



Llywodraeth Cymru
Welsh Government

WRITTEN STATEMENT BY THE WELSH GOVERNMENT

TITLE **Specific Food Hygiene (Regulation (EC) No. 853/2004)
(Amendment) (EU Exit) Regulations 2019**

DATE **11 September 2019**

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

Specific Food Hygiene (Regulation (EC) No. 853/2004) (Amendment) (EU Exit) Regulations 2019

The retained EU law which is being amended

Regulation 853/2004 laying down specific hygiene rules for food of animal origin

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

This SI revokes and remakes one of the corrections made to retained EU law Regulation 853/2004 by the Specific Food Hygiene (Amendment etc.) (EU Exit) Regulations 2019 (SI 2019/640).

The correction as re-made by this SI will make clear that the Welsh Ministers' executive powers are enhanced. The correction will confer a power on the Welsh Ministers to make regulations to specify what substances may be used to remove contamination from animal carcasses, and to set any conditions of use. The regulations will be subject to annulment by resolution of the National Assembly. The SI will not have any impact on the Assembly's legislative competence.

The purpose of the amendments

Article 3(2) of Regulation (EC) 853/2004 currently provides that food businesses in the EU must not use any substance other than water to remove contamination from animal carcasses unless the use of that substance has been approved in legislation made by the European Commission. Food businesses must also comply with any conditions for use that are prescribed in the legislation.

Regulation 6 of the Specific Food Hygiene (Amendment etc.) (EU Exit) Regulations 2019 as made on 18 March 2019 would have amended, from exit day, Article 3(2) of Regulation 853/2004. The amendment would have provided that, post EU-exit, the Food Standards

Agency/Food Standards Scotland could approve the use of substances apart from water, such approval only being effective when given effect to by regulations made by Ministers in the relevant part of the UK.

However, on reflection, it was considered that the drafting of regulation 6 of the Specific Food Hygiene (Amendment etc.) (EU Exit) Regulations 2019 did not make sufficiently clear that the final decision as to whether to approve the use of a substance falls to Ministers in the relevant part of the UK, not the Food Standards Agency/Food Standards Scotland.

As a result, this SI will revoke, immediately before exit day, regulation 6 of the Specific Food Hygiene (Amendment etc.) (EU Exit) Regulations 2019. The SI will then re-make the proposed amendment, from exit day, but makes clearer that it is the Ministers in the relevant part of the UK who are the final decision-maker in terms of authorising the use of alternative substances for washing contamination from carcasses.

This will mean that in Wales, an alternative substance may only be used if authorised by regulations made by the Welsh Ministers.

The SI and accompanying Explanatory Memorandum, setting out the effect of each amendment is available here: <https://beta.parliament.uk/work-packages/wnMJ8407>

Why consent was given

There is no divergence between the Welsh Government/FSA in Wales and the UK Government (FSA UK) on the policy for the corrections. Therefore, making separate SIs in Wales and England would lead to duplication, and unnecessary complication of the statute book. Consenting to a UK wide SI ensures that there is a single legislative framework across the UK which promotes clarity and accessibility during this period of change. In these exceptional circumstances, FSA in Wales/the Welsh Government considers it appropriate that the UK Government legislates on our behalf in this instance.