



House of Lords  
House of Commons  
Joint Committee on  
Statutory Instruments

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**Fifty-sixth Report  
of Session 2017–19**

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**Drawing special attention to:**

*Democratic People's Republic of Korea (Sanctions) (EU Exit) Regulations 2019 (S.I. 2019/411)*

*Aquatic Animal Health and Alien Species in Aquaculture (Amendment) (England and Wales) (EU Exit) Regulations 2019 (S.I. 2019/452)*

*Iran (Sanctions) (Nuclear) (EU Exit) Regulations 2019 (S.I. 2019/461)*

*Immigration (European Economic Area Nationals) (EU Exit) Regulations 2019 (S.I. 2019/468)*

*Merchant Shipping (Registration of Ships) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/509)*

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## Joint Committee on Statutory Instruments

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### Powers

The full constitution and powers of the Committee are set out in [House of Commons Standing Order No. 151](#) and [House of Lords Standing Order No. 73](#), relating to Public Business.

### Remit

The Joint Committee on Statutory Instruments (JCSI) is appointed to consider statutory instruments made in exercise of powers granted by Act of Parliament. Instruments not laid before Parliament are included within the Committee's remit; but local instruments and instruments made by devolved administrations are not considered by JCSI unless they are required to be laid before Parliament.

The role of the JCSI, whose membership is drawn from both Houses of Parliament, is to assess the technical qualities of each instrument that falls within its remit and to decide whether to draw the special attention of each House to any instrument on one or more of the following grounds:

- i that it imposes, or sets the amount of, a charge on public revenue or that it requires payment for a licence, consent or service to be made to the Exchequer, a government department or a public or local authority, or sets the amount of the payment;
- ii that its parent legislation says that it cannot be challenged in the courts;
- iii that it appears to have retrospective effect without the express authority of the parent legislation;
- iv that there appears to have been unjustifiable delay in publishing it or laying it before Parliament;

- v that there appears to have been unjustifiable delay in sending a notification under the proviso to section 4(1) of the Statutory Instruments Act 1946, where the instrument has come into force before it has been laid;
- vi that there appears to be doubt about whether there is power to make it or that it appears to make an unusual or unexpected use of the power to make;
- vii that its form or meaning needs to be explained;
- viii that its drafting appears to be defective;
- ix any other ground which does not go to its merits or the policy behind it.

The Committee usually meets weekly when Parliament is sitting.

### **Publications**

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The reports of the Committee are published by Order of both Houses. All publications of the Committee are on the Internet at [www.parliament.uk/jcsi](http://www.parliament.uk/jcsi).

### **Committee staff**

The current staff of the Committee are Jeanne Delebarre (Commons Clerk), Jane White (Lords Clerk) and Liz Booth (Committee Assistant). Advisory Counsel: Daniel Greenberg, Klara Banaszak, Peter Brooksbank, Philip Davies and Vanessa MacNair (Commons); James Cooper, Nicholas Beach, John Crane and Ché Diamond (Lords).

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# Instruments reported

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At its meeting on 24 April 2019 the Committee scrutinised a number of Instruments in accordance with Standing Orders. It was agreed that the special attention of both Houses should be drawn to five of those considered. The Instruments and the grounds for reporting them are given below. The relevant Departmental memoranda, are published as appendices to this report.

## 1 S.I. 2019/411: Reported for defective drafting

### *Democratic People’s Republic of Korea (Sanctions) (EU Exit) Regulations 2019*

1.1 **The Committee draws the special attention of both Houses to these Regulations on the ground that they are defectively drafted in two related respects.**

1.2 These Regulations recreate an effective sanctions regime in relation to the Democratic People’s Republic of Korea after the United Kingdom has left the European Union. The Committee asked the Foreign and Commonwealth Office to explain the penalty for the offence referred to in regulation 78(2) and to clarify what offence in regulation 77 is being referred to in regulation 110(1). In a memorandum printed at Appendix 1, the Department explains that the cross-reference in regulation 110(1) to regulation 77 is erroneous and should instead refer to regulation 78. This error means that the Regulations do not specify a penalty for the offence referred to in regulation 78(2) and the Department undertakes to correct the error with an amending instrument. Since the Committee raised the question, the Department has corrected the error (in the Sanctions (EU Exit) (Miscellaneous Amendments) Regulations 2019 (S.I. 2019/843)). **The Committee accordingly reports regulation 110 for defective drafting, which has since been corrected by the Department.**

## 2 S.I. 2019/452: Reported for defective drafting and for requiring elucidation

### *Aquatic Animal Health and Alien Species in Aquaculture (Amendment) (England and Wales) (EU Exit) Regulations 2019*

2.1 **The Committee draws the special attention of both Houses to these Regulations on the grounds that they are defectively drafted in two respects and require elucidation in one respect.**

2.2 This instrument amends the Aquatic Animal Health (England and Wales) Regulations 2009 to correct deficiencies arising from Brexit. Regulation 2(8) and the Schedule to this instrument insert new interpretation provisions that relate to regulation 24 of the 2009 Regulations. Regulation 24 provides that areas where aquatic animals are suspected to have contracted listed diseases, or where this is a risk, must be designated by the competent authority to prevent the spread of those diseases. After the competent authority has made a designation, regulation 24(2) requires it to, inter alia, carry out an epizootic investigation in accordance with Article 29 of Directive 2006/88/EC (“the Directive”). Applying the reasoning in an earlier memorandum from the Department for Environment, Food and Rural Affairs (see Appendix 3 to the Committee’s 52nd report of Session 2017–19), Article

29 applies for the purposes of Regulation 24 as a result of this cross-reference in regulation 24(2). The effect is that the obligations imposed by Article 29 as to when an epizootic investigation should be carried out, what it should aim to determine, etc., will continue to apply to the United Kingdom even when the Directive itself no longer forms part of UK law. The interpretation provisions inserted by regulation 2(8) and the Schedule to this instrument are therefore needed to modify Article 29 so that it will make sense in a UK context after exit day.

2.3 Article 29 cross-refers to two further Articles of the Directive, 26 and 28, which are also modified by the interpretation provisions. Referring again to the Department’s earlier memorandum, such modifications are made when a Directive provision is linked, either by cross-reference or because it contains relevant definitions, to another Directive provision that applies in domestic law. Article 29(2)(b) provides that one of the aims of an epizootic investigation is to determine whether aquaculture animals have left the farm during a specified period before a notification provided for in Article 26(1). Article 26(1) requires member States to ensure that the competent authority is notified immediately when it is suspected or known that aquatic animals have contracted a listed disease, or when they are dying in larger numbers than usual. The interpretation provisions in this instrument modify Article 26(1) so that the reference to member States is read as a reference to the United Kingdom.

2.4 On the basis of these modifications, it appeared to the Committee that the intention might be for Article 26 to be retained as part of domestic law after exit day as a result of its link to Article 29, and for its obligations to continue in force as a result of that link when they would not otherwise apply. The Committee was concerned about the propriety of a legally binding obligation being imposed on the United Kingdom by means simply of a cross-reference in a Directive provision. The Committee therefore asked the Department to confirm whether it is intended that the obligations in Article 26(1) are incorporated by virtue of the cross-reference in Article 29.

2.5 In a memorandum printed at Appendix 2, the Department addresses the point but does not, in the Committee’s opinion, adequately answer the question. It confirms that one of the requirements of Article 29 is expressed by reference to Article 26(1), as outlined above. It confirms that, “as it applies on and after exit day, the reference to Article 26(1) is glossed for this purpose”. And it confirms that the purpose of the gloss is to ensure that the reference to Article 26(1) in Article 29 works properly for the purposes of Article 29. It does not confirm whether, but for the cross-reference in Article 29, Article 26(1) would itself apply in domestic law—in other words, whether the United Kingdom would be under any obligation to notify the competent authority as required by Article 26(1).

2.6 The obligation to notify is a necessary pre-condition for compliance with the requirement in Article 29(2)(b). It is not clear to the Committee whether that obligation is imposed by any other provision of domestic legislation or retained EU law. If the combination of the cross-reference in Article 29 and the gloss in the interpretation provisions is not intended to incorporate Article 26(1) into domestic law and it is not incorporated in any other way, then Article 29 is defective.

2.7 But the Committee is equally concerned that incorporating Article 26(1) into domestic law in this way might be the Department’s intention. It appears to the Committee that it is contrary to the principle that the law should be accessible, clear and certain for a legal obligation to be imposed by means of a gloss on a cross-reference in a provision that only applies due to a cross-reference in another provision. The Committee finds this to be a particularly opaque and unhelpful way of making legislation, one that leaves open to confusion the question as to which provisions of Directives have been incorporated into domestic law and which have not, and whether obligations in such provisions are legally enforceable. **The Committee accordingly reports regulation 2(8) and the Schedule for defective drafting.**

2.8 This possibility for confusion is also evident in relation to the modifications made to Article 49 of the Directive by regulation 2(7), which inserts new interpretation provisions into regulation 18 of the 2009 Regulations. Regulation 18(1) provides that where an aquaculture animal that is susceptible to a listed disease is introduced into England or Wales for certain purposes, the place where it is introduced is to be treated as though it has “Category I disease-free health status under Part A of Annex III to [the] Directive”. Part A of Annex III consists of a table: Category I is in the first row of that table; in the “health status” column for Category I, under “Disease-free”, there is a parenthetical reference to “Articles 49 or 50” of the Directive. According to new regulation 18(7), as inserted by regulation 2(7), this table is to be read for certain purposes with glosses on Articles 49 and 50. The first two paragraphs of Article 49 are glossed to remove inappropriate references to member States and to the procedure in Article 62(2) of the Directive, i.e., the procedure whereby the Standing Committee on Food Chain and Animal Health assists the European Commission. The third paragraph of Article 49 also refers to the procedure in Article 62(2), but there is no gloss on this paragraph. It was not clear to the Committee why new regulation 18(7) modifies paragraph (1) but not paragraph (3); it asked the Department to explain.

2.9 In its memorandum, the Department states that the purpose of the gloss on Article 49 is to make sense of the meaning of “disease-free” in the health status column of the table; it asserts that for this purpose, no gloss on Article 49(3) is strictly necessary. The Committee finds this assertion surprising. Article 49 provides for the circumstances in which an area shall be declared disease-free. Paragraph (1) sets out preconditions that include compliance with paragraph (2) and the absence from the area of any species that are susceptible to the diseases in question. Paragraph (2) requires the establishment of buffer zones where neighbouring areas are not disease-free. Paragraph (3) provides that “the specific requirements for surveillance, buffer zones, sampling and diagnostic methods that shall be used...to declare disease-free status in accordance with this Article shall be adopted in accordance with the procedure referred to in Article 62(2)”. It appears to the Committee that it is at least reasonable, if not necessary, to infer that paragraphs (1) and (2) cannot be read without paragraph (3), as it relates to the creation of the buffer zones required under paragraph (2), the declaration of disease-free status provided for by paragraph (1), and the surveillance, sampling and diagnostic methods that would be needed to confirm, as required by paragraph (1), that there are no susceptible species in the relevant area. The fact that the Department takes a different view illustrates the difficulty inherent in the approach it has taken to the application of Directive provisions after exit day, and the lack of an acceptable level of clarity for readers of this legislation. **The Committee accordingly reports regulation 2(7) [new paragraph (7)] for defective drafting.**

2.10 Regulation 2(7) also inserts interpretation provisions that modify the meaning of Annex 5 to the Directive (see new paragraphs (8), (9) and (10)). These are needed to modify Article 50 of the Directive—as noted above, in order to understand the meaning of Category “disease-free” health status. As is evident from new paragraphs (8), (9) and (10), layers of modification are necessary because of the various cross-references in Annex 5:

- paragraphs 1.4, 2.3 and 3.5 of Part 2 refer to paragraph 2 of Part 1;
- paragraph 2 of Part 1 refers to paragraph 1.2 of Part 1;
- paragraph 1.2 refers to paragraph 1.1(a) of Part 1 and must be read alongside paragraph 1.3 of Part 1.

2.11 Regulation 2(7) glosses most, but not all of these provisions. The Committee therefore asked the Department to confirm whether paragraphs 1.1(a) and 1.3 of Part 1 are incorporated by the cross-references in paragraph 2 of Part 1, and if so why no modification has been made to paragraph 1.1 (which refers to member States). In its memorandum, the Department confirms that the requirements in paragraphs 1.2 and 1.3 are incorporated into domestic law and paragraph 1.1(a) is not. The Committee accepts that the latter point is clear on closer reading, but it is grateful for the confirmation regarding paragraphs 1.2 and 1.3 and **accordingly reports regulation 2(7) [new paragraphs (8) to (10)] for elucidation, provided by the Department’s memorandum.** The Committee invites the Department to consider whether a gloss is required in relation to point 1.2.

2.12 The Committee is grateful for the Department’s helpful reply in the memorandum to its question about the incorporation into domestic law of categories II, III, IV and V of Part A of Annex 3 to the Directive.

### **3 S.I. 2019/461: Reported for defective drafting**

#### ***Iran (Sanctions) (Nuclear) (EU Exit) Regulations 2019***

**3.1 The Committee draws the special attention of both Houses to these Regulations on the ground that they are defectively drafted in one respect.**

3.2 This instrument recreates an effective sanctions regime in relation to Iran’s nuclear weapons after the United Kingdom has left the European Union. It creates a number of offences relating to finance and trade, e.g., transferring restricted technology to a place in Iran or to a person connected with Iran, and in many cases a corresponding defence that the accused did not know or had no reasonable cause to suspect that a key element of the offence was made out, e.g., that the transfer was to a place in Iran, or that the person was connected with Iran. Regulation 30(1) creates an offence of acquiring relevant goods and technology which are located in Iran, but the corresponding defence in regulation 30(3) refers to knowing or suspecting that the person was connected with Iran. It was not clear to the Committee how the defence in paragraph (3) was relevant to the offence in paragraph (1), so it asked the Foreign and Commonwealth Office to explain the relationship between the two. In a memorandum printed at Appendix 3, the Department acknowledges that it is an error for regulation 30(3) to refer to knowledge or suspicion about whether a person was connected with Iran and undertakes to correct the error with an amending instrument. The Department has since then corrected the error (in the

Sanctions (EU Exit) (Miscellaneous Amendments) Regulations 2019 (S.I. 2019/843)). **The Committee accordingly reports regulation 30 for defective drafting, which has since been corrected by the Department.**

#### **4 S.I. 2019/468: Reported for defective drafting**

##### ***Immigration (European Economic Area Nationals) (EU Exit) Regulations 2019***

**4.1 The Committee draws the special attention of both Houses to these Regulations on the ground that they are defectively drafted in one respect.**

4.2 These Regulations make provision for EEA nationals and their family members who have a right of residence in the United Kingdom by virtue of the EU Settlement Scheme. The Committee asked the Home Office whether inserted paragraph (c)(ii)(bb) in regulation 3(7) should refer to the criteria to be an extended family member rather than the criteria to be a family member. In a memorandum printed at Appendix 4, the Department acknowledges that this is an error and undertakes to lay an amending instrument (if that is possible before the instrument which regulation 3(7)(c) amends is revoked). The Committee agrees with the Department that this error is not suitable for correction by correction slip. **The Committee accordingly reports regulation 3(7)(c) for defective drafting, acknowledged by the Department.**

#### **5 S.I. 2019/509: Reported for defective drafting**

##### ***Merchant Shipping (Registration of Ships) (Amendment) (EU Exit) Regulations 2019***

**5.1 The Committee draws the special attention of both Houses to these Regulations on the ground that they are defectively drafted in one respect.**

5.2 This instrument amends the Merchant Shipping (Registration of Ships) Regulations 1993 to allow a ship's UK registration to be suspended for a period while the ship is bareboat chartered out to another register, then restored to the UK register at the end of that period. Regulation 23, which inserts new regulations 87A to 87M into the 1993 Regulations, provides for this suspension to be indicated by a "certificate of permission". The 1993 Regulations refer to two other types of certificate and define both in regulation 1, but this instrument does not insert a corresponding definition of "certificate of permission". The Committee therefore asked the Department for Transport to clarify where the term is defined. In a memorandum printed at Appendix 5, the Department acknowledges that it is not defined, accepts that there is a case for including such a definition as a matter of consistency, and undertakes to do so when the 1993 Regulations are next amended. **The Committee accordingly reports regulation 23 for defective drafting, acknowledged by the Department.**

## Instruments not reported

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At its meeting on 24 April 2019 the Committee considered the Instruments set out in the Annex to this Report, none of which were required to be reported to both Houses.

## Annex

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### Instruments requiring affirmative approval

<b>S.I. 2019/806</b>	Trade etc. in Dual-Use Items and Firearms etc. (Amendment) (EU Exit) (No. 2) Regulations 2019
<b>S.I. 2019/810</b>	Architects Act 1997 (Swiss Qualifications) (Amendment) (EU Exit) Regulations 2019
<b>S.I. 2019/811</b>	Trade in Animals and Related Products (Amendment) (Northern Ireland) (EU Exit) Regulations 2019
<b>S.I. 2019/812</b>	Common Agricultural Policy and Market Measures (Miscellaneous Amendments) (EU Exit) Regulations 2019
<b>S.I. 2019/813</b>	Animal Health, Alien Species in Aquaculture and Invasive Non-native Species (Amendment) (EU Exit) Regulations 2019

### Draft instruments requiring affirmative approval

<b>Draft S.I.</b>	Companies (Directors' Remuneration Policy and Directors' Remuneration Report) Regulations 2019
<b>Draft S.I.</b>	Food and Feed Hygiene and Safety (Miscellaneous Amendments) (EU Exit) Regulations 2019
<b>Draft S.I.</b>	Criminal Injuries Compensation Scheme 2012 (Amendment) Instrument 2019
<b>Draft S.I.</b>	Higher Education (Monetary Penalties and Refusal to Renew an Access and Participation Plan) (England) Regulations 2019
<b>Draft S.I.</b>	Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (Amendment) (England and Wales) Order 2019
<b>Draft S.I.</b>	Buckinghamshire (Structural Changes) Order 2019
<b>Draft S.I.</b>	Financial Services (Miscellaneous) (Amendment) (EU Exit) (No. 2) Regulations 2019
<b>Draft S.I.</b>	International Road Passenger Transport (Amendment) (Northern Ireland) (EU Exit) Regulations 2019

### Instruments subject to annulment

<b>S.I. 2019/447</b>	Creative Europe Programme and Europe for Citizens Programme (Revocation) (EU Exit) Regulations 2019
<b>S.I. 2019/455</b>	Public Service Pensions Revaluation Order 2019

<b>S.I. 2019/596</b>	Drivers' Hours and Tachographs (Amendment) (EU Exit) (No. 2) Regulations 2019
<b>S.I. 2019/621</b>	Plant Health (Northern Ireland) (Amendment) Regulations 2019
<b>S.I. 2019/650</b>	Nutrition (Amendment) (Northern Ireland) (EU Exit) Regulations 2019
<b>S.I. 2019/675</b>	Animal Feed (Composition, Marketing and Use) (England) (Amendment) Regulations 2019
<b>S.I. 2019/683</b>	Animal Feed (Basic Safety Standards) (England) Regulations 2019
<b>S.I. 2019/687</b>	Civil Aviation (Amendment etc.) (EU Exit) Regulations 2019
<b>S.I. 2019/691</b>	Road Vehicles and Non-Road Mobile Machinery (Type Approval) (Amendment) (EU Exit) (No. 2) Regulations 2019
<b>S.I. 2019/789</b>	National Health Service Commissioning Board and Clinical Commissioning Groups (Responsibilities and Standing Rules) (Amendment) Regulations 2019
<b>S.I. 2019/808</b>	Merchant Shipping (Inland Waterways) (Amendment etc.) (EU Exit) Regulations 2019
<b>S.I. 2019/815</b>	Ilfracombe Harbour Revision (No. 2) Order 2019
<b>S.I. 2019/835</b>	Children's Homes etc. Inspection Fees, Childcare Fees, Adoption and Children Act Register (Amendment) Regulations 2019
<b>S.I. 2019/849</b>	Regulated Products (Amendment) (Northern Ireland) (EU Exit) Regulations 2019

### **Instrument not subject to Parliamentary proceedings laid before Parliament**

<b>S.I. 2019/832</b>	European Parliamentary Elections (Appointed Day of Poll) Order 2019
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### **Instruments not subject to Parliamentary proceedings not laid before Parliament**

<b>S.I. 2019/627</b>	Sanctions Regulations (Commencement No. 1) (EU Exit) Regulations 2019
<b>S.I. 2019/658</b>	Tonnage Tax (Exception of Financial Year 2019) Order 2019
<b>S.I. 2019/816</b>	Small Business, Enterprise and Employment Act 2015 (Commencement No. 7, Consequential, Transitional and Savings Provisions) Regulations 2019
<b>S.I. 2019/819</b>	Taxation (Cross-border Trade) Act 2018 (Appointed Day No. 5 and Miscellaneous Commencements) (EU Exit) Regulations 2019

# Appendix 1

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## S.I. 2019/411

### ***Democratic People’s Republic of Korea (Sanctions) (EU Exit) Regulations 2019***

1. On 27 March 2019, the Committee requested that the Foreign and Commonwealth Office (“FCO”) submit a memorandum on the following points:

*(1) What is the penalty for breach of the offence referred to in regulation 78(2)?*

*(2) What offence in regulation 77 is being referred to in regulation 110(1)?*

2. The FCO is grateful for the Committee’s consideration of this instrument and responds as follows.

3. The cross-reference in regulation 110(1) to regulation 77 is erroneous. No offence is created by this regulation. The cross-reference should instead be to regulation 78.

4. This error means that the Regulations do not specify a penalty for the offence referred to in regulation 78(2). The penalty was intended to be the penalty set out in regulation 110(1).

5. The FCO apologises for this error and will seek to correct it with an amending instrument.

**Foreign and Commonwealth Office**

**2 April 2019**

## Appendix 2

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### S.I. 2019/452

#### ***Aquatic Animal Health and Alien Species in Aquaculture (Amendment) (England and Wales) (EU Exit) Regulations 2019***

1. The Committee has asked the Department for Environment, Food and Rural Affairs for a memorandum on the following points.

*(1) Confirm whether, in new regulation 18(7) as inserted by regulation 2(7), the reference to Category 1 in Part A of Annex 3 to Directive 2006/88/EC also incorporates categories II, III, IV and V into domestic law by virtue of the cross-reference in column 6. If it does, explain why inappropriate references in Articles 39 and 44 (to which categories II, IV and V cross-refer) have not been modified by this instrument. If it does not, explain how this is made clear to users of these Regulations.*

2. The reference to Category 1 in Part A of Annex 3 to Directive 2006/88/EC does not incorporate Categories II, III, IV and V into domestic law. Regulation 18(7) merely provides a gloss on Articles 49 and 50 for the purposes of the reference to those Articles in the description of health status in column 2 of Category 1 as “disease-free”.

*(2) Explain why new regulation 18(7)(a) omits the reference to the procedure in Article 62(2) from paragraph 1 of Article 49 but not from paragraph 3.*

3. Regulation 18(7)(a) glosses Article 49 for the purposes of the cross-reference to Article 49 in the table in Annex 3, Part A, to the Directive (health status “Disease-free (Articles 49 or 50)”). For the purpose of the application of Article 49 in relation to the United Kingdom for this particular purpose on and after exit day, Article 49(3) does not require such a modifying gloss for the purposes of making sense of the meaning of “Disease-free” in column 2 of that table. However, although, for the reason given above, the Department does not consider a modification to be strictly necessary for this particular purpose, the Department will consider whether it might be helpful to amend regulation 18(7), as it applies to the reference to Article 49 in Category 1, so as to require Article 49 to be read for this purpose as if paragraph 3 of that Article were omitted.

4. The power to make legislative provision as to requirements for surveillance, buffer zones, sampling and diagnostic methods has not yet been conferred on competent authorities in the UK but consideration is being given to whether it should be conferred.

*(3) Confirm whether points 1.1(a) and 1.3 of Part I of Annex V to Directive 2006/88/EC are incorporated by the cross-references in Part 1.2, and if so, why no modification has been made to point 1.1 by new regulation 18(10), as inserted by regulation 2(7).*

5. Article 50 of the Directive, the reference to which in Part A of Annex 3 to the Directive is glossed by new regulation 18(7)(b) of the 2009 Regulations (as inserted by regulation 2(7) of the 2019 Regulations), permits a zone or compartment to be declared disease-free where it complies with the conditions in Part 2 of Annex 5.

6. For this purpose, the references in Part 2 of Annex 5 to Part 1.2 of that Annex are glossed so that references in Part 1.2 to “Member State” are to be read as references to “zone or compartment”.

7. The reference in Part 1.2, point (a) to “basic disease control conditions laid down in point 1.2” incorporates the further requirements in point 1.3, but does not incorporate the requirements of point 1.1. (There is no express reference incorporating the requirements of point 1.1, and those requirements are not consistent with the terms of Part 1.2: Part 1.2 is concerned with the case where the last known clinical occurrence was within 10 years before the date of application for disease-free status, or where the infection status prior to targeted surveillance was unknown, whereas point 1.1 of Part 1 is concerned with the case where there has not been any observed occurrence of the disease for at least 10 years before the date of that application. The basic biosecurity measures set out in point 1.2 of Part 1 apply for the purposes of both point 1.1(a) and point 2(a) of Part 1—i.e. paragraph (a) of what is referred to in Part 2 as “Part 1.2”—but point 1.1 does not apply for the purposes of point 2(a) of Part 1.) It follows that no modifications are needed to point 1.1.

*(4) Confirm whether it is intended that the obligation for the United Kingdom to ensure that suspected or confirmed disease or increased mortality in aquaculture animals is notified to the competent authority, in Article 26(1) of the Directive as modified by the Schedule to these Regulations, is incorporated as an obligation in domestic law by virtue of the cross-reference to Article 26(1) in Article 29 as so modified, which is itself incorporated into domestic law by the cross-reference in regulation 24(2) of the instrument being amended.*

8. The requirement in regulation 24(2)(c) of the 2009 Regulations to undertake an epizootic investigation in accordance with Article 29 of the Directive includes the requirement in Article 29(2)(b) that the purpose of the investigation must be aimed at the question of whether aquaculture animals have left the farm or mollusc farming area during the relevant period preceding the notification of the suspicion provided for in Article 26(1).

9. As it applies on and after exit day, the reference to Article 26(1) is glossed for this purpose by regulation 2(8) of, and Schedule 1A to, the 2019 Regulations, so that the reference in Article 26(1) to “Member States” is a reference to the United Kingdom, with the result that Article 29(2)(b) refers to the relevant period preceding the notification of the suspicion of the presence of disease where that notification occurs in the United Kingdom. The purpose of this gloss is to ensure that the reference in Article 29(2)(b) to Article 26(1) works properly for the purposes of Article 29(2)(b) as applied by regulation 24(2)(c) of the 2009 Regulations.

**Department for Environment, Food and Rural Affairs**

**2 April 2019**

# Appendix 3

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## S.I. 2019/461

### ***Iran (Sanctions) (Nuclear) (EU Exit) Regulations 2019***

1. On 27 March 2019, the Committee requested that the Foreign and Commonwealth Office (“FCO”) submit a memorandum on the following point:

*Explain how, in regulation 30, the defence of not knowing or having reasonable cause to suspect that a person was connected to Iran relates to the offence of acquiring relevant goods and technology which are located in Iran.*

2. The FCO is grateful for the Committee’s consideration of this instrument and responds as follows.

3. The reference in paragraph (3) of regulation 30 to knowledge or suspicion about whether a person was connected with Iran is erroneous. The provision should instead refer to knowledge or suspicion about whether goods or technology were located in Iran. That would be consistent with the defence relating to a similar offence in the Democratic People’s Republic of Korea (Sanctions) (EU Exit) Regulations 2019.

4. The FCO apologises for this error and will seek to correct it with an amending instrument.

**Foreign and Commonwealth Office**

**2 April 2019**

## Appendix 4

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### S.I. 2019/468

#### ***Immigration (European Economic Area Nationals) (EU Exit) Regulations 2019***

1. By a letter dated 27 March 2019, the Joint Committee on Statutory Instruments requested a memorandum on the following point:

*In regulation 3(7)(c), explain whether inserted paragraph (c)(ii)(bb) should refer to an extended family member.*

2. Regulation 3(7)(c), where it inserted paragraph (c)(ii)(bb), should have referred to the criteria to be an extended family member, not the criteria to be a family member. The Department thanks the Committee for drawing this error to its attention, and apologises for its inclusion in the Regulations.

3. The Department has considered whether this error might be suitable for a correction slip, but has concluded that due to the nature of the error this would be inappropriate. The Department will seek to lay an amending instrument in due course if this is possible; however, it notes that paragraph 2(2) of Schedule 1 to the Immigration and Social Security Co-ordination (EU Withdrawal) Bill 2017–2019, which is currently under consideration by the House of Commons, revokes the Immigration (European Economic Area) Regulations 2016 (S.I. 2016/1052) which regulation 3(7)(c) amends. Such a correction may not therefore be possible in the time before this Bill comes into force.

4. Even in the absence of an amendment, the Department will interpret and apply this provision in line with the underlying purpose of the legislative change and, to the extent relevant, the directly effective rights of relevant individuals under EU law.

**Home Office**

**29 March 2019**

# Appendix 5

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## S.I. 2019/509

### ***Merchant Shipping (Registration of Ships) (Amendment) (EU Exit) Regulations 2019***

1. In its letter to the Department of 27th March 2019, the Committee requested a memorandum on the following point:

*Clarify where the term “certificate of permission” is defined.*

2. There is no definition of “certificate of permission” within either these Regulations, or the Merchant Shipping (Registration of Ships) Regulations 1993/3138 (‘the Registration Regulations’), which these Regulations amend.

3. However, the only provisions for issuing a certificate of permission are in the new regulation 87D(1) and (in respect of renewals thereof) regulation 87H, each inserted by regulation 23 of these Regulations. This follows on from the reference in regulation 87B to the suspension of the registration of a ship where a certificate of permission has been issued under regulation 87D. The format and validity of the certificate of permission are provided for in regulation 87F.

4. The Department considers that no confusion is likely to arise from the omission of a definition. Any definition would do little more than state that a certificate of permission is one issued under regulation 87D(1) or 87H(3). The Department considers that, given the scheme of the Regulations, readers are unlikely to have any difficulty finding these provisions.

5. However, the Department notes that both ‘certificate of registry’ and ‘certificate of bareboat charter’ were defined in the Registration Regulations when they were first made in 1993. Given that the certificate of permission is a document of a similar kind, the Department accepts that there is a case for including such a definition as a matter of consistency, and undertakes to do so when the Registration Regulations are next amended.

**Department for Transport**

**2 April 2019**