



Llywodraeth Cymru
Welsh Government

WRITTEN STATEMENT BY THE WELSH GOVERNMENT

TITLE **The Food and Feed Imports (Amendment) (EU Exit) Regulations 2019**

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The Food and Feed Imports (Amendment) (EU Exit) Regulations 2019

The retained EU law which is being amended

- Regulation (EC) No. 669/2009 implementing Regulation (EC) No 882/2004 of the European Parliament and of the Council as regards the increased level of official controls on imports of certain feed and food of non-animal origin and amending Decision 2006/504/EC.
- Regulation (EU) No. 284/2011 laying down specific conditions and detailed procedures for the import of polyamide and melamine plastic kitchenware originating in or consigned from the People's Republic of China and Hong Kong Special Administrative Region, China.
- Regulation (EU) No. 884/2014 imposing special conditions governing the import of certain feed and food from certain third countries due to contamination risk by aflatoxins and repealing Regulation (EC) No 1152/2009.
- Regulation (EU) 2018/1660 imposing special conditions governing the import of certain food of non-animal origin from certain third countries due to the risks of contamination with pesticides residues, amending Regulation (EC) No 669/2009 and repealing Implementing Regulation (EU) No 885/2014;
- Regulation (EU) 2015/175 laying down special conditions applicable to the import of guar gum originating in or consigned from India due to contamination risks by pentachlorophenol and dioxins.
- Regulation (EU) 2015/943 on emergency measures suspending imports of dried beans from Nigeria and amending Annex I to Regulation (EC) No. 669/2009.
- Regulation (EU) 2015/949 approving the pre-export checks carried out on certain food by certain third countries as regards the presence of certain mycotoxins;
- Regulation (EU) 2017/186 laying down specific conditions applicable to the introduction into the Union of consignments from certain third countries due to microbiological contamination and amending Regulation (EC) No. 669/2009.

- Decision 2011/884/EU on emergency measures regarding unauthorised genetically modified rice in rice products originating from China and repealing Decision 2008/289/EC.
- Decision 2014/88/EU suspending temporarily imports from Bangladesh of foodstuffs containing or consisting of betel leaves ('Piper betle').

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

This SI will enhance the Welsh Ministers' executive powers. It will transfer the powers and duties currently conferred and imposed on the European Commission to the Welsh Ministers in relation to Wales. These functions will, among other things, require the Welsh Ministers to be notified of reports concerning checks of particular consignments entering Wales through a Designated Point of Entry (DPE), Designated Points of Import (DPIs) and First Points of Introduction (FPIs). The SI will also provide that the Welsh Ministers has various powers and duties that were previously conferred and imposed by EU legislation on the generic 'Member State'. This will, among other things, enable the Welsh Ministers to designate FPIs and maintain publicly available lists of FPIs and require them to collect fees in relation to any increase in official controls required under Regulation (EC) No. 669/2009. The SI will not have any impact on the Assembly's legislative competence.

The purpose of the amendments

This body of retained EU legislation, as to be amended by these Regulations, sets out the legal basis for domestic import controls in the UK for the majority of Food Not of Animal Origin (FNAO) and ensures that all the correct powers are in place to maintain a control system responsive to emerging threats.

These Regulations will make various technical amendments including:

- Omitting references to the EU institutions and other Member States and amending the definition of 'first point of introduction', 'designated points of import' and 'third country'.
- Amending the requirement that entry documents, declarations and health certificates must be drawn up in 'the official language of the Member State or in one of the official languages of the Member State' so that they must now be submitted in English or in English and Welsh.
- Requiring the Food Safety Authority (in relation to Wales, the FSA) to maintain and make publicly available lists of Designated Points of Entry (DPEs) and Designated Points of Import (DPIs).

The more substantive amendments relate to the functions that were previously conferred on, respectively, the 'Member States' and the European Commission. The proposed amendments are summarised as follows in relation to Wales:

Transfer of Member State Functions;

The EU legislation concerning the import of FNAO currently confers powers on 'Member States' in respect of particular functions, which the UK has previously delegated to the Food

Standards Agency. Following the UK's exit from the EU, the retained EU law will be amended to provide the Welsh Ministers with the following functions:

- the collecting of fees resulting from an increase in official control as provided for in Regulation (EU) No.669/2009.
- designating first points of introduction (FPIs) in respect of plastic kitchenware from Hong Kong and China.
- publishing an up to date list of FPIs and Designated Points of Import (DPIs).

Transfer of Commission Functions;

The EU legislation currently confers functions on the European Commission. Following the UK's exit from the EU, the retained EU law will be amended to provide Welsh Ministers with these functions, including;

- stipulating that competent authorities (local authorities or port health authorities) must send reports on specified consignments to the Welsh Ministers and the FSA.
- Requiring competent authorities to notify the Welsh Ministers in Wales and the FSA with respect to non-compliances identified as a result of laboratory analysis undertaken pursuant to Regulation (EU) No. 284/2011.

The SI and accompanying Explanatory Memorandum, setting out the effect of each amendment is available here: <https://beta.parliament.uk/work-packages/9Zv0Fn2Y>

Why consent was given

There is no divergence between the Welsh Government/FSA 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 Wales/the Welsh Government considers it appropriate that the UK Government legislates on our behalf in this instance.