1) The Minister may, by Order, make any provision, whether by amendment (including an amendment to these Regulations) or otherwise, that –
  - (a) may be made by Regulations under Article 2, 5A or 5B of the [European Union Legislation \(Implementation\) \(Jersey\) Law 2014](#); and
  - (b) either –

- (i) relates to the subject matter of, or the implementation of, a relevant EU residue provision, or
  - (ii) otherwise relates to unwanted residues in farmed animals.
- (2) No Order may be made under paragraph (1) after 2020.

## **10 Citation and commencement**

These Regulations may be cited as the EU Legislation (Monitoring of Residues in Animals) (Jersey) Regulations 2019 and come into force 14 days after they are made.



## ENDNOTES

### Table of Legislation History

Legislation	Year and No	Commencement	◦Projet No (where applicable)
EU Legislation (Monitoring of Residues in Animals) (Jersey) Regulations 2019	<a href="#">R&amp;O.104/2019</a>	22 October 2019	<a href="#">P.107/2019</a>
EU Legislation (Official Controls) (Jersey) Regulations 2020	<a href="#">R&amp;O.156/2020</a>	8 December 2020	<a href="#">P.138/2020</a>

◦Projets available at [statesassembly.gov.je](http://statesassembly.gov.je)

### Table of Endnote References

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<sup>1</sup> Regulation 1(1) amended by R&O.156/2020