



Llywodraeth Cymru
Welsh Government

WRITTEN STATEMENT BY THE WELSH GOVERNMENT

TITLE **The Official Controls (Animals, Feed and Food, Plant Health etc) (Amendment) (EU Exit) (No.2) Regulations 2020**

DATE **05 January 2021**

BY **Rebecca Evans MS, Minister for Finance and Trefnydd**

SO30C –SI laid in Parliament which amends legislation in a devolved area

The Official Controls (Animals, Feed and Food, Plant Health etc) (Amendment) (EU Exit) (No.2) Regulations 2020 (the “2020 Regulations”)

The 2020 Regulations amend the following legislation:

Retained direct EU legislation

- Commission Implementing Regulation (EU) 2019/66 on rules on uniform practical arrangements for the performance of official controls on plants, plant products and other objects in order to verify compliance with Union rules on protective measures against pests of plants applicable to those goods
- Commission Delegated Regulation (EU) 2019/624 concerning specific rules for the performance of official controls on the production of meat and for production and relaying areas of live bivalve molluscs in accordance with Regulation (EU) 2017/625 of the European Parliament and of the Council
- Commission Delegated Regulation (EU) 2019/625 supplementing Regulation (EU) 2017/625 of the European Parliament and of the Council with regard to requirements for the entry into the Union of consignments of certain animals and goods intended for human consumption
- Commission Implementing Regulation (EU) 2019/626 concerning lists of third countries or regions thereof authorised for the entry into the European Union of certain animals and goods intended for human consumption, amending Implementing Regulation (EU) 2016/759 as regards these lists

- Commission Implementing Regulation (EU) 2019/627 laying down uniform practical arrangements for the performance of official controls on products of animal origin intended for human consumption in accordance with Regulation (EU) 2017/625 of the European Parliament and of the Council and amending Commission Regulation (EC) No. 2074/2005 as regards official controls
- Commission Implementing Regulation (EU) 2019/628 concerning model official certificates for certain animals and goods and amending Regulation (EC) No 2074/2005 and Implementing Regulation (EU) 2016/759 as regards these model certificates
- Commission Delegated Regulation (EU) 2019/1012 supplementing Regulation (EU) 2017/625 of the European Parliament and of the Council by derogating from the rules on the designation of control points and from the minimum requirements for border control posts
- Commission Implementing Regulation (EU) 2019/1014 to lay down detailed rules on minimum requirements for border control posts, including inspection centres, and for the format, categories and abbreviations to use for listing border control posts and control points
- Commission Delegated Regulation (EU) 2019/1081 establishing rules on specific training requirements for staff for performing certain physical checks at border controls posts
- Commission Implementing Regulation (EU) 2019/1715 laying down rules for the functioning of the information management system for official controls and its system components (“the IMSOC Regulation”)
- Commission Implementing Regulation (EU) 2019/1793 on the temporary increase of official controls and emergency measures governing the entry into the Union of certain goods from certain third countries implementing Regulations (EU) 2017/625 and (EC) No 178/2002 of the European Parliament and of the Council and repealing Commission Regulations (EC) No 669/2009, (EU) No 884/2014, (EU) 2015/175, (EU) 2017/186 and (EU) 2018/1660
- Commission Delegated Regulation (EU) 2019/2074 supplementing Regulation (EU) 2017/625 of the European Parliament and of the Council as regards rules on specific official controls on consignments of certain animals and goods originating from, and returning to the Union following a refusal of entry by a third country
- Commission Implementing Decision (EU) 2019/2098 on temporary animal health requirements for consignments of products of animal origin for human consumption originating in and returning to the Union following a refusal of entry by a third country

- Commission Delegated Regulation (EU) 2019/2123 supplementing Regulation (EU) 2017/625 of the European Parliament and of the Council as regards rules for the cases where and the conditions under which identity checks and physical checks on certain goods may be performed at control points and documentary checks may be performed at distance from border control posts
- Commission Delegated Regulation (EU) 2019/2124 supplementing Regulation (EU) 2017/625 of the European Parliament and of the Council as regards rules for official controls of consignments of animals and goods in transit, transshipment and onward transportation through the Union, and amending Commission Regulations (EC) No 798/2008, (EC) No 1251/2008, (EC) No 119/2009, (EU) No 206/2010, (EU) No 605/2010, (EU) No 142/2011, (EU) No 28/2012, Commission Implementing Regulation (EU) 2016/759 and Commission Decision 2007/777/EC
- Commission Delegated Regulation (EU) 2019/2125 supplementing Regulation (EU) 2017/625 of the European Parliament and of the Council as regards rules concerning the performance of specific official controls of wood packaging material, notification of certain consignments and measures to be taken in cases of non-compliance
- Commission Delegated Regulation (EU) 2019/2126 supplementing Regulation (EU) 2017/625 of the European Parliament and of the Council as regards rules for specific official controls for certain categories of animals and goods, measures to be taken following the performance of such controls and certain categories of animals and goods exempted from official controls at border control posts
- Commission Implementing Regulation (EU) 2019/2128 establishing the model official certificate and rules for issuing official certificates for goods which are delivered to vessels leaving the Union and intended for ship supply or consumption by the crew and passengers, or to NATO or a United States military base
- Commission Implementing Regulation (EU) 2020/1540 amending Implementing Regulation (EU) 2019/1793 as regards sesamum seeds originating in India
- Commission Implementing Regulation (EU) 2020/1641 regarding imports of live, chilled, frozen or processed bivalve molluscs, echinoderms, tunicates and marine gastropods for human consumption from the United States of America

The 2020 Regulations revocation of retained direct EU legislation:

- Commission Regulation (EC) No 1756/2004 specifying the detailed conditions for the evidence required and the criteria for the type and level of the reduction of the plant health checks of certain plants, plant products or other objects listed in Part B of Annex V to Council Directive 2000/29/EC;

- Commission Implementing Regulation (EU) 2019/723 laying down rules for the application of Regulation (EU) 2017/625 of the European Parliament and of the Council as regards the standard model form to be used in the annual reports submitted by Member States, and
- Commission Implementing Decision (EU) 2020/1550 establishing the multiannual programme of controls for the period 2021-2025 to be carried out by Commission experts in the Member States to verify the application of Union agri-food chain legislation.

Domestic legislation

- The Trade in Animals and Related Products Regulations 2011
- The Veterinary Medicines Regulations 2013
- The Animal Feed (Amendment) (EU Exit) Regulations 2019
- The Official Controls (Animals, Feed and Food, Plant Health Fees etc.) Regulations 2019
- The Aquatic Animal Health and Plant Health (Legislative Functions) (EU Exit) Regulations 2019
- The Food and Feed Hygiene and Safety (Miscellaneous Amendments etc.) (EU Exit) Regulations 2020
- The Plant Health (Amendment etc.) (EU Exit) Regulations 2020
- The Plant Health (Phytosanitary Conditions) (Amendment) (EU Exit) Regulations 2020
- The Official Controls (Animals, Feed and Food, Plant Health etc.) (Amendment) (EU Exit) Regulations 2020
- The Import of, and Trade in, Animals and Animal Products (Miscellaneous Amendments) (EU Exit) Regulations 2020

Any impact the SI may have on the Senedd’s legislative competence and/or the Welsh Ministers’ executive competence

The 2020 Regulations transfer non-legislative functions to the ‘competent authorities’ as have been designated in that capacity for Wales, without encumbrance. They also transfer non-legislative and legislative functions to the Welsh Ministers as the “appropriate authority” in relation to Wales. A number of such functions are transferred without encumbrance (see the respective amendments to Regulations (EU) 2019/624, 625 and 626 made by regulations 13 to 15). Other functions conferred on the Welsh Ministers as “appropriate authority” in relation to Wales are also exercisable by the Secretary of State with the consent of the Welsh Ministers. Only functions exercisable in devolved areas (as

determined by reference to the legislative competence of the Senedd) are conferred on the Welsh Ministers.

The concurrent functions contained in the Regulations have the potential to engage the consent requirements in Schedule 7B to the Government of Wales Act 2006 and, as such, represent a potential restriction on the future competence of the Senedd. Assurances have been provided by the Secretary of State for Wales in relation to a section 109 Order under the Act to amend Schedule 7B to negate the potential restriction on the future competence of the Senedd.

The purpose of the amendments

The purpose of this instrument is to make further amendments to existing retained direct EU legislation governing official controls, including imports to Great Britain of animals and animal products, plants and plant products, including food and other imports relevant to the agri-food chain – collectively known as sanitary and phyto-sanitary (“SPS”) checks.

Official controls are performed at appropriately designated border control points and other points of entry, and may also be carried out at other locations, such as slaughterhouses, to verify the compliance of imported SPS goods with Official Controls Regulations (“OCR”). These controls are integral to the protection of human health and biosecurity in the UK, as they deliver a risk-based and closely defined regime for checking the provenance, health and lack of contamination of SPS goods before they are allowed to pass beyond the control points at the UK border.

Official controls are also performed at relevant establishments within the UK, at all stages of production, processing and distribution of products, articles and substances etc. covered by the OCR. These controls are necessary to ensure the integrity of the UK agri-food chain and to maintain a high level of human, animal and plant health as well as animal welfare along the agri-food chain.

This instrument completes the body of official controls amendments and supplements the provision set out in the Official Controls (Animals, Feed and Food, Plant Health Etc.) (Amendment) (EU Exit) Regulations 2020, due to come into force at 11:00 p.m. on 31 December 2020.

This further instrument also rectifies legal deficiencies arising from the withdrawal of the United Kingdom from the European Union which, if not amended, would prevent our existing, established and harmonised system of official controls from being able to operate effectively (or at all) after the end of the implementation period. These are termed ‘operability amendments’.

The 2020 Regulations and accompanying Explanatory Memorandum, setting out the detail of the provenance, purpose and effect of the amendments is available here: <https://www.legislation.gov.uk/uksi/2020/1631/made>

Why consent was given

Consent has been given for the UK Government to make these corrections in relation to, and on behalf of, Wales for reasons of efficiency and expediency and to ensure consistency and coherence of the statute book. The amendments have been considered fully and there is no divergence in policy. These amendments are to ensure that the statute book remains functional at the end of the implementation period.